

BLACK'S LAW DICTIONARY®

Definitions of the Terms and Phrases of
American and English Jurisprudence,
Ancient and Modern

By

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A rendre /à rëndr/. Fr. To render, to yield. That which is to be rendered, yielded, or paid. *Profits à rendre* comprehend rents and services.

Arguendo /ärgyuwëndow/. In arguing; in the course of the argument. A statement or observation made by a judge or attorney as a matter of argument or hypothetical illustration, is said to be made *arguendo*, or in the abbreviated form, *arg.*

Argument. An effort to establish belief by a course of reasoning. In rhetoric and logic, an inference drawn from premises, the truth of which is indisputable, or at least highly probable. *See also* Oral argument.

Argument by counsel. Remarks addressed by attorney to judge or jury on the merits of case or on points of law. Oral presentation to appellate court in which attorney's brief is argued; generally limited in time, order, and content by court rule (see e.g. Fed.R.App.P. 34). *See* Opening statement of counsel.

Argument to jury. Closing remarks of attorney to jury in which he strives to persuade jury of merits of case; generally limited in time by rules of court. The argument is not evidence. *See also* Closing argument.

Argumentative. Characterized by argument; controversial; given to debate or dispute. A pleading is so called in which the statement on which the pleader relies is implied instead of being expressed, or where it contains, in addition to proper statements of facts, reasoning or arguments upon those facts and their relation to the matter in dispute, such as should be reserved for presentation at the trial.

Argumentative instruction. A jury instruction which singles out or unduly emphasizes a particular issue, theory, or defense, or one which tends to invade the province of the jury with regard to the weight, probative effect, or sufficiency of the evidence or the inferences to be drawn therefrom.

Argumentative question. A faulty form of examination of witness by propounding a question which suggests answer in a manner favorable to party who advances the question or which contains a statement in place of a question. *See* Leading question.

Arise. To spring up, originate, to come into being or notice; to become operative, sensible, visible, or audible; to present itself. A cause of action or suit "arises", so as to start running of limitation, when party has a right to apply to proper tribunal for relief. *See* Cause of action; Limitation (*Statute of limitations*).

Arise under. An action "arises under" the laws of the United States, for purposes of federal question jurisdiction, if, and only if, the complaint seeks a remedy expressly granted by a federal

ARM'S LENGTH TRANSACTION

statute or if resolution of the issue requires construction of the statute or if the statute embodies a distinct policy which requires that federal legal principles control its disposition. A case "arises" under the Constitution or a law of the United States, so as to be within the jurisdiction of a federal court, whenever its correct decision depends on the construction of either.

Arising out of and in the course of own employment. Workers' compensation acts provide for compensating an employee whose injury is one "arising out of and in the course of the employment." These words describe an injury directly and naturally resulting in a risk reasonably incident to the employment. They mean that there must be some causal connection between the conditions under which the employee worked and the injury which he received.

The words "arising out of employment" refer to the origin of the cause of the injury, while "course of employment" refers to the time, place, and circumstances under which the injury occurred. An injury arises "out of" employment if it arises out of nature, conditions, obligations and incidents of the employment.

See also Course of employment; In the course of employment.

ARM. Adjustable Rate Mortgage. *See* Mortgage.

Armed. Furnished or equipped with weapons of offense or defense.

Armed robbery. An aggravated form of robbery in which the defendant is armed with a dangerous weapon, though it is not necessary to prove that he used the weapon to effectuate the robbery. The taking of property from person or presence of another by use of force or by threatening use of force while armed with a dangerous weapon.

Armistice. A suspending or cessation of hostilities between belligerent nations or forces for a considerable time.

Arm of the sea. A portion of the sea projecting inland, in which the tide ebbs and flows. It is considered as extending as far into the interior of a country as the water of fresh rivers is propelled backwards by the ingress of the tide.

Arms. Anything that a man wears for his defense, or takes in his hands as a weapon. *See also* Bear arms.

Arm's length transaction. Said of a transaction negotiated by unrelated parties, each acting in his or her own self interest; the basis for a fair market value determination. A transaction in good faith in the ordinary course of business by parties with independent interests. Commonly applied in areas of taxation when there are dealings between related corporations, e.g. parent and subsidiary. The standard under which unrelated

parties, each acting in his or her own best interest, would carry out a particular transaction. For example, if a corporation sells property to its sole shareholder for \$10,000, in testing whether \$10,000 is an "arm's length" price it must be ascertained for how much the corporation could have sold the property to a disinterested third party in a bargained transaction.

Arms, right to. Right guaranteed by Second Amendment, U.S. Constitution, to keep and bear arms. This right does not, however, permit a person to carry gun in violation of state or federal gun laws.

Army. Armed forces of a nation intended for military service on land.

Regular army. The permanent military establishment, which is maintained both in peace and war according to law. *Compare* Militia.

Around. In the vicinity of; near or close-by.

Arraignment /əˈreɪnmənt/. Procedure whereby the accused is brought before the court to plead to the criminal charge against him in the indictment or information. The charge is read to him and he is asked to plead "guilty" or "not guilty" or, where permitted, "nolo contendere."

Arraignment shall be conducted in open court and shall consist of reading the indictment or information to the defendant or stating to him the substance of the charge and calling on him to plead thereto. He shall be given a copy of the indictment or information before he is called upon to plead. Fed.R.Crim.P. 10.

See also Information; Preliminary hearing; Plea.

Arrangement with creditors. A plan of a debtor for the settlement, satisfaction, or extension of the time of payment of his debts. Chapter 11 of the federal Bankruptcy Code provides for a device whereby, under the protection and supervision of the court, a financially troubled business may work out an agreement with its creditors under a reorganization plan permitting it to stay in business, rather than going bankrupt. Arrangements of individual debtors with their creditors are provided for under Chapter 12 (farmers) and 13 of the Code. *See also* Bankruptcy proceedings (*Business reorganizations*; *Wage earner's plan*); Composition with creditors.

Array /əˈreɪ/. The whole body of persons summoned to serve as jurors, from which the final trial jury is selected. Also, the list of jurors impaneled. *See* Jury panel.

Arrears, arrearages. Money which is overdue and unpaid; e.g. overdue mortgage or rent payments.

Term used to describe cumulative preferred stock dividends that have not been declared on time.

Arrest. To deprive a person of his liberty by legal authority. Taking, under real or assumed authority, custody of another for the purpose of holding or detaining him to answer a criminal charge or civil demand.

Arrest involves the authority to arrest, the assertion of that authority with the intent to effect an arrest, and the restraint of the person to be arrested. All that is required for an "arrest" is some act by officer indicating his intention to detain or take person into custody and thereby subject that person to the actual control and will of the officer; no formal declaration of arrest is required.

See also Booking; Citizen's arrest; Custodial arrest; False arrest; Lawful arrest; Probable cause; Reasonable grounds; Warrantless arrest.

Citizen's arrest. *See* Citizen's arrest.

Civil arrest. The apprehension of a person by virtue of a lawful authority to answer the demand against him in a civil action. Also includes arrest of a ship or cargo in maritime in rem actions. Fed.R. Civil P., Supp. Admir. R. C(3), D.

Parol arrest. One ordered by a judge or magistrate from the bench, without written complaint or other proceedings, of a person who is present before him, and which is executed on the spot; as in case of breach of the peace in open court.

Privilege from arrest. *See* Privilege.

Rearrest. Right of officer to take without warrant one who has escaped after arrest, or violated parole, or failed to respond to bond for appearance.

Warrantless arrest. Seizure of a person without warrant but based on probable cause that he has committed felony. May also be made for commission of misdemeanor amounting to breach of peace in presence of officer. *Wong Sun v. U. S.*, 371 U.S. 471, 83 S.Ct. 407, 9 L.Ed.2d 441.

Warrant of arrest. *See* Warrant.

Arrest of judgment. The act of staying a judgment, or refusing to render judgment in an action at law and in criminal cases, after verdict, for some matter intrinsic appearing on the face of the record, which would render the judgment, if given, erroneous or reversible. The court on motion of a defendant shall arrest judgment if the indictment or information does not charge an offense or if the court was without jurisdiction of the offense charged. Fed.R.Crim.P. 34.

Arrest record. Official form completed by police department when a person is arrested. Also, cumulative record of instances in which a person has been arrested, commonly maintained by probation office and useful to judge in setting sentences for second, third, etc. offenders.

Arrest warrant. *See* Warrant.

Arrest /arēt/ a decree of a court term is derived in Canada as *Saisie arrêt* hands of a t

Arrested /əh charged with

Arrival. To The attainment arriving.

In marine an arrival for entry and clearance as to require business, advice, or being driven again as soon

Arrogation. person who

Arson. At the house has been by codes. For § 220.1(1), arson, a felony fire or causing (a) destruction; another; orerty, whether insurance the destruction explosion.

In several arson in the first degree dwelling-house, the more than a dwelling to a third degree not to degree, or another's insurer the

Aggravated property the presence proximity endanger

Arson class coverage insured.

Art. System in effect occupational or skill;