

# J

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

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

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

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

**Jackson-Denno hearing.** A court proceeding held outside the jury’s presence to determine whether the defendant’s confession was voluntary and therefore admissible as evidence. *Jackson v. Denno*, 378 U.S. 368, 84 S.Ct. 1774 (1964). — Also termed *Jackson v. Denno hearing*.

**Jackson standard.** *Criminal law.* The principle that the standard of review on appeal — when a criminal defendant claims that there is insufficient evidence to support the conviction — is to determine whether, after considering the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct. 2781 (1979).

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

**jactitation** (jak-ti-tay-shən). **1.** A false boasting or claim that causes injury to another. **2.** *Civil law.* SLANDER OF TITLE.

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

“Jactitation of marriage is a cause of action which arises when a person falsely alleges that he or she is married to the petitioner, and the remedy sought is a perpetual injunction against the respondent to cease making such allegations. The cause is now uncommon in English

municipal law and almost unknown in the conflict of laws.” R.H. Graveson, *Conflict of Laws* 349 (7th ed. 1974).

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

**JAG.** *abbr.* JUDGE ADVOCATE GENERAL.

**JAG Manual.** See MANUAL OF THE JUDGE ADVOCATE GENERAL.

**jail**, *n.* A place where persons awaiting trial or those convicted of misdemeanors are confined. — Also spelled (esp. in BrE) *gaol*. — Also termed *holding cell*; *lockup*; *jailhouse*. — **jail**, *vb.* Cf. PRISON.

**jail credit.** Time spent by a criminal defendant in confinement awaiting trial. • This time is usu. deducted from the defendant’s final sentence (if convicted).

**jail delivery.** **1.** An escape by several prisoners from a jail. **2.** *Hist.* A clearing procedure by which all prisoners at a given jail are tried for the offenses that they are accused of having committed. **3.** *Hist.* The commission issued to judges of assize, directing them to clear a jail by trying — and either acquitting or condemning — all the inmates. **4.** *Archaic.* The court charged with the trial of all ordinary criminal cases. See COMMISSION OF GAOL DELIVERY.

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

**jailer.** A keeper, guard, or warden of a prison or jail. — Also spelled (esp. in BrE) *gaoler*.

**jailhouse.** See JAIL.

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

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

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

**Jamaican switch.** An illegal scheme whereby one conspirator convinces the victim of a need for help in handling a large sum of money, usu. by claiming to have found the money or by claiming to be an unsophisticated foreigner, and promises to share part of the money with the victim or asks the victim for help in finding a suitable charity to donate to, at which time the other conspirator appears and promises to assist if both the victim and first conspirator provide good-faith money, the intent being for the two conspirators to leave with all the money, including the victim's.

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

**Jane Doe.** A fictitious name for a female party to a legal proceeding, used because the party's true identity is unknown or because her real name is being withheld. — Also termed *Jane Roe*; *Mary Major*. Cf. JOHN DOE.

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

**Jason clause.** *Maritime law.* A bill-of-lading clause requiring contribution in general average even when the loss is the result of the carrier's negligence, for which the carrier is otherwise exempt from liability by statute. ● The clause is named after the Supreme Court case that upheld its enforceability, *The Jason*,

225 U.S. 32, 32 S.Ct. 560 (1912). See *general average* under AVERAGE.

**jaywalking**, *n.* The act or instance of crossing a street without heeding traffic regulations, as by crossing between intersections or at a place other than a crosswalk. — **jaywalk**, *vb.*

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

**J.D.** *abbr.* JURIS DOCTOR.

**Jedburgh justice (jed-bər-ə).** See JUSTICE (1).

**Jeddart justice (jed-ərt).** See *Jedburgh justice* under JUSTICE (1).

**judge and warrant (jej).** *Scots law.* The authority given by the Dean of Guild to rebuild or repair a dilapidated tenement.

**Jedwood justice (jed-wəd).** See *Jedburgh justice* under JUSTICE (1).

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

**Jensen doctrine.** The principle that the states may not apply their workers'-compensation statutes to maritime workers injured on navigable waters while performing traditional maritime duties. *Southern Pac. Co. v. Jensen*, 244 U.S. 205, 37 S.Ct. 524 (1917).

**jeofail (jef-ayl)**, *n.* [fr. French *j'ay faillé*] *Archaic.* 1. An error or oversight in pleading. 2. The acknowledgment of such an error. — Also spelled *jeofaile*.

**jeopardy.** The risk of conviction and punishment that a criminal defendant faces at trial. ● Jeopardy attaches in a jury trial when the jury is empaneled, and in a bench trial when the first witness is sworn. — Also termed *legal jeopardy*. See DOUBLE JEOPARDY.

**jeopardy assessment.** See ASSESSMENT.

**jetsam** (jet-səm). Goods that, after being abandoned at sea, sink and remain underwater. Cf. FLOTSAM; LAGAN; WAVESON.

**jettison** (jet-ə-sən), *n.* *Maritime law.* The act of voluntarily throwing cargo overboard to lighten or stabilize a ship that is in immediate danger. — Also termed *jactura*. — **jettison**, *vb.* See *general average* under AVERAGE.

**jeux de bourse** (zhoo də bɔrs), *n.* [French “games of the stock exchange”] Speculation in stocks or bonds, as by dealing in options or futures.

**Jewell instruction** (joo-wəl). *Criminal procedure.* A court’s instruction to the jury that the defendant can be found to have the requisite criminal mental state despite being deliberately ignorant of some of the facts surrounding the crime. • If a defendant claims ignorance of some fact essential to the crime, such as not knowing that a particular bag contained drugs, but the surrounding circumstances would put a reasonable person on notice that there was a high probability of illegality, as when the defendant has taken the bag from a known drug-dealer and has noticed the smell of marijuana coming from the bag, then the court may instruct the jury that it is entitled to infer the defendant’s guilty knowledge if the defendant deliberately avoided knowledge of the critical facts. *United States v. Jewell*, 532 F.2d 697 (9th Cir. 1976). — Also termed *deliberate-indifference instruction*.

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

**jingle rule.** See DUAL-PRIORITIES RULE.

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

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

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

**job action.** *Labor law.* A concerted, temporary action by employees (such as a sickout or work slowdown), intended to pressure management to concede to the employees’ demands without resorting to a strike. See STRIKE.

**jobber**, *n.* 1. One who buys from a manufacturer and sells to a retailer; a wholesaler or middleman. 2. A middleman in the exchange of securities among brokers. — Also termed *stockjobber*; *stock-jobber*. 3. One who works by the job; a contractor. — **job**, *vb.*

**jobber’s agreement.** See HAZANTOWN AGREEMENT.

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

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

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

**jocus partitus** (joh-kəs pahr-ti-təs), *n.* [Law Latin “divided game”] *Hist.* A gambling arrangement made by the parties on a lawsuit’s outcome.

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

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

**John Doe.** A fictitious name used in a legal proceeding to designate a person whose identity is unknown, to protect a person’s known identity, or to indicate that a true defendant does not exist. Cf. JANE DOE; RICHARD ROE.

“Sheriffs in time growing remiss in their duty, allowed of any persons as *pledges*, sometimes returning the names of fictitious persons as *pledges*, at others, neglecting to require or return any at all. . . . And the legislature, to supply the want of real persons as *pledges*, and recompense the defendant where he has been unjustly or vexatiously sued, has by various statutes, either given him the costs he has incurred in making his defence; or else deprived the plaintiff of recovering those costs he is entitled to by law, in cases of obtaining a verdict, by leaving it to the judge at the trial to certify on the record, that he had little or no cause of action. Since these statutes for allowing the defendant his costs, where the plaintiff fails, or is nonsuited, the writ to the coroner to affeer the *pledges* has fallen into disuse, and two good-

natured personages, *John Doe* and *Richard Roe*, from their universal acquaintance and peculiar longevity, have become the ready and common *pledges* of every suitor." 1 George Crompton, *Rules and Cases of Practice in the Courts of King's Bench and Common Pleas* xlvii (3d ed. 1787).

"The fictitious names *John Doe* and *Richard Roe* regularly appeared in actions of ejectment . . . at common law. *Doe* was the nominal plaintiff, who by a fiction was said to have entered land under a valid lease; *Roe* was said to have ejected *Doe*, and the lawsuit took the title *Doe v. Roe*. These fictional allegations disappeared upon the enactment of the Common Law Procedure Act of 1852. . . . Beyond actions of ejectment, and esp. in the U.S., *John Doe*, *Jane Doe*, *Richard Roe*, *Jane Roe*, and *Peter Poe* have come to identify a party to a lawsuit whose true name is either unknown or purposely shielded." Bryan A. Garner, *A Dictionary of Modern Legal Usage* 290-91 (2d ed. 1995).

**John Doe summons.** See SUMMONS.

**joinder, n.** The uniting of parties or claims in a single lawsuit. — **join, vb.** Cf. CONSOLIDATION (4).

**collusive joinder.** Joinder of a defendant, usu. a nonresident, in order to have a case removed to federal court. See *manufactured diversity* under DIVERSITY OF CITIZENSHIP.

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

**fraudulent joinder.** The bad-faith joinder of a party, usu. a resident of the state, to prevent removal of a case to federal court.

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

**joinder in issue.** See *joinder of issue*.

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

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

**joinder of issue.** 1. The submission of an issue jointly for decision. 2. The acceptance or adoption of a disputed point as the basis of

argument in a controversy. — Also termed *joinder in issue*. 3. The taking up of the opposite side of a case, or of the contrary view on a question.

**joinder of offenses.** The charging of an accused with two or more crimes as multiple counts in a single indictment or information. • Unless later severed, joined offenses are tried together at a single trial. Fed. R. Crim. P. 8(a).

**joinder of remedies.** The joinder of alternative claims, such as breach of contract and quantum meruit, or of one claim with another prospective claim, such as a creditor's claim against a debtor to recover on a loan and the creditor's claim against a third party to set aside the transfer of the loan's collateral.

**mandatory joinder.** See *compulsory joinder*.

**misjoinder.** See MISJOINER.

**nonjoinder.** See NONJOINER.

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

**joinder in demurrer.** See JOINER.

**joinder in issue.** See *joinder of issue* (2) under JOINER.

**joinder in pleading.** See JOINER.

**joinder of error.** See JOINER.

**joinder of issue.** See JOINER.

**joinder of offenses.** See JOINER.

**joinder of remedies.** See JOINER.

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

**joint account.** See ACCOUNT.

**joint action.** See ACTION.

**joint activity.** See JOINT PARTICIPATION.

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

**joint adventure.** See JOINT VENTURE.

**joint and mutual will.** See WILL.

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

**joint and several, adj.** (Of liability, responsibility, etc.) apportionable either among two or more parties or to only one or a few select members of the group, at the adversary's discretion; together and in separation.

**joint and several bond.** See BOND (3).

**joint and several liability.** See LIABILITY.

**joint and several note.** See NOTE (1).

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

**joint annuity.** See ANNUITY.

**joint authors.** *Copyright.* Two or more authors who collaborate in producing a copyrightable work, each author intending to merge his or her respective contributions into a single work, and each being able to exploit the work as desired while remaining accountable for a pro rata share of the profits to the coauthor or coauthors.

**joint ballot.** See BALLOT (3).

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

**joint bond.** See BOND (3).

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

**joint committee.** See COMMITTEE.

**joint contract.** See CONTRACT.

**joint covenant.** See COVENANT (1).

**joint creditor.** See CREDITOR.

**joint custody.** See CUSTODY (2).

**joint debtor.** See DEBTOR.

**joint defendant.** See CODEFENDANT.

**joint-defense privilege.** See PRIVILEGE (3).

**joint demise.** See DEMISE.

**joint employment.** See EMPLOYMENT.

**joint enterprise.** **1. Criminal law.** An undertaking by two or more persons who set out to commit an offense they have conspired to commit. See CONSPIRACY. **2. Torts.** An undertaking by two or more persons with an equal right to direct and benefit from the endeavor, as a result of which one participant's negligence may be imputed to the others. — Also termed (in senses 1 and 2) *common enterprise*. **3. JOINT VENTURE.** **4. A joint venture for noncommercial purposes.**

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

**joint estate.** See ESTATE.

**joint executor.** See EXECUTOR.

**joint heir.** See HEIR.

**joint indictment.** See INDICTMENT.

**joint liability.** See LIABILITY.

**joint life insurance.** See INSURANCE.

**joint life policy.** See INSURANCE POLICY.

**joint mortgage.** See MORTGAGE.

**joint negligence.** See NEGLIGENCE.

**joint note.** See NOTE (1).

**joint obligation.** See OBLIGATION.

**joint offense.** See OFFENSE (1).

**joint ownership.** See OWNERSHIP.

**joint participation.** *Civil-rights law.* A pursuit undertaken by a private person in concert with a governmental entity or state official, resulting in the private person's performing public functions and thereby being subject to claims under the civil-rights laws. — Also termed *joint activity*. See SYMBIOTIC-RELATIONSHIP TEST; NEXUS TEST.

**joint rate.** See RATE.

**joint resolution.** See RESOLUTION (1).

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

**joint return.** See TAX RETURN.

**joint session.** See SESSION.

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

**joint-stock company.** See COMPANYY.

**joint tariff.** See TARIFF (4).

**joint tenancy.** See TENANCY.

**joint tortfeasors.** See TORTFEASOR.

**joint trespass.** See TRESPASS.

**joint trial.** See TRIAL.

**joint trustee.** See COTRUSTEE.

**jointure (joyn-chər).** **1.** A woman's freehold life estate in land, made in consideration of marriage in lieu of dower and to be enjoyed by her only after her husband's death; a settlement under which a wife receives such an estate. ● The four essential elements are that (1) the jointure must take effect immediately upon the husband's death, (2) it must be for the wife's own life, and not for another's life or for a term of years, (3) it must be held by her in her own right and not in trust for her, and (4) it must be in lieu of her entire dower. See DOWER. **2.** An estate in lands given jointly to a husband and wife before they marry. See JOINTRESS.

**jointuress.** See JOINTRESS.

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

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

**joint-venture corporation.** See CORPORATION.

**joint verdict.** See VERDICT.

**joint welfare fund.** See FUND (1).

**joint will.** See WILL.

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

**Jones Act.** *Maritime law.* A federal statute that allows a seaman injured during the course of employment to recover damages for the injuries in a negligence action against the employer. ● If a seaman dies from such injuries, the seaman's personal representative may maintain an action against the employer. 46 USCA app. § 688.

**Jones Act vessel.** See VESSEL.

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

**journal.** **1.** A book or record kept usu. daily, as of the proceedings of a legislature or the events of a ship's voyage. **2. Accounting.** In double-entry bookkeeping, a book in which original entries are recorded before being transferred to a ledger. **3.** A periodical or magazine, esp. one published for a scholarly or professional group. — Abbr. J.

**journal entry.** See ENTRY (2).

**journalist's privilege.** See PRIVILEGE (3).

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

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

**joyriding,** *n.* The illegal driving of someone else's automobile without permission, but with no intent to deprive the owner of it permanently. — Also termed *unauthorized use of a vehicle*. — **joyride,** *vb.* — **joyrider,** *n.*

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

**J.P. abbr.** JUSTICE OF THE PEACE.

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

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

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

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

**J.U.D.** [Law Latin *juris utriusque doctor* "doctor of both laws"] A title given to a doctor of both civil and canon law.

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

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

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

**judex datus** (day-təs). *Roman law.* A *judex* assigned by a magistrate or provincial governor to try a case.

**judex delegatus** (del-ə-gay-təs). *Civil law.* A delegated judge; a special judge.

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

**judex ordinarius** (or-də-nair-ee-əs). *Civil law.* A judge having jurisdiction in his own right rather than by delegated authority.

**judex pedaneus** (pə-day-nee-əs). *Roman law.* A *judex* to whom petty cases are delegated; an inferior or deputy judge. — Also termed *judex specialis*.

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

**judex selectus** (sə-lek-təs). *Civil law.* A judge selected to hear the facts in a criminal case.

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

**judge,** *n.* A public official appointed or elected to hear and decide legal matters in court. — Abbr. J. (and, in plural, JJ.).

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

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

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

**city judge.** See *municipal judge*.

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

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

**de facto judge** (di fak-toh). A judge operating under color of law but whose authority is procedurally defective, such as a judge appointed under an unconstitutional statute.

**district judge.** A judge in a federal or state judicial district. — Abbr. D.J.

**hanging judge.** A judge who is harsh with defendants, esp. those accused of capital crimes, and sometimes corruptly so.

**judge of probate.** See *probate judge*.

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

**judge pro tempore.** See *visiting judge*.

**lay judge.** A judge who is not a lawyer.

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

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

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

**puisne judge** (pyoo-nee). [Law French *puisné* “later born”] 1. A junior judge; a judge without distinction or title. • This was the title formerly used in English common-law courts for a judge other than the chief judge. Today *puisne judge* refers to any judge

of the English High Court, apart from the Chief Justice. 2. See *associate judge*.

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

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

**special judge.** A judge appointed or selected to sit — usu. in a specific case — in the absence or disqualification of the regular judge or otherwise as provided by statute.

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

**temporary judge.** See *visiting judge*.

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

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

**judge advocate.** *Military law.* 1. A legal adviser on a military commander’s staff. 2. Any officer in the Judge Advocate General’s Corps or in a department of a U.S. military branch. — Abbr. JA.

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

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

**judge-made law.** 1. The law established by judicial precedent rather than by statute. See COMMON LAW. 2. The law that results when judges construe statutes contrary to legislative intent. See JUDICIAL ACTIVISM. — Also termed (in sense 2) *judicial legislation*; *bench legislation*.

**judgement.** See JUDGMENT.



## judge of probate

**judge of probate.** See *probate judge* under JUDGE.

**judge ordinary.** See JUDGE.

**judge pro tempore** (proh tem-pə-ree). See *visiting judge* under JUDGE.

**judge's chamber.** See CHAMBER.

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

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

**judge trial.** See *bench trial* under TRIAL.

**judgment. 1.** A court's final determination of the rights and obligations of the parties in a case. • The term *judgment* includes a decree and any order from which an appeal lies. Fed. R. Civ. P. 54. — Also spelled (esp. in BrE) *judgement*. — Abbr. J. Cf. RULING; OPINION (1).  
**2. English law.** An opinion delivered by a member of the appellate committee of the House of Lords; a Law Lord's judicial opinion.

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

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

**agreed judgment.** A settlement that becomes a court judgment when the judge sanctions it. — Also termed *consent judgment*; *stipulated judgment*.

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

**cognovit judgment** (kog-noh-vit). A debtor's confession of judgment; judgment en-

tered in accordance with a cognovit. See CONFESSION OF JUDGMENT; COGNOVIT.

**confession of judgment.** See CONFESSION OF JUDGMENT.

**consent judgment.** See *agreed judgment*.

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

**default judgment.** See DEFAULT JUDGMENT.

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

**deficiency judgment.** A judgment against a debtor for the unpaid balance of the debt if a foreclosure sale or a sale of repossessed personal property fails to yield the full amount of the debt due. — Also termed *deficiency decree*.

**definitive judgment.** See *final judgment*.

**determinative judgment.** See *final judgment*.

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

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

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

**excess judgment.** A judgment that exceeds all of the defendant's insurance coverage.

**executory judgment** (eg-zek-yə-tor-ee). A judgment that has not been carried out, such

as a yet-to-be fulfilled order for the defendant to pay the plaintiff.

**final judgment.** A court's last action that settles the rights of the parties and disposes of all issues in controversy, except for the award of costs (and, sometimes, attorney's fees) and enforcement of the judgment. — Also termed *final appealable judgment*; *final decision*; *final decree*; *definitive judgment*; *determinative judgment*; *final appealable order*.

**foreign judgment.** A judgment rendered by a court of a state or country different from that where the judgment or its effect is at issue.

**in personam judgment.** See *personal judgment*.

**in rem judgment.** See *judgment in rem*.

**interlocutory judgment** (in-tər-lok-yə-tor-ee). An intermediate judgment that determines a preliminary or subordinate point or plea but does not finally decide the case. — Also termed *interlocutory decree*.

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

**judgment as a matter of law.** A judgment rendered during a jury trial — either before or after the jury's verdict — against a party on a given issue when there is no legally sufficient basis for a jury to find for that party on that issue. • In federal practice, the term *judgment as a matter of law* has replaced both the directed verdict and the judgment notwithstanding the verdict. Fed. R. Civ. P. 50. Cf. SUMMARY JUDGMENT.

**judgment by default.** See DEFAULT JUDGMENT.

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

**judgment in personam.** See *personal judgment*.

**judgment in rem** (in rem). A judgment that determines the status or condition of property and that operates directly on the property itself. — Also termed *in rem judgment*.

**judgment in retraxit.** See *judgment of retraxit*.

**judgment inter partes.** See *personal judgment*.

**judgment nil capiat per billa** (nil kap-ee-ət pər bil-ə). Judgment that the plaintiff take nothing by the bill; a take-nothing judgment in a case instituted by a bill.

**judgment nil capiat per breve** (nil kap-ee-ət pər breev or bree-vee). Judgment that the plaintiff take nothing by the writ; a take-nothing judgment in a case instituted by a writ.

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

**judgment notwithstanding the verdict.** A judgment entered for one party even though a jury verdict has been rendered for the opposing party. — Also termed *judgment non obstante veredicto* (non ahb-stan-tee ver-ə-dik-toh). — Abbr. JNOV. See *judgment as a matter of law*.

**judgment of acquittal.** A judgment, rendered on the defendant's motion or court's own motion, that acquits the defendant of the offense charged when the evidence is insufficient. See *directed verdict* under VERDICT.

**judgment of blood.** See *death sentence* under SENTENCE.

**judgment of conviction.** The written record of a criminal judgment, consisting of the plea, the verdict or findings, the adjudication, and the sentence. Fed. R. Crim. P. 32(d)(1).

**judgment of dismissal.** A final determination of a case without a trial on its merits. See DISMISSAL.

**judgment of nolle prosequi** (nah-ee-prahs-ə-kwi). A judgment entered against a plaintiff who, after appearance but before judgment on the merits, has decided to abandon prosecution of the lawsuit. See NOLLE PROSEQUI.

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

**judgment of repleader.** See REPLEADER.

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

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

**judgment on the pleadings.** A judgment based solely on the allegations and information contained in the pleadings, and not on any outside matters. Fed. R. Civ. P. 12(c). Cf. SUMMARY JUDGMENT.

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

**judgment quasi in rem** (kway-sī [or -zī] in rem). A judgment based on the court's jurisdiction over the defendant's interest in property rather than on its jurisdiction over the defendant or the property.

**judgment quod billa cassetur** (kwod bil-ə kə-see-tər). Judgment that the bill be quashed. • This is a judgment for the defendant.

**judgment quod breve cassetur** (kwod breev or bree-vee kə-see-tər). Judgment that the writ be quashed. • This is a judgment for the defendant.

**judgment quod computet.** See QUOD COMPUTET.

**judgment quod recuperet** (kwod ri-kyoo-pər-it). Judgment that the plaintiff recover.

**judgment respondeat ouster** (ri-spon-dee-at ows-tər). *Hist.* An interlocutory judgment requiring the defendant who has made a dilatory plea to give a more substantial defense.

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

**nunc pro tunc judgment** (nəŋk proh təŋk). A procedural device by which the record of a judgment is amended to accord with what the judge actually said and did, so that the record will be accurate. • This device is often used to correct defects in real-estate titles.

**personal judgment.** 1. A judgment that imposes personal liability on a defendant and that may therefore be satisfied out of any of the defendant's property within judicial reach. 2. A judgment resulting from an action in which a court has personal jurisdiction over the parties. 3. A judgment against a person as distinguished from a judgment against a thing, right, or status. — Also termed *judgment in personam* (in pər-soh-nəm); *in personam judgment*; *judgment inter partes* (in-tər pahr-teez).

**simulated judgment.** *Civil law.* A judgment that, although founded on an actual debt and

intended for collection by the usual legal processes, is actually entered into by the parties to give one of them an undeserving advantage or to defraud third parties.

**stipulated judgment.** See *agreed judgment*.

**summary judgment.** See SUMMARY JUDGMENT.

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

**voidable judgment.** A judgment that, although seemingly valid, is defective in some material way; esp., a judgment that, although rendered by a court having jurisdiction, is irregular or erroneous.

**void judgment.** A judgment that has no legal force or effect, the invalidity of which may be asserted by any party whose rights are affected at any time and any place, whether directly or collaterally. • From its inception, a void judgment continues to be absolutely null. It is incapable of being confirmed, ratified, or enforced in any manner or to any degree. One source of a void judgment is the lack of subject-matter jurisdiction.

**judgmental immunity.** See ERROR-OF-JUDGMENT RULE.

**judgment as a matter of law.** See JUDGMENT.

**judgment book.** See *judgment docket* under DOCKET.

**judgment by default.** See DEFAULT JUDGMENT.

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

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

**judgment debt.** See DEBT.

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

**judgment docket.** See DOCKET (1).

**judgment execution.** EXECUTION.

**judgment file.** See *judgment docket* under DOCKET.

**judgment homologating the tableau.** See JUDGMENT.

**judgment in personam.** See *personal judgment* under JUDGMENT.

**judgment in rem.** See JUDGMENT.

**judgment in retraxit.** See *judgment of retraxit* under JUDGMENT.

**judgment inter partes.** See *personal judgment* under JUDGMENT.

**judgment lien.** See LIEN.

**judgment nil capiat per billa.** See JUDGMENT.

**judgment nil capiat per breve.** See JUDGMENT.

**judgment nisi.** See JUDGMENT.

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

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

**judgment notwithstanding the verdict.** See JUDGMENT.

**judgment n.o.v.** See *judgment notwithstanding the verdict* under JUDGMENT.

**judgment of acquittal.** See JUDGMENT.

**judgment of blood.** See *death sentence* under SENTENCE.

**judgment of dismissal.** See JUDGMENT.

**judgment of nolle prosequi.** See JUDGMENT.

**judgment of nonsuit.** See JUDGMENT.

**judgment of repleader.** See REPLEADER.

**judgment of retraxit.** See JUDGMENT.

**judgment on the merits.** See JUDGMENT.

**judgment on the pleadings.** See JUDGMENT.

**judgment on the verdict.** See JUDGMENT.

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

**judgment quasi in rem.** See JUDGMENT.

**judgment quod billa cassetur.** See JUDGMENT.

**judgment quod breve cassetur.** See JUDGMENT.

**judgment quod computet.** See QUOD COMPUTET.

**judgment quod recuperet.** See JUDGMENT.

**judgment record.** See *judgment docket* under DOCKET.

**judgment respondeat ouster.** See JUDGMENT.

**judgment roll.** See *judgment docket* under DOCKET.

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

**judgment sale.** See *execution sale* under SALE.

**judicable** (joo-di-kə-bəl), *adj.* Rare. Capable of being adjudicated; triable; justiciable.

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

**judicative** (joo-di-kay-tiv or -kə-tiv), *adj.* Rare. See ADJUDICATIVE.

**judicator** (joo-di-kay-tər), *n.* A person authorized to act or serve as a judge.

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

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

**judicature** (joo-di-kə-chər). **1.** The action of judging or of administering justice through duly constituted courts. **2.** JUDICIARY (3). **3.** A judge's office, function, or authority.

**Judicature Acts.** A series of statutes that reorganized the superior courts of England in 1875.

• The Judicature Acts were superseded by the Supreme Court Act of 1981.

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

**judicia** (joo-dish-ee-ə). [Latin] *pl.* JUDICIUM.

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

**quasi-judicial.** See QUASI-JUDICIAL.

**judicial act.** See ACT (2)

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

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

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

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

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

**judicial arbitration.** See ARBITRATION.

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

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

**judicial bias.** See BIAS.

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

**judicial branch.** The branch of government consisting of the courts, whose function is to interpret, apply, and generally administer and enforce the laws; JUDICIARY (1). Cf. LEGISLATIVE BRANCH; EXECUTIVE BRANCH.

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

**judicial cognizance.** See JUDICIAL NOTICE.

**judicial combat.** See TRIAL BY COMBAT.

**judicial comity.** See COMITY.

**Judicial Committee of the Privy Council.** A tribunal created in 1833 with jurisdiction to hear certain admiralty and ecclesiastical appeals, and certain appeals from the Commonwealth. • Its decisions are not treated as binding precedent in the United Kingdom, but they are influential because of the overlapping composition of members of the Council and the House of Lords in its judicial capacity.

**judicial compensation.** **1.** The remuneration that judges receive for their work. **2.** *Civil law.* A court's judgment finding that two parties are mutually obligated to one another and crafting the amount of the judgment in accordance with the amount that each party owes. • A claim for compensation is usu. contained in a reconventional demand. La. Code Civ. Proc. 1062. See *reconventional demand* under DEMAND (1).

**judicial confession.** See CONFESSION.

**judicial control.** *Civil law.* A doctrine by which a court can deny cancellation of a lease if the lessee's breach is of minor importance, is not caused by the lessee, or is based on a good-faith mistake of fact.

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

**judicial day.** See *juridical day* under DAY.

**judicial dictum.** See DICTUM.

**judicial discretion.** See DISCRETION.

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

**judicial-economy exception.** An exemption from the final-judgment rule, by which a party may seek immediate appellate review of a non-final order if doing so might establish a final or nearly final disposition of the entire suit. See FINAL-JUDGMENT RULE.

**judicial estoppel.** See ESTOPPEL.

**judicial evidence.** See EVIDENCE.

**judicial fact.** See FACT.

**judicial foreclosure.** See FORECLOSURE.

**judicial immunity.** See IMMUNITY (1).

**judicial insurance.** See INSURANCE.

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

questions are gradually becoming judicialized>. — **judicialization, n.**

**judicial jurisdiction.** See JURISDICTION.

**judicial knowledge.** See JUDICIAL NOTICE.

**judicial legislation.** See JUDGE-MADE LAW (2); LEGISLATION.

**judicial lien.** See LIEN.

**judicial mortgage.** See MORTGAGE.

**judicial notice.** A court's acceptance, for purposes of convenience and without requiring a party's proof, of a well-known and indisputable fact; the court's power to accept such a fact <the trial court took judicial notice of the fact that water freezes at 32 degrees Fahrenheit>. Fed R. Evid. 201. — Also termed *judicial cognizance*; *judicial knowledge*.

**judicial oath.** See OATH.

**judicial officer.** **1.** A judge or magistrate. **2.** Any officer of the court, such as a bailiff or court reporter.

**judicial opinion.** See OPINION (1).

**judicial order.** See ORDER (2).

**judicial power.** **1.** The authority vested in courts and judges to hear and decide cases and to make binding judgments on them; the power to construe and apply the law when controversies arise over what has been done or not done under it. • Under federal law, this power is vested in the U.S. Supreme Court and in whatever inferior courts Congress establishes. The other two great powers of government are the legislative power and the executive power. **2.** A power conferred on a public officer involving the exercise of judgment and discretion in deciding questions of right in specific cases affecting personal and proprietary interests. • In this sense, the phrase is contrasted with *ministerial power*.

**judicial privilege.** See PRIVILEGE (3).

**judicial proceeding.** See PROCEEDING.

**judicial process.** See PROCESS.

## judicial question

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

**judicial record.** See DOCKET (1).

**judicial remedy.** See REMEDY.

**judicial restraint.** **1.** A restraint imposed by a court, as by a restraining order, injunction, or judgment. **2.** The principle that, when a court can resolve a case based on a particular issue, it should do so, without reaching unnecessary issues. **3.** A philosophy of judicial decision-making whereby judges avoid indulging their personal beliefs about the public good and instead try merely to interpret the law as legislated and according to precedent. — Also termed (in senses 2 & 3) *judicial self-restraint*. Cf. JUDICIAL ACTIVISM.

**judicial review.** **1.** A court's power to review the actions of other branches or levels of government; esp., the courts' power to invalidate legislative and executive actions as being unconstitutional. **2.** The constitutional doctrine providing for this power. **3.** A court's review of a lower court's or an administrative body's factual or legal findings.

*de novo judicial review.* A court's nondeferential review of an administrative decision, usu. through a review of the administrative record plus any additional evidence the parties present.

**judicial sale.** See SALE.

**judicial self-restraint.** See JUDICIAL RESTRAINT.

**judicial separation.** See SEPARATION (1).

**judicial sequestration.** See SEQUESTRATION.

**judicial settlement.** See SETTLEMENT.

**judicial stacking.** See STACKING.

**judicial-tenure commission.** A commission that reviews complaints against judges, investigates those complaints, and makes recommendations about appropriate measures to the highest court in the jurisdiction.

**judicial trustee.** See TRUSTEE (1).

**judicial writ.** See WRIT.

*judicia publica.* See JUDICIUM.

**judiciary** (joo-dish-ee-er-ee or joo-dish-ə-ree), *n.* **1.** The branch of government responsible for interpreting the laws and administering justice. Cf. EXECUTIVE (1); LEGISLATURE. **2.** A system of courts. **3.** A body of judges. — Also termed (in sense 3) *judicature*. — **judiciary**, *adj.*

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

**judicium** (joo-dish-ee-əm), *n.* [Latin] *Hist.* **1.** A judgment. **2.** A judicial proceeding; a trial. **3.** A court or tribunal. Pl. *judicia*.

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

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

*judicium publicum* (joo-dish-ee-əm pəb-li-kəm). [Latin "public trials"] A criminal proceeding under a public statute. ● The term derived from the Roman rule allowing any member of the public to initiate a prosecution. See COMITIA.

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

*judicium ecclesiasticum.* See FORUM ECCLESIASTICUM.

*judicium parium.* See JUDICIUM.

*judicium publica.* See JUDICIUM.

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

*juge de paix* (zhoozh də pe or pay). An inferior judge; esp., a police magistrate.

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

**juicio** (hwee-syoh). *Spanish law.* A trial or suit.

**Julian calendar.** See OLD STYLE.

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

**jumbo mortgage.** See MORTGAGE.

**jump bail, vb.** (Of an accused) to fail to appear in court at the appointed time, even after posting a bail bond and promising to appear. — Also termed *skip bail*. See BAIL-JUMPING.

**jump citation.** See *pinpoint citation* under CITATION.

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

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

**junior bond.** See BOND (3).

**junior counsel.** See COUNSEL.

**junior creditor.** See CREDITOR.

**junior execution.** See EXECUTION.

**junior interest.** See INTEREST (2).

**junior lien.** See LIEN.

**junior mortgage.** See MORTGAGE.

**junior partner.** See PARTNER.

**junior security.** See SECURITY.

**junior writ.** See WRIT.

**junk bond.** See BOND (3).

**jura** (joor-ə), *n. pl.* [Latin] JUS.

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

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

**jura mixti domini** (miks-tī də-min-ee-ī). *Hist.* Rights of mixed dominion; the king's or queen's right or power of jurisdiction.

**jura personarum** (pər-sə-nair-əm). Rights of persons. See JUS PERSONARUM.

**jura praediorum** (pree-dee-or-əm). *Hist.* The rights of estates.

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

**jura rerum** (reer-əm). Rights of things. See JUS RERUM.

**jura summi imperii** (səm-ī im-peer-ee-ī). *Hist.* Rights of supreme dominion; rights of sovereignty.

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

**jural act.** See ACT (2).

**jural activity.** See *jural act* under ACT (2).

**jural agent.** An official — someone who has the appropriate authoritative status in society to enforce or affect the society's legal system — who engages in a jural act. • Common examples include judges, legislators, and police officers acting in their official capacities. See *jural act* under ACT (2).

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

**jura majestatis.** See JURA.

**juramentum** (joor-ə-men-təm), *n.* [Latin] *Civil law.* An oath. Pl. **juramenta** (joor-ə-men-tə).

**juramentum calumniae** (kə-ləm-nee-ee). An oath of calumny. See *oath of calumny* under OATH.

**juramentum corporalis** (kor-pə-ray-lis). A corporal oath. See *corporal oath* under OATH.

**juramentum in litem** (in ī-tem or -təm). An oath in litem. See *oath in litem* under OATH.

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

**juramentum necessarium** (nes-ə-sair-ee-əm). A necessary or compulsory oath.

**juramentum voluntarium** (vol-ən-tair-ee-əm). A voluntary oath.

**jura mixti domini.** See JURA.



**jurant** (joor-ənt), *n.* *Archaic.* One who takes an oath. — **jurant**, *n.*

**jura personarum.** See JURA.

**jura praediorum.** See JURA.

**jura regalia.** See JURA.

**jura rerum.** See JURA.

**jura summi imperii.** See JURA.

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

**witness jurat.** A subscribing witness’s acknowledgment certificate. • Even though this certificate is technically an acknowledgment and not a true jurat, the phrase *witness jurat* is commonly used. See ACKNOWLEDGMENT.

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

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

**juration** (juu-ray-shən). *Archaic.* **1.** The act of administering an oath. **2.** The act of swearing on oath.

**jurative.** See JURATORY.

**jurator** (juu-ray-tər). *Archaic.* See JUROR.

**juratory** (joor-ə-tor-ee), *adj.* Of, relating to, or containing an oath. — Also termed *jurative*.

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

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

**jure civili** (sə-vī-li). By the civil law.

**jure coronae** (kə-roh-nee). In right of the Crown.

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

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

**jure gentium** (jən-shee-əm). By the law of nations.

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

**jure uxoris** (ək-sor-is). In right of a wife.

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

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

**judicial** (juu-rid-i-kəl), *adj.* **1.** Of or relating to judicial proceedings or to the administration of justice. **2.** Of or relating to law; legal. — Also termed *juridic*. Cf. NONJUDICIAL.

**judicial day.** See DAY.

**judicial link.** A legal relationship between members of a potential class action, sufficient to make a single suit more efficient or effective than multiple suits, as when all members of the class have been similarly affected by an allegedly illegal regulation. — Also termed *juridical relationship*.

**jurimetrics** (joor-ə-me-triks), *n.* The use of scientific or empirical methods, including measurement, in the study or analysis of legal matters. — **jurimetrician** (joor-ə-me-trish-ən), **jurimetricist** (joor-ə-me-trə-sist), *n.*

**juris** (joor-is). [Latin] **1.** Of law. **2.** Of right.

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

**juris publici** (pəb-li-sī). Of public right; relating to common or public use, or to public law.

**juriscenter** (joor-ə-sen-tər or joor-ə-sen-tər), *n.*  
*Conflict of laws.* The jurisdiction that is most appropriately considered a couple's domestic center of gravity for matrimonial purposes.

**jurisconsult** (joor-is-kon-səlt or -kən-səlt). One who is learned in the law, esp. in civil or international law; JURIST.

**jurisdiction**, *n.* **1.** A government's general power to exercise authority over all persons and things within its territory <New Jersey's jurisdiction>. **2.** A court's power to decide a case or issue a decree <the constitutional grant of federal-question jurisdiction>. **3.** A geographic area within which political or judicial authority may be exercised <the accused fled to another jurisdiction>. **4.** A political or judicial subdivision within such an area <other jurisdictions have decided the issue differently>. — **jurisdictional**, *adj.* Cf. VENUE.

**ancillary jurisdiction.** A court's jurisdiction to adjudicate claims and proceedings that arise out of a claim that is properly before the court. • For example, if a plaintiff brings a lawsuit in federal court based on a federal question (such as a claim under Title VII), the defendant may assert a counterclaim that the court would not otherwise have jurisdiction over (such as a state-law claim of stealing company property). The concept of ancillary jurisdiction has now been codified, along with the concept of pendent jurisdiction, in the supplemental-jurisdiction statute. 28 USCA § 1367. See *supplemental jurisdiction*. Cf. *pendent jurisdiction*.

**anomalous jurisdiction.** **1.** Jurisdiction that is not granted to a court by statute, but that is inherent in the court's authority to govern lawyers and other officers of the court, such as the power to issue a preindictment order suppressing illegally seized property. **2.** An appellate court's provisional jurisdiction to review the denial of a motion to intervene in a case, so that if the court finds that the denial was correct, then its jurisdiction disappears — and it must dismiss the appeal for want of jurisdiction — because an order denying a motion to intervene is not a final, appealable order. See ANOMALOUS-JURISDICTION RULE.

**appellate jurisdiction.** The power of a court to review and revise a lower court's decision. • For example, U.S. Const. art. III, § 2 vests appellate jurisdiction in the Su-

preme Court, while 28 USCA §§ 1291–1295 grant appellate jurisdiction to lower federal courts of appeals. Cf. *original jurisdiction*.

**arising-in jurisdiction.** A bankruptcy court's jurisdiction over issues relating to the administration of the bankruptcy estate, and matters that occur only in a bankruptcy case. 28 USCA §§ 157, 1334.

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

**concurrent jurisdiction.** **1.** Jurisdiction exercised simultaneously by more than one court over the same subject matter and within the same territory, with the litigant having the right to choose the court in which to file the action. **2.** Jurisdiction shared by two or more states, esp. over the physical boundaries (such as rivers or other bodies of water) between them. — Also termed *coordinate jurisdiction*; *overlapping jurisdiction*. Cf. *exclusive jurisdiction*.

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

**consent jurisdiction.** Jurisdiction that parties have agreed to, either by agreement, by contract, or by general appearance. • Parties may not, by agreement, confer subject-matter jurisdiction on a federal court that would not otherwise have it.

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

**continuing jurisdiction.** A court's power to retain jurisdiction over a matter after entering a judgment, allowing the court to modify its previous rulings or orders. See CONTINUING-JURISDICTION DOCTRINE.

**coordinate jurisdiction.** See *concurrent jurisdiction*.

**criminal jurisdiction.** A court's power to hear criminal cases.

**diversity jurisdiction.** A federal court's exercise of authority over a case involving parties from different states and an amount in controversy greater than a statutory minimum (now \$75,000). 28 USCA § 1332. See DIVERSITY OF CITIZENSHIP; AMOUNT IN CONTROVERSY.

**equity jurisdiction.** At common law, the power to hear certain civil actions according to the procedure of the court of chancery, and to resolve them according to equitable rules.

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

**exclusive jurisdiction.** A court's power to adjudicate an action or class of actions to the exclusion of all other courts <federal district courts have exclusive jurisdiction over actions brought under the Securities Exchange Act>. Cf. *concurrent jurisdiction*.

**extraterritorial jurisdiction.** A court's ability to exercise power beyond its territorial limits. See LONG-ARM STATUTE.

**federal jurisdiction. 1.** The exercise of federal-court authority. **2.** The area of study dealing with the jurisdiction of federal courts.

**federal-question jurisdiction.** The exercise of federal-court power over claims arising under the U.S. Constitution, an act of Congress, or a treaty. 28 USCA § 1331.

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

**general jurisdiction. 1.** A court's authority to hear a wide range of cases, civil or criminal, that arise within its geographic area. **2.** A court's authority to hear all claims against a defendant, at the place of the defendant's domicile or the place of service, without any showing that a connection exists between the claims and the forum state. Cf. *limited jurisdiction*; *specific jurisdiction*.

**in personam jurisdiction.** See *personal jurisdiction*.

**in rem jurisdiction (in rem).** A court's power to adjudicate the rights to a given piece of property, including the power to seize and hold it. — Also termed *jurisdiction in rem*. See IN REM. Cf. *personal jurisdiction*.

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

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

**jurisdiction in personam.** See *personal jurisdiction*.

**jurisdiction in rem.** See *in rem jurisdiction*.

**jurisdiction of the person.** See *personal jurisdiction*.

**jurisdiction of the subject matter.** See *subject-matter jurisdiction*.

**jurisdiction over the person.** See *personal jurisdiction*.

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

**legislative jurisdiction.** A legislature's general sphere of authority to enact laws and conduct all business related to that authority, such as holding hearings.

**limited jurisdiction.** Jurisdiction that is confined to a particular type of case or that may be exercised only under statutory limits and prescriptions. — Also termed *special jurisdiction*. Cf. *general jurisdiction*.

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

**original jurisdiction.** A court's power to hear and decide a matter before any other court can review the matter. Cf. *appellate jurisdiction*.

**overlapping jurisdiction.** See *concurrent jurisdiction*.

**pendent jurisdiction (pen-dənt).** A court's jurisdiction to hear and determine a claim over which it would not otherwise have jurisdiction, because the claim arises from the same transaction or occurrence as another claim that is properly before the court. ● For example, if a plaintiff brings suit in federal court claiming that the defendant, in one transaction, violated both a federal and a state law, the federal court has jurisdiction over the federal claim (under federal-question jurisdiction) and also has jurisdiction over the state claim that is pendent to the federal claim. Pendent jurisdiction has now been co-

dified as supplemental jurisdiction. 28 USCA § 1367. — Also termed *pendent-claim jurisdiction*. See *supplemental jurisdiction*. Cf. *ancillary jurisdiction*.

**pendent-party jurisdiction.** A court's jurisdiction to adjudicate a claim against a party who is not otherwise subject to the court's jurisdiction, because the claim by or against that party arises from the same transaction or occurrence as another claim that is properly before the court. • Pendent-party jurisdiction has been a hotly debated subject, and was severely limited by the U.S. Supreme Court in *Finley v. United States*, 490 U.S. 545, 109 S.Ct. 2003 (1990). The concept is now codified in the supplemental-jurisdiction statute, and it applies to federal-question cases but not to diversity-jurisdiction cases: 28 USCA § 1367. Neither pendent-party jurisdiction nor supplemental jurisdiction may be used to circumvent the complete-diversity requirement in cases founded on diversity jurisdiction. See *supplemental jurisdiction*.

**personal jurisdiction.** A court's power to bring a person into its adjudicative process; jurisdiction over a defendant's personal rights, rather than merely over property interests. — Also termed *in personam jurisdiction*; *jurisdiction in personam*; *jurisdiction of the person*; *jurisdiction over the person*. See IN PERSONAM. Cf. *in rem jurisdiction*.

**plenary jurisdiction** (plee-nə-ree or plen-ə-ree). A court's full and absolute power over the subject matter and the parties in a case.

**probate jurisdiction.** Jurisdiction over matters relating to wills, settlement of decedents' estates, and (in some states) guardianship and the adoption of minors.

**quasi-in-rem jurisdiction** (kway-si in rem or kway-zī). Jurisdiction over a person but based on that person's interest in property located within the court's territory. — Also termed *jurisdiction quasi in rem*. See *quasi in rem* under IN REM.

**special jurisdiction.** See *limited jurisdiction*.

**specific jurisdiction.** Jurisdiction that stems from the defendant's having certain minimum contacts with the forum state so that the court may hear a case whose issues arise from those minimum contacts. Cf. *general jurisdiction*.

**subject-matter jurisdiction.** Jurisdiction over the nature of the case and the type of relief sought; the extent to which a court can rule on the conduct of persons or the status

of things. — Also termed *jurisdiction of the subject matter*.

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

**supplemental jurisdiction.** Jurisdiction over a claim that is part of the same case or controversy as another claim over which the court has original jurisdiction. • Since 1990, federal district courts have had supplemental jurisdiction which includes jurisdiction over both ancillary and pendent claims. 28 USCA § 1367. See *ancillary jurisdiction*; *pendent jurisdiction*.

**territorial jurisdiction.** 1. Jurisdiction over cases arising in or involving persons residing within a defined territory. 2. Territory over which a government, one of its courts, or one of its subdivisions has jurisdiction.

**transient jurisdiction** (tran-shənt). Personal jurisdiction over a defendant who is served with process while in the forum state only temporarily (such as during travel).

**voluntary jurisdiction.** 1. Jurisdiction exercised over unopposed matters. 2. *Eccles. law.* Jurisdiction in cases in which contentious litigation is not allowed.

**jurisdictional amount.** See AMOUNT IN CONTROVERSY.

**jurisdictional fact.** See FACT.

**jurisdictional-fact doctrine.** *Administrative law.* The principle that if evidence is presented challenging the factual findings that triggered an agency's action, then a court will review the facts to determine whether the agency had authority to act in the first place. • This doctrine is generally no longer applied. Cf. CONSTITUTIONAL-FACT DOCTRINE.

**jurisdictional gerrymandering.** See GERRY-MANDERING (2).

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

**jurisdictional plea.** See PLEA (3).

**jurisdictional statement.** See JURISDICTION CLAUSE.

**jurisdictional strike.** See STRIKE.

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

**jurisdiction in personam.** See *personal jurisdiction* under JURISDICTION.

**jurisdiction in rem.** See *in rem jurisdiction* under JURISDICTION.

**jurisdiction of the person.** See *personal jurisdiction* under JURISDICTION.

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

**jurisdiction over the person.** See *personal jurisdiction* under JURISDICTION.

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

**Juris Doctor (joo-ris dok-tər).** Doctor of law — the law degree most commonly conferred by an American law school. — Abbr. J.D. — Also termed *Doctor of Jurisprudence*; *Doctor of Law*. Cf. MASTER OF LAWS; LL.B.; LL.D.

**juris et de jure (joo-ris et dee joo-ree).** [Latin] Of law and of right <a presumption *juris et de jure* cannot be rebutted>.

**jurisinceptor (joo-ris-in-sep-tər).** [Latin] *Hist.* A student of the civil law.

**jurisperitus (joo-ris-pə-ri-təs), adj.** [Latin] (Of a person) skilled or learned in law. See LEGISPERITUS.

**juris privati.** [Latin] See JURIS.

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

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

“Jurisprudence addresses the questions about law that an intelligent layperson of speculative bent — not a lawyer — might think particularly interesting. What is law? ... Where does law come from? ... Is law an autonomous discipline? ... What is the purpose of law? ... Is law a science, a humanity, or neither? ... A practicing lawyer or a judge is apt to think questions of this sort at best irrelevant to what he does, at worst naive, impractical, even childlike (how high is up?).” Richard A. Posner, *The Problems of Jurisprudence* 1 (1990).

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

**ensorial jurisprudence.** See LAW REFORM.

**comparative jurisprudence.** The scholarly study of the similarities and differences between the legal systems of different jurisdictions, such as between civil-law and common-law countries. — Also termed *comparative law*. Cf. INTERNATIONAL LAW.

“What is known as comparative jurisprudence — namely, the study of the resemblances and differences between different legal systems — is not a separate branch of jurisprudence co-ordinate with the analytical, historical, and ethical, but is merely a particular method of that science in all its branches. We compare English law with Roman law either for the purpose of analytical jurisprudence, in order the better to comprehend the conceptions and principles of each of those systems; or for the purpose of historical jurisprudence, in order that we may better understand the course of development of each system; or for the purpose of ethical jurisprudence, in order that we may better judge the practical merits and demerits of each of them. Apart from such purposes the comparative study of law would be merely futile.” John Salmond, *Jurisprudence* 7–8 n.(c) (Glanville L. Williams ed., 10th ed. 1947).

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

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

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

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

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

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

"The term 'general jurisprudence' involves the misleading suggestion that this branch of legal science is that which relates not to any single system of law, but to those conceptions and principles that are to be found in all developed legal systems, and which are therefore in this sense general. It is true that a great part of the matter with which it is concerned is common to all mature systems of law. All of these have the same essential nature and purposes, and therefore agree to a large extent in their first principles. But it is not because of universal reception that any principles pertain to the theory or philosophy of law. For this purpose such reception is neither sufficient nor necessary. Even if no system in the world save that of England recognised the legislative efficacy of judicial precedents, the theory of case-law would none the less be a fit and proper subject of general jurisprudence. *Jurisprudentia generalis* is not the study of legal systems in general, but the study of the general or fundamental elements of a particular legal system." John Salmond, *Jurisprudence* 3 n.(b) (Glanville L. Williams ed., 10th ed. 1947).

2. The scholarly study of the law, legal theory, and legal systems generally. — Also

termed *jurisprudentia universalis*; *philosophy of law*; *legal philosophy*.

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

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

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

**jurisprudence constante** (kən-stan-tee).

*Civil law.* The doctrine that a court should give great weight to a rule of law that is accepted and applied in a long line of cases, and should not overrule or modify its own decisions unless clear error is shown and injustice will arise from continuation of a particular rule of law. • *Civil-law courts* are not bound by the common-law doctrine of stare decisis. But they do recognize the doctrine of *jurisprudence constante*, which is similar to stare decisis, one exception being that *jurisprudence constante* does not command strict adherence to a legal principle applied on one occasion in the past. Cf. STARE DECISIS.

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

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

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

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

**sociological jurisprudence.** A philosophical approach to law stressing the actual social

effects of legal institutions, doctrines, and practices. • This influential approach was started by Roscoe Pound in 1906 and became a precursor to legal realism. — Also termed *sociology of law*. See LEGAL REALISM.

**systematic jurisprudence.** See *expository jurisprudence*.

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

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

**jurisprudential** (joo-ris-proo-den-shəl), *adj.* Of or relating to jurisprudence.

**jurisprudentia naturalis.** See JURISPRUDENCE (1).

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

**juris publici.** See JURIS.

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

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

**juristic act.** See *act in the law* under ACT (2).

**juristic person.** See *artificial person* under PERSON.

**Juris utriusque Doctor.** See J.U.D.

**juror** (joo-rər also joo-or). A person serving on a jury panel. — Also formerly termed *layperson*.

**grand juror.** A person serving on a grand jury.

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

**presiding juror.** The juror who chairs the jury during deliberations and speaks for the jury in court by announcing the verdict. • The presiding juror is usu. elected by the jury at the start of deliberations. — Also termed *foreman*; *foreperson*.

**tales-juror** (tay-leez- or taylz-joor-ər). See TALESMAN.

**juror misconduct.** See MISCONDUCT.

**jury, n.** A group of persons selected according to law and given the power to decide questions of fact and return a verdict in the case submitted to them.

**advisory jury.** A jury empaneled to hear a case when the parties have no right to a jury trial. • The judge may accept or reject the advisory jury's verdict.

**blue-ribbon jury.** A jury consisting of jurors who are the most highly educated on a given panel, sometimes used in a complex civil case (usu. by stipulation of the parties) and sometimes also for a grand jury (esp. those investigating governmental corruption). • An even more elite group of jurors, involving specialists in a technical field, is called a *blue-blue-ribbon jury*.

**common jury.** See *petit jury*.

**coroner's jury.** A jury summoned by a coroner to investigate the cause of death.

**deadlocked jury.** See *hung jury*.

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

**fair and impartial jury.** See *impartial jury*.

**foreign jury.** A jury obtained from a jurisdiction other than that in which the case is brought.

**good jury.** See *special jury*.

**grand jury.** See GRAND JURY.

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

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

**impartial jury.** A jury that has no opinion about the case at the start of the trial and that bases its verdict on competent legal evidence. — Also termed *fair and impartial jury*.

**inquest jury.** A jury summoned from a particular district to appear before a sheriff, coroner, or other ministerial officer and inquire about the facts concerning a death. See INQUEST.

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

**jury of indictment.** See GRAND JURY.

**jury of matrons.** *Hist.* A jury of “discreet and lawful women” impaneled to try a question of pregnancy, as when a woman sentenced to death pleads, in stay of execution, that she is pregnant.

**jury of the vicinage** (vis-ə-nij). **1.** At common law, a jury from the county where the crime occurred. **2.** A jury from the county where the court is held. See VICINAGE.

**life-qualified jury.** *Criminal law.* In a case involving a capital crime, a jury selected from a venire from which the judge has excluded anyone unable or unwilling to consider a sentence of life imprisonment, instead of the death penalty, if the defendant is found guilty. Cf. *death-qualified jury*.

**mixed jury.** **1.** DEMY-SANGUE. **2.** A jury composed of both men and women or persons of different races.

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

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

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

**special jury.** **1.** A jury chosen from a panel that is drawn specifically for that case. ● Such a jury is usu. empaneled at a party’s request in an unusually important or complicated case. — Also termed *struck jury*. See STRIKING A JURY. **2.** At common law, a jury composed of persons above the rank of ordinary freeholders, usu. summoned to try more important questions than those heard by ordinary juries. — Also termed *good jury*.

**struck jury.** A jury selected by allowing the parties to alternate in striking from a list any

person whom a given party does not wish to have on the jury, until the number is reduced to the appropriate number (traditionally 12).

**traverse jury.** See *petit jury*.

**trial jury.** See *petit jury*.

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

**jury challenge.** See CHALLENGE (2).

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

**jury commissioner.** An officer responsible for choosing the panels of potential jurors in a given county.

**jury de medietate linguae.** See JURY.

**jury direction.** See JURY INSTRUCTION.

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

**jury fee.** See FEE (1).

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

**jury instruction.** (*usu. pl.*) A direction or guideline that a judge gives a jury concerning the law of the case. — Often shortened to *instruction*. — Also termed *jury charge*; *charge*; *jury direction*; *direction*.

**additional instruction.** A jury charge, beyond the original instructions, that is usu. given in response to the jury’s question about the evidence or some point of law. — Also termed *further instruction*.

**affirmative converse instruction.** An instruction presenting a hypothetical that, if true, commands a verdict in favor of the defendant. ● An affirmative converse instruction usu. begins with language such as “your verdict must be for the defendant if you believe . . .”

**affirmative instruction.** An instruction that removes an issue from the jury’s consideration, such as an instruction that whatever the evidence, the defendant cannot be con-



victed under the indictment count to which the charge is directed. — Also termed *affirmative charge*.

**argumentative instruction.** An instruction that assumes facts not in evidence, that singles out or unduly emphasizes a particular issue, theory, or defense, or that otherwise invades the jury's province regarding the weight, probative value, or sufficiency of the evidence.

**binding instruction.** See *mandatory instruction*.

**cautionary instruction.** 1. A judge's instruction to the jurors to disregard certain evidence or consider it for specific purposes only. 2. A judge's instruction for the jury not to be influenced by outside factors and not to talk to anyone about the case while the trial is in progress.

**curative instruction.** A judge's instruction that is intended to correct an erroneous instruction.

**formula instruction.** A jury charge intended to be the complete statement of the law on which the jury must base its verdict.

**further instruction.** See *additional instruction*.

**mandatory instruction.** An instruction requiring a jury to find for one party and against the other if the jury determines that, based on a preponderance of the evidence, a given set of facts exists. — Also termed *binding instruction*.

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

**ostrich instruction.** *Criminal procedure.* An instruction stating that a defendant who deliberately avoided acquiring actual knowledge can be found to have acted knowingly.

**pattern jury charge.** See *model jury instruction*.

**pattern jury instruction.** See *model jury instruction*.

**peremptory instruction.** A court's explicit direction that a jury must obey, such as an instruction to return a verdict for a particular party. See *directed verdict* under VERDICT.

**single-juror instruction.** An instruction stating that if any juror is not reasonably satisfied with the plaintiff's evidence, then

the jury cannot render a verdict for the plaintiff.

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

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

**jury list.** A list of persons who may be summoned to serve as jurors.

**jurymen.** *Archaic.* See JUROR.

**jury nullification.** A jury's knowing and deliberate rejection of the evidence or refusal to apply the law either because the jury wants to send a message about some social issue that is larger than the case itself or because the result dictated by law is contrary to the jury's sense of justice, morality, or fairness.

**jury of indictment.** See GRAND JURY.

**jury of matrons.** See JURY.

**jury of the vicinage.** See JURY.

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

**jury panel.** See VENIRE (1).

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

**jury pool.** See VENIRE (1).

**jury process.** 1. The procedure by which jurors are summoned and their attendance is enforced. 2. The papers served on or mailed to potential jurors to compel their attendance.

**jury question.** 1. An issue of fact that a jury decides. See QUESTION OF FACT. 2. A special question that a court may ask a jury that will deliver a special verdict. See *special interrogatory* under INTERROGATORY.

**jury sequestration.** See SEQUESTRATION (7).

**jury service.** See JURY DUTY.

**jury summation.** See CLOSING ARGUMENT.

**jury-tampering.** See EMBRACERY.

**jury trial.** See TRIAL.

**jury wheel.** A physical device or electronic system used for storing and randomly selecting names of potential jurors.

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

**jus** (jəs *also* joos or yoos), *n.* [Latin “law, right”]  
**1.** Law in the abstract. **2.** A system of law. **3.** A legal right, power, or principle. — Abbr. J. — Also spelled *ius*. Pl. **jura** (joor-ə *also* yoor-ə). Cf. LEX.

**jus abstinenti** (jəs ab-stə-nen-dī), *n.* [Latin “right of abstaining”] *Roman & civil law.* The right of an heir to renounce or decline an inheritance, as when it would require taking on debt.

**jus abutendi** (jəs ab-yə-ten-dī), *n.* [Latin “right of abusing”] *Roman & civil law.* The right to make full use of property, even to the extent of wasting or destroying it. Cf. JUS UTENDI.

**jus accrescendi** (jəs ak-rə-sen-dī), *n.* [Latin “right of accretion”] A right of accrual; esp., the right of survivorship that a joint tenant enjoys. See RIGHT OF SURVIVORSHIP.

**jus actus** (jəs ak-təs), *n.* [Latin] *Roman law.* A rural servitude giving a person the right of passage for a carriage or cattle.

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

**jus aedilium** (jəs ee-dil-ee-əm), *n.* [Latin “law of the aediles”] *Roman law.* The body of law developed through the edicts and adjudications of aediles. — Also termed *jus aedilicium* (jəs ee-di-līsh-ee-əm). See AEDILE; JUS HONORARIUM.

**Jus Aelianum** (jəs ee-lee-ay-nəm), *n.* [Latin] *Roman law.* A manual of laws drawn up in the second century B.C. by the consul Sextus Aelius, consisting of three parts: (1) the laws of the

Twelve Tables; (2) a commentary on them; and (3) the forms of procedure. See TWELVE TABLES.

**jus aequum** (jəs ee-kwəm), *n.* [Latin “law that is equal or fair”] *Roman law.* Law characterized by equity, flexibility, and adaptation to the circumstances of a particular case. Cf. JUS STRICTUM.

**jus aesneiae** (jəs ees-neesh-ee-ee), *n.* [Latin] *Roman law.* The right of primogeniture.

**jus albanagii** (jəs al-bə-nay-jee-ī), *n.* [Law Latin “confiscating the goods of aliens”] See DROIT D’AUBAINE.

**jus albinatus** (jəs al-bi-nay-təs), *n.* [Law Latin “right of alien confiscation”] See DROIT D’AUBAINE.

**jus angariae** (jəs ang-gair-ee-ee), *n.* [Latin “right of angary”] See ANGARY.

**jus aquaeductus** (jəs ak-wə-dək-təs), *n.* [Latin] *Roman & civil law.* A servitude that gives a landowner the right to conduct water from another’s land through pipes or channels.

**jus aquaehaustus** (jəs ak-wee haws-təs), *n.* [Latin] *Roman law.* A servitude that grants a right to water one’s cattle on another’s field or to draw water from another’s well.

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

**jus belli** (jəs bel-ī), *n.* [Latin “law of war”] The law of nations as applied during wartime, defining in particular the rights and duties of the belligerent powers and of neutral nations.

**jus bellum dicendi** (jəs bel-əm di-sen-dī), *n.* [Latin] The right of proclaiming war.

**jus canonicum** (jəs kə-non-i-kəm), *n.* [Law Latin] See CANON LAW (1).

**jus civile** (jəs si-vī-lee). [Latin] See CIVIL LAW (1).

**jus civitatis** (jəs siv-i-tay-təs), *n.* [Latin] *Roman law.* The right of citizenship; the right of a Roman citizen.

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

*jus cogens* (jəs koh-jenz), *n.* [Latin “compelling law”] A mandatory norm of general international law from which no two or more nations may exempt themselves or release one another. Cf. *JUS DISPOSITIVUM.*

“Viewed from the perspective of international law as understood in the first part of the 20th century, *jus cogens* seemed hardly conceivable, since at that time the will of States was taken as paramount: States could, between themselves, abrogate any of the rules of customary international law . . . [Yet] [a]fter World War II the international community became conscious of the necessity for any legal order to be based on some consensus concerning fundamental values which were not at the disposal of the subjects of this legal order. As H. Mosler rightly stresses, there is a close connection between *jus cogens* and the recognition of a ‘public order of the international community’ (The International Society as a Legal Community (rev. ed. 1980 p. 19). Without expressly using the notion of *jus cogens*, the [International Court of Justice] implied its existence when it referred to obligations *erga omnes* in its judgment of February 5, 1970 in the Barcelona Traction Case. The Court spoke of the ‘obligations of a State towards the international community as a whole’ where were ‘the concern of all States’ and for whose protection all States could be held to have a ‘legal interest’ (ICJ Reports (1970) p. 3, at 32). These obligations are seen as fundamentally different from those existing *vis-à-vis* another State in the field of diplomatic protection.” Jochen Abr. Frowein, in 3 *Encyclopedia of Public International Law* 66 (1997).

*jus commercii* (jəs kə-mər-shee-ī), *n.* [Latin “right of commerce”] *Roman & civil law.* The right to make contracts, acquire and transfer property, and conduct business transactions.

*jus commune* (jəs kə-myoo-nee), *n.* **1.** *Roman & civil law.* The common or public law or right, as opposed to a law or right established for special purposes. Cf. *JUS SINGULARE.* **2.** The common law of England. See *COMMON LAW* (3).

*jus compascuum* (jəs kəm-pas-kyoo-əm), *n.* [Latin “the right to feed together”] *Hist.* The right of common pasture. Cf. *COMMON* (1).

*jus connubii* (jəs kə-n[y]oo-bee-ī), *n.* [Latin “right of marriage”] See *CONNUBIUM.*

*jus coronae* (jəs kə-roh-nee), *n.* [Latin “right of the Crown”] The right of succession to the English throne.

*jus cudendae monetae* (jəs kyoo-den-dee mə-nee-tee), *n.* [Law Latin] *Hist.* The right of coining money.

*jus curialitatis* (jəs kyoor-ee-al-ə-tay-tis), *n.* [Law Latin] *Hist.* The right of curtesy.

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

*jus deliberandi* (jəs di-lib-ə-ran-dī), *n.* [Latin “right of deliberating”] *Roman & civil law.* A right granted to an heir to take time to consider whether to accept or reject an inheritance.

*jus de non appellando* (jəs dee non ap-ə-lan-doh), [Latin] The supreme judicial power.

*jus dicere* (jəs di-sər-ee), *vb.* [Latin] To declare or decide the law. • This is the function and prerogative of the judiciary. Cf. *JUS DARE.*

*jus disponendi* (jəs dis-pə-nen-dī), *n.* [Latin “right of disposing”] The right to dispose of property; the power of alienation.

*jus dispositivum* (jəs dis-poz-ə-ti-vəm), *n.* [Latin “law subject to the disposition of the parties”] *Int’l law.* A norm that is created by the consent of participating nations, as by an international agreement, and is binding only on the nations that agree to be bound by it. Cf. *JUS COGENS.*

*jus distrahendi* (jəs dis-trə-hen-dī), *n.* [Latin “right of distraining”] The right to sell pledged goods upon default.

*jus dividendi* (jəs div-ī-den-dī), *n.* [Latin “right of dividing”] The right to dispose of real property by will.

*jus divinum* (jəs di-vī-nəm). See *DIVINE LAW; NATURAL LAW* (1).

*jus duplicatum* (jəs d[y]oo-ply-kay-təm). See *DROIT-DROIT.*

*jus ecclesiasticum* (jəs e-klee-z[h]ee-as-ti-kəm). [Law Latin] See *ECCLESIASTICAL LAW.*

*jus edicendi* (jəs ed-i-sen-dī or ee-di-), *n.* [Latin “right of decreeing”] *Roman law.* The right (esp. of the praetors) to issue edicts. See *JUS PRAETORIUM.*

**jus ex non scripto** (jəs eks non skrip-toh). See UNWRITTEN LAW.

**jus falcandi** (jəs fal-kan-di), *n.* [Latin] *Hist.* The right of mowing or cutting.

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

**jus fiduciarium** (jəs fi-d[y]oo-shee-air-əm), *n.* [Latin] *Civil law*. A right in trust. Cf. JUS LEGITIMUM.

**jus fluminum** (jəs floo-mə-nəm), *n.* [Latin] *Civil law*. The right to use rivers.

**jus fodiendi** (jəs foh-dee-en-di), *n.* [Latin] *Civil law*. The right to dig on another's land.

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

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

**jus gentium** (jəs jen-shee-əm), *n.* [Latin “law of nations”] **1.** INTERNATIONAL LAW. **2.** *Roman law*. The body of law, taken to be common to different peoples, and applied in dealing with the relations between Roman citizens and foreigners. — Also termed *jus inter gentes*.

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

**jus gentium privatum** (jəs jen-shee-əm pri-vay-təm). See *private international law* under INTERNATIONAL LAW.

**jus gentium publicum** (jəs jen-shee-əm pəb-li-kəm). See INTERNATIONAL LAW.

**jus gladii** (jəs glad-ee-i), *n.* [Latin “right of the sword”] *Roman law*. The executory power of the law; the power or right to inflict the death penalty. • This term took on a similar meaning under English law.

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

**jus habendi** (jəs hə-ben-di), *n.* [Latin] *Civil law*. The right to have a thing; the right to be put in actual possession of property.

**jus haereditatis** (jəs hə-red-ə-tay-tis), *n.* [Latin] *Civil law*. The right of inheritance.

**jus hauriendi** (jəs haw-ree-en-di), *n.* [Latin] *Civil law*. The right of drawing water.

**jus honorarium** (jəs [h]on-ə-rair-ee-əm), *n.* [Latin “magisterial law”] *Roman law*. The body of law established by the edicts of the supreme magistrates, including the praetors (*jus praetorium*) and the aediles (*jus aedilium*).

**jus honorum** (jəs [h]ə-nor-əm), *n.* [Latin] *Roman law*. The right of a citizen to hold public office. Cf. JUS SUFFRAGII.

**jus imaginis** (jəs ə-maj-ə-nis), *n.* [Latin] *Roman law*. The right to use or display pictures or statues of ancestors.

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

**jus incognitum** (jəs in-kog-nə-təm), *n.* [Latin] *Civil law*. An unknown or obsolete law.

**jus individuum** (jəs in-də-vij-oo-əm), *n.* [Latin] An individual or indivisible right; a right that cannot be divided.

**jus in personam** (jəs in pər-soh-nəm), *n.* [Latin “right against a person”] A right of action against a particular person to enforce that person's obligation. See *right in personam* under RIGHT.

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

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

*jus in rem* (jəs in rem), *n.* [Latin "right against a thing"] See *JUS IN RE*.

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

*jus inter gentes* (jəs in-tər jen-teez), *n.* [Latin "law among nations"] See *JUS GENTIUM*.

*jus Italicum* (jəs i-tal-ə-kəm), *n.* [Latin] *Roman law*. The right, law, and liberties of certain Roman colonies, including quiritarian ownership and exemption from property taxes imposed by the republic.

*jus itineris* (jəs i-tin-ə-ris), *n.* [Latin] *Roman law*. A rural servitude granting the right to pass over an adjoining field on foot or horseback.

*jusjurandum* (jəs-juu-ran-dəm), *n.* [Latin] An oath. See *JURAMENTUM*.

*jus Latii* (jəs lay-shee-i), *n.* [Latin] *Roman law*. The right of a person who is not a Roman citizen to have certain privileges of citizenship. — Also termed *jus Latium*.

*jus legitimum* (jəs lə-jit-ə-məm), *n.* [Latin] *Civil law*. A right enforceable in law. Cf. *JUS FIDUCIARIUM*.

*jus liberorum* (jəs lib-ə-ror-əm), *n.* [Latin "right of children"] *Roman law*. A privilege conferred on a parent who has several children; esp., a right of inheritance given to a woman with three or more children. — Also termed *jus trium liberorum*.

*jus mariti* (jəs mə-ri-ti), *n.* [Latin] The right of a husband; esp., the husband's right to his wife's movable estate by virtue of the marriage.

*jus merum* (jəs meer-əm). See *MERE RIGHT*.

*jus moribus constitutum* (jəs mor-ə-bəs kon-stə-t[y]oo-təm). [Latin] See *UNWRITTEN LAW*.

*jus naturae* (jəs nə-t[y]oor-ee). [Latin] See *NATURAL LAW*.

*jus naturale* (jəs nach-ə-ray-lee). [Latin] See *NATURAL LAW*.

*jus navigandi* (jəs nav-ə-gan-dī), *n.* [Latin] *Civil law*. The right of navigation; the right of commerce by sea.

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

*jus non sacrum* (jəs non say-krəm), *n.* [Latin "nonsacred law"] *Roman law*. The body of law regulating the duties of a civil magistrate in preserving the public order. Cf. *JUS SACRUM*.

*jus non scriptum* (jəs non skrip-təm). See *UNWRITTEN LAW*.

*jus offerendi* (jəs ahf- or awf-ə-ren-dī), *n.* [Latin] *Roman law*. The right of subrogation; the right to succeed to a senior creditor's lien and priority upon tendering the amount due to that creditor.

*jus oneris ferendi* (jəs on-ə-ris fə-ren-dī), *n.* [Latin] *Roman law*. An urban servitude granting the right to support and build on another's house wall.

*jus pascendi* (jəs pə-sen-dī). See *servitus pascendi* under *SERVITUS*.

*jus patronatus* (jəs pa-trə-nay-təs), *n.* [Latin] *Eccles. law*. The right of patronage; the right to present a clerk to a benefice.

*jus personarum* (jəs pər-sə-nair-əm), *n.* [Latin "law of persons"] *Civil law*. The law governing the rights of persons having special relations with one another (such as parents and children or guardians and wards) or having limited rights (such as aliens or incompetent persons). See *LAW OF PERSONS*. Cf. *JUS RERUM*.

*jus poenitendi* (jəs pen-i-ten-dī), *n.* [Latin] The right to rescind or revoke an executory contract when the other party defaults.

*jus portus* (jəs por-təs), *n.* [Latin] *Civil & maritime law*. The right of port or harbor.

*jus positivum*. See *POSITIVE LAW*.

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

***jus possidendi*** (jəs pos-ə-den-dī), *n.* [Latin] *Civil law*. A person's right to acquire or to retain possession; an owner's right to possess.

***jus postliminii*** (jəs pohst-lə-min-ee-ī), [Latin] See *POSTLIMINIUM*.

***jus praesens*** (jəs pree-senz or -senz), *n.* [Latin "present right"] *Civil law*. A right that has been completely acquired; a vested right.

***jus praetorium*** (jəs pri-tor-ee-əm), *n.* [Latin "law of the praetors"] *Roman law*. The body of law developed through the edicts and adjudications of praetors. See *PRAETOR*; *JUS HONORARIUM*.

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

***jus presentationis*** (jəs prez-an-tay-shee-oh-nis), *n.* [Latin] *Civil law*. The right to present a clerk to a church.

***jus primae noctis*** (jəs pri-mee nok-tis). [Latin "right of first night"] See *DROIT DU SEIGNEUR*.

***jus privatum*** (jəs pri-vay-təm), *n.* [Latin "private law"] **1.** *Roman & civil law*. The law governing the relations and transactions between individuals. **2.** The right, title, or dominion of private ownership. See *PRIVATE LAW*. Cf. *JUS PUBLICUM*.

***jus projiciendi*** (jəs prə-jish-ee-en-dī), *n.* [Latin] *Civil law*. A servitude granting the right to build a projection (such as a balcony) from one's house in the open space belonging to a neighbor.

***jus proprietatis*** (jəs prə-pri-ə-tay-tis), *n.* [Latin] *Civil law*. A right in property based on ownership rather than actual possession. Cf. *JUS POSSESSIONIS*.

***jus protegendi*** (jəs proh-tə-jen-dī), *n.* [Latin] *Civil law*. A servitude granting the right to make the roof or tiling of one's house extend over a neighbor's house.

***jus publicum*** (jəs pəb-li-kəm), *n.* [Latin "public law"] **1.** *Roman & civil law*. The public law of crimes, of officers, of the priesthood, and of the status of persons. **2.** The right, title, or dominion of public ownership; esp., the government's right to own real property in trust for the public benefit. See *PUBLIC LAW*. Cf. *JUS PRIVATUM*.

***jus quaesitum*** (jəs kwi-sī-təm or -zī-təm), *n.* [Latin] *Civil law*. **1.** A right to ask or recover, as from one who is under an obligation. **2.** An acquired right.

***jus quiritium*** (jəs kwi-ri-shee-əm), *n.* [Latin] *Roman law*. The ancient, primitive law of the Romans before the development of the *jus praetorium* and the *jus gentium*.

***jus recuperandi*** (jəs ri-k[y]oo-pə-ran-dī), *n.* [Latin] *Civil law*. The right of recovering, esp. lands.

***jus regendi*** (jəs ri-jen-dī), *n.* [Law Latin] A proprietary right vested in a sovereign.

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

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

***jus repræsentationis*** (jəs rep-ri-zen-tay-shee-oh-nis), *n.* [Latin] *Civil law*. The right to represent or be represented by another.

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

***jus respondendi*** (jəs ree-spon-den-dī), *n.* [Latin "the right of responding"] *Roman law*. The authority conferred on certain jurists of delivering legal opinions that became binding law.

***jus retentionis*** (jəs ri-ten-shee-oh-nis), *n.* [Latin] *Civil law*. The right of retaining something.

***jus retractus*** (jəs ri-trak-təs), *n.* [Latin “the right of retraction”] *Civil law*. **1.** The right of certain relatives of one who has sold immovable property to repurchase it. **2.** A debtor’s right, upon sale of the debt by the creditor, to have a third person redeem it within a year for the price paid by the purchaser.

***jus sacrum*** (jəs say-krəm), *n.* [Latin “sacred law”] *Roman law*. The body of law regulating matters of public worship, such as sacrifices and the appointment of priests. Cf. JUS NON SACRUM.

***jus sanguinis*** (jəs sang-gwə-nis), *n.* [Latin “right of blood”] The rule that a child’s citizenship is determined by the parents’ citizenship. • Most nations follow this rule. Cf. JUS SOLI.

***jus scriptum*** (jəs skrip-təm). [Latin] See WRITTEN LAW.

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

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

***jus spatiandi*** (jəs spay-shee-an-dī), *n.* [Latin “right of walking about”] *Civil law*. The public’s right-of-way over specific land for purposes of recreation and instruction.

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

***jus strictum*** (jəs strik-təm), *n.* [Latin “strict law”] *Roman law*. Law rigorously interpreted without modification. — Also termed *strictum jus*. See STRICTI JURIS. Cf. JUS AEQUUM.

***jus suffragii*** (jəs sə-fray-jee-i), *n.* [Latin] *Roman law*. The right of a citizen to vote. Cf. JUS HONORUM.

**just**, *adj.* Legally right; lawful; equitable.

***justa causa*** (jəs-tə kaw-zə), *n.* [Latin] *Civil law*. A just cause; a lawful ground. See *good cause* under CAUSE (2).

***justae nuptiae*** (jəs-tee nəp-shee-ee), *n.* [Latin “legal marriage”] *Roman law*. A marriage between two persons who had the legal capacity to wed. • *Justae nuptiae* was the only union that created the familial relationship known as *patria potestas*. — Also spelled *iustae nuptiae*. See *patria potestas* under POTESTAS. Cf. CONCUBINATUS.

“*Iustae nuptiae* is such a marriage as satisfies all the rules of civil law. Any marriage between two persons who had the capacity of civil marriage with each other (*conubium*) was necessarily *iustae nuptiae*, for if the union was defective in any other respect it was no marriage at all. On the other hand, if there was no *conubium* between the parties it might still be actually a marriage (*nuptiae, nuptiae non iustae*), the wife being *uxor non iusta*, the children *liberi non iusti*. Such a marriage, in which one party at least would not be a *civis*, did not produce *patria potestas* over children. . . .” W.W. Buckland, *A Manual of Roman Private Law* 63-64 (2d ed. 1953).

***jus talionis***. See LEX TALIONIS.

**just-as-probable rule.** *Workers’ compensation.* A doctrine whereby a workers’-compensation claim will be denied if it is equally likely that the injury resulted from a non-work-related cause as from a work-related cause.

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

**just compensation.** See COMPENSATION.

**just deserts** (di-zərts). What one really deserves; esp., the punishment that a person deserves for having committed a crime. — Also termed *deserts*.

***jus tertii*** (jəs tər-shee-i), *n.* [Latin] **1.** The right of a third party.

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

**2.** The doctrine that, particularly in constitutional law, courts do not decide what they do not need to decide.

“*Jus tertii* . . . says nothing about the nature of legal argument on the merits of a case once formed, but as a symbol for the separability of cases is a useful term of art. Translated, however, it reads ‘right of a third person.’ It may once have been associated with a presumption of common-law jurisprudence that one cannot be harmed by an action that achieves its effect through

effects upon others, cannot be 'indirectly' harmed." Joseph Vining, *Legal Identity* 120 (1978).

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

**commutative justice** (kə-myoo-tə-tiv or kom-yə-tay-tiv). Justice concerned with the relations between persons and esp. with fairness in the exchange of goods and the fulfillment of contractual obligations.

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

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

**justice in personam.** See *personal justice*.

**justice in rem.** See *social justice*.

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

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

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

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

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

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

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

**2.** A judge, esp. of an appellate court or a court of last resort. — Abbr. J. (and, in plural, JJ.).

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

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

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

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

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

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

**low justice. Hist.** Jurisdiction over petty offenses.

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

**justice court.** See COURT.

**justice ejectment.** See EJECTMENT.

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

**justice in personam.** See *personal justice* under JUSTICE (1).

**justice in rem.** See *social justice* under JUSTICE (1).

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

**justice of the peace.** A local judicial officer having jurisdiction over minor criminal offenses and minor civil disputes, and authority to perform routine civil functions (such as administering oaths and performing marriage ceremonies). — Abbr. J.P. Cf. MAGISTRATE.



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

**justice of the quorum.** *Hist.* A distinction conferred on a justice of the peace by directing — in the commission authorizing the holding of quarter sessions — that from among those holding court must be two or more specially so named. • The distinction was conferred on some, or occasionally all, of the justices of the peace of a county in England.

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

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

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

**justiciability** (jə-stish-ee-ə-bil-ə-tee), *n.* The quality or state of being appropriate or suitable for review by a court. See MOOTNESS DOCTRINE; RIPENESS. Cf. STANDING.

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

**justiciable** (jə-stish-ee-ə-bəl or jəs-tish-ə-bəl), *adj.* (Of a case or dispute) properly brought before a court of justice; capable of being disposed of judicially <a justiciable controversy>.

**justicia errante.** See JUSTICE IN EYRE.

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

**justiciarii itinerantes** (jəs-tish-ee-air-ee-I I-tin-ə-ran-teez), *n.* [Latin "itinerant justices"] Justices in eyre. See JUSTICE IN EYRE.

**justiciarii residentes** (jəs-tish-ee-air-ee-I rez-i-den-teez), *n.* [Latin "resident justices"] *Hist.* Justices who usu. held court in Westminster, as opposed to traveling with the eyre. Cf. EYRE.

**justiciar in itinere.** See JUSTICE IN EYRE.

**justiciary** (jə-stish-ee-er-ee), *adj.* Of or relating to the administration of justice; pertaining to the law.

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

**justicier.** See JUSTICIAR.

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

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

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

**justifiable homicide.** See HOMICIDE.

**justification, n.** **1.** A lawful or sufficient reason for one's acts or omissions. **2.** A showing, in court, of a sufficient reason why a defendant did what the plaintiff or prosecution charges the defendant to answer for. — Also termed *justification defense*; *necessity defense*. **3.** A surety's proof of having enough money or credit to provide security for the party for whom it is required. — **justify, vb.** — **justificatory** (jəs-ti-fi-kə-tor-ee), *adj.*

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

and excuse." Glanville Williams, *Textbook of Criminal Law* 39 (1978).

**imperfect justification.** A reason or cause that is insufficient to completely justify a defendant's behavior but that can be used to mitigate criminal punishment.

**justification defense.** *Criminal & tort law.* A defense that arises when the defendant has acted in a way that the law does not seek to prevent. • Traditionally, the following defenses were justifications: consent, self-defense, defense of others, defense of property, necessity (choice of evils), the use of force to make an arrest, and the use of force by public authority. — Sometimes shortened to *justification*. Cf. EXCUSE (2).

**justificator** (jəs-tə-fi-kay-tər). *Hist.* **1.** A compurgator who testifies under oath in defense of an accused person. **2.** A juror.

**Justinian Code** (jəs-tin-ee-ən). *Roman law.* A collection of imperial constitutions drawn up by a commission of ten persons appointed by Justinian, and published in A.D. 529. • The Code replaced all prior imperial law, but was in force only until A.D. 534, when it was supplanted by the *Codex Repetitae Praelectionis*. — Also termed *Justinianean Code* (jəs-tin-ee-an-ee-ən); *Code of Justinian*; *Codex Justinianus* (koh-deks-jəs-tin-ee-ay-n(ee)s); *Codex Vetus* ("Old Code").

**Justinianist** (jə-stin-ee-ə-nist), *n.* **1.** One who is knowledgeable about the codification of Justinian. **2.** One who has been trained in civil law.

**Justinian's Institutes.** See INSTITUTE.

**justitia** (jəs-tish-ee-ə), *n.* [Latin] Justice.

**justitia denegata** (jəs-tish-ee-ə dee-nə-gay-tə). See DENIAL OF JUSTICE.

**justitia naturalis** (jəs-tish-ee-ə nach-ə-ray-lis). See *natural justice* under JUSTICE (1).

**justitium** (jəs-tish-ee-əm), *n.* [Latin] *Civil law.* A suspension or intermission of the administration of justice in the courts, as for vacation time.

**jus tripartitum** (jəs tri-pər-ti-təm), *n.* [Latin "law in three parts"] *Roman law.* The law of wills in the time of Justinian, deriving from the praetorian edicts, from the civil law, and from the imperial constitutions.

**jus trium liberorum** (jəs tri-əm lib-ə-ror-əm). [Latin] See JUS LIBERORUM.

**just title.** See TITLE (2).

**just value.** See *fair market value* under VALUE.

**just war.** See BELLUM JUSTUM.

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

**jus vitae necisque** (jəs vi-tee ni-sis-kwee), *n.* [Latin "right of life and death"] *Roman law.* The power held by the head of the household over persons under his paternal power and over his slaves. • This right was abolished under later Roman law. See PATRIA POTESTAS.

**juvenile** (joo-və-nəl or -nīl), *n.* A person who has not reached the age (usu. 18) at which one should be treated as an adult by the criminal-justice system; MINOR. — **juvenile**, *adj.* — **juvenility** (joo-və-nīl-ə-tee), *n.*

**juvenile court.** See COURT.

**juvenile delinquency.** Antisocial behavior by a minor; esp., behavior that would be criminally punishable if the actor were an adult, but instead is usu. punished by special laws pertaining only to minors. — Also termed *delinquent minor*. Cf. INCORRIGIBILITY.

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

**juvenile delinquent.** A minor guilty of criminal behavior, which is usu. punished by special laws not pertaining to adults. — Also termed *juvenile offender*; *youthful offender*; *delinquent minor*. See OFFENDER.

**juvenile officer.** A juvenile-court employee who works with the judge to direct and develop the court's child-welfare work. — Also termed *county agent*.

**juvenile parole.** See PAROLE.

**juvenile petition.** See PETITION.

*juxta* (jəks-tə). [Latin] Near; following; according to.

*juxta conventionem* (jəks-tə kən-ven-shee-oh-nəm). [Latin] According to the covenant.

*juxta formam statuti* (jəks-tə for-məm stət[y]oo-tl). [Latin] According to the form of the statute.

**juxtaposition** (jəks-tə-pə-zish-ən), *n.* **1.** The act or an instance of placing two or more things side by side or near one another. **2.** *Patents.* See

AGGREGATION. — **juxtapose** (jəks-tə-pohz), *vb.* — **juxtapositional**, *adj.*

*juxta ratam* (jəks-tə ray-təm). [Latin] At or after the rate.

*juxta tenorem sequentem* (jəks-tə tə-nor-əm sə-kwen-təm). [Latin] According to the tenor following.

**juzgado** (hoos-gah-thoh). [Spanish "court"] The judiciary; the judges who concur in a decision.