

he became in a condition which would authorize him to contract one." Adrienne D. Davis, *The Private Law of Race and Sex: An Antebellum Perspective*, 51 Stan. L. Rev. 221, 245 (1999).

**contumace capiendo.** See DE CONTUMACE CAPIENDO.

**contumacious conduct.** See CONDUCT.

**contumacy** (kɒn-t[y]uu-mə-see), *n.* (15c) Contempt of court; the refusal of a person to follow a court's order or direction. See CONTEMPT. [Cases: Contempt ⇨ 1-26.] — **contumacious**, *adj.*

**contumax.** *Hist.* 1. A person found to be in contempt of court. 2. A person who is accused of a crime but refuses to appear and answer the charge.

**contumelious** (kɒn-t[y]oo-mee-lee-əs), *adj.* Insolent, abusive, spiteful, or humiliating.

**contumely** (kɒn-t[y]uu-mə-lee or kən-t[y]oo-mə-lee), *n.* Insulting language or treatment; scornful rudeness.

**contutor** (kən-t[y]oo-tər), *n.* [Latin] *Roman law.* A coguardian of a ward. • Appointment as a coguardian could be accomplished by testament or by court order.

**conubium** (kə-n[y]oo-bee-əm), *n.* [fr. Latin *con* "together" + *nubere* "to marry"] *Roman law.* 1. The legal capacity to wed. 2. The collection of rights that accompany a marriage between persons who have the capacity to marry. — Also spelled *connubium*. — Also termed *jus connubii*. See CONCUBINATUS; JUSTAE NUPTIAE.

"The word *connubium* denotes properly the right to intermarry with Roman citizens; and hence to contract a Roman marriage, according to the peculiar forms and with the peculiar incidents and effects of marriage between Roman citizens. Chief among these incidents or effects was the *patria potestas*, or life-long control of the father over his children, which, as we shall soon see, was among the most remarkable peculiarities of the Roman system. In general, *connubium* embraces the peculiar rights of Roman citizens, so far as they pertain to family relations." James Hadley, *Introduction to Roman Law* 116 (1881).

**conusance** (kɒn-yə-zənts), *Hist.* 1. Cognizance; jurisdiction. • The word *conusance* is actually an archaic form of *cognizance*. See COGNIZANCE (1); CLAIM OF COGNIZANCE. 2. JUDICIAL NOTICE. 3. An acknowledgment (of a debt, act, or opposing claim). • Examples of *conusance* include an acknowledgment in replevin that the defendant took the sued-for goods, or an acknowledgment in a land transfer (by *fine*) that the grantee is entitled to the land. See FINE (1).

**conusant** (kɒn-yə-zənt), *adj.* (Of a person) having cognizance or knowledge. See COGNIZANCE.

**conusee** (kɒn-yə-zee). See COGNIZEE.

**conusor** (kɒn-yə-zər or -zor). See COGNIZOR.

**convene**, *vb.* (15c) 1. To call together; to cause to assemble. 2. *Eccles. law.* To summon to respond to an action. See CONVENTIO (1).

"When the defendant was brought to answer, he was said to be convened, — which the canonists called *conventio*, because the plaintiff and defendant met to contest." 1 John Bouvier, *Bouvier's Law Dictionary* 668 (8th ed. 1914).

3. *Civil law.* To bring an action.

**convenience account.** See ACCOUNT.

**convening authority.** *Military law.* An officer (usu. a commanding officer) with the power to convene, or who has convened, a court-martial. [Cases: Military Justice ⇨ 877, 1380.]

**convening order.** *Military law.* An instrument that creates a court-martial. • The convening order specifies (1) the type of court-martial and its time and place, (2) the names of the members and the trial and defense counsel, (3) the name of the military judge, if one has been detailed, and (4) if necessary, the authority by which the court-martial has been convened. [Cases: Military Justice ⇨ 879.1.]

**conventicle** (kən-ven-tə-kəl), [fr. Latin *conventiculum* "small assembly"] 1. An assembly of a clandestine or unlawful character. 2. An assembly for religious worship; esp., a secret meeting for worship not sanctioned by law. 3. A place where such meetings are held.

**conventio** (kən-ven-shee-oh), [fr. Latin *convenire* "to come together"] 1. *Eccles. law.* The act of convening the parties to an action by summoning the defendant. 2. *Hist.* An agreement or convention; an agreement between two or more persons respecting a legal relation between them. See CONVENTION (1).

"Conventio is a word much used both in Ancient and Modern Law-pleadings, for an Agreement or Covenant." Thomas Blount, *Nomo-Lexicon: A Law-Dictionary* (1670).

**convention.** (15c) 1. An agreement or compact, esp. one among nations; a multilateral treaty <the Geneva Convention>. See TREATY. [Cases: Treaties ⇨ 1.] 2. A special deliberative assembly elected for the purpose of framing, revising, or amending a constitution. — Also termed *constitutional convention*. See CONSTITUTION (1). [Cases: Constitutional Law ⇨ 509, 535.] 3. An assembly or meeting of members belonging to an organization or having a common objective <an ABA convention>. — Also termed *conference*. 4. *Parliamentary law.* A deliberative assembly that consists of delegates elected or appointed from subordinate or constituent organizations within a state or national organization, or elected directly from the organization's membership or from defined geographic or other constituencies into which the membership is grouped, and that usu. exercises the organization's highest policymaking authority <a national political convention>. — Also termed *assembly*; *congress*; *convocation*; *delegate assembly*; *general assembly*. See HOUSE OF DELEGATES. 5. *Parliamentary law.* A session of a convention (sense 4), consisting of a series of consecutive meetings separated by short recesses or adjournments, often during a convention (sense 3) that includes educational and social programs for the benefit of delegates and other members. 6. A generally accepted rule or practice; usage or custom <the court dispensed with the convention of having counsel approach the bench>.

**conventional**, *adj.* 1. Customary; orthodox; traditional <conventional motion practice>. 2. Depending on, or arising from, the agreement of the parties, as

**claim check.** A receipt obtained for bailed or checked property and surrendered by the holder when the bailee returns the property.

**claim differentiation.** *Patents.* A canon of construction presuming that each claim in a patent is different in scope and meaning from all other claims; the presumption that different terms in separate claims must have different meanings if one of the claims would otherwise be rendered superfluous. • The presumption cannot be used by the patentee to broaden claims, and a court will ignore it when convinced that its own interpretation of the claims is correct. The presumption is strongest when a different interpretation would be the only way to make a dependent claim more limiting than the independent claim it refers to. — Also termed *doctrine of claim differentiation*. [Cases: Patents ⇨ 165(5).]

**claim dilution.** *Bankruptcy.* The reduction in the likelihood that a debtor's claimants will be fully repaid, including considerations of the time value of money.

**claim for relief.** (1808) See CLAIM (1).

**claim in equity.** *Hist.* A summary proceeding created to eliminate protracted pleading procedure in simple cases. • The claim in equity was established in England in 1850 and abolished in 1860.

**claim-jumping.** 1. The extension of the borders of a mining claim to infringe on other areas or claims. [Cases: Mines and Minerals ⇨ 26.] 2. The filing of a duplicate claim to take advantage of a flaw in the original claim.

**claim limitation.** *Patents.* In a patent application, a statement that describes the means for performing a specified function without reciting the structure, materials, or acts that support that function. • Claim limitations define the invention by distinguishing it from prior art. [Cases: Patents ⇨ 101(3).]

**claim of appeal.** See NOTICE OF APPEAL.

**claim of cognizance.** *Hist.* An intervention seeking the return of a case to the claimant's own court. • Cognizance may be claimed by a person, city, or public corporation granted the right to hold court. — Also termed *claim of conusance*. See COGNIZANCE; CONUSANCE.

**claim of conusance.** See CLAIM OF COGNIZANCE.

**claim of liberty.** *Hist.* A petition to the Crown, filed in the Court of Exchequer, seeking the Attorney General's confirmation of liberties and franchises.

**claim of ownership.** (1818) 1. The possession of a piece of property with the intention of claiming it in hostility to the true owner. [Cases: Adverse Possession ⇨ 68.] 2. A party's manifest intention to take over land, regardless of title or right. — Also termed *claim of right*; *claim of title*.

**claim of priority.** See BENEFIT OF AN EARLIER FILING DATE.

**claim of right.** 1. *Hist.* A criminal defendant's plea that the defendant committed the act in question under the mistaken but honest belief that it was legal. • Defendants accused of theft often raised this plea,

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asserting an honest belief in a superior right to the property taken. The claim of right could also be raised as a defense against bigamy if the defendant honestly believed that an earlier marriage had been legally dissolved. The usual phrase today is *honesty defense*. Cf. *honesty defense* under DEFENSE (1). 2. *Hist.* An owner's action to recover unjustly taken land in fee simple by employing a writ of course. See WRIT OF COURSE. 3. CLAIM OF OWNERSHIP.

**claim-of-right doctrine.** *Tax.* The rule that any income constructively received must be reported as income, whether or not the taxpayer has an unrestricted claim to it. [Cases: Internal Revenue ⇨ 3086, 3118.]

**claim of title.** See CLAIM OF OWNERSHIP.

**claim preclusion.** See RES JUDICATA.

"[T]he principal distinction between claim preclusion and issue preclusion is . . . that the former forecloses litigation of matters that have never been litigated. This makes it important to know the dimensions of the 'claim' that is foreclosed by bringing the first action, but unfortunately no precise definition is possible." Charles Alan Wright, *The Law of Federal Courts* § 100A, at 723 (5th ed. 1994).

**claim-property bond.** See *replevin bond* under BOND (2).

**claims adjuster.** See ADJUSTER.

**claims-consciousness, n.** The quality characterizing a legal culture in which people have firm expectations of justice and are willing to take concrete steps to see that justice is done <claims-consciousness in the United States has resulted from certain social changes, not from any character deficiency>. — Also termed *rights-consciousness*. — **claims-conscious, adj.**

**claims court.** See *court of claims* under COURT.

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

**claims-made policy.** See INSURANCE POLICY.

**claim the floor.** *Parliamentary law.* To address the chair for the purpose of being recognized as entitled to speak. See FLOOR (1).

**clam** (klam), *adv.* [Latin] *Roman & civil law.* Secretly; covertly. • Under Roman law, an act (such as occupying or altering the condition of someone else's property) was committed *clam* when it was done with the intent to conceal it in an effort to avoid liability. See INTERDICTUM QUOD VI AUT CLAM.

**clamea admittenda in itinere per attornatum** (klay-mee-ə ad-mə-ten-də in i-tin-ə-ree pər ə-tor-nay-təm). [Latin "claim to be admitted at the eyre by an attorney"] *Hist.* A writ from the king commanding the justices in eyre to permit by attorney the claim of a person employed in the king's service who cannot attend court in person.

**clameur de haro** (klay-mər dah-roh). [French] An outcry recognized in the Channel Islands as a protest against trespass to land. • The *clameur de haro* is a legal remnant of when the Duchy of Normandy held the islands before England took control in the 13th century. The victim's cry of *haro* (repeated 3 times) is popularly