

## **GUIDE TO THE USE OF THE DICTIONARIES**

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## GUIDE TO THE USE OF THE DICTIONARIES

In order to facilitate the use of the *Dictionaries*, these explanatory notes present the principles that have guided the elaboration of the entries and the various elements that compose the structure of the articles.

### I. ENTRIES

The entries, whether they are composed of single or multiple words, form the nomenclature of the *Dictionaries*. They are arranged in absolute alphabetical order, so that hyphens and spaces between the words of an entry have been discounted. Thus, in the *Private Law Dictionary and Bilingual Lexicons: Obligations* (which will be used as an example throughout the *Guide to the Use of Dictionaries*), the expression **ACT OF ANOTHER** comes directly after **ACT OF AN ANIMAL** and precedes **ACT OF A THING**. The entries include not only nouns and nominal phrases, as is usual in specialized dictionaries, but also terms belonging to other grammatical categories as, for example, adjectives (e.g. **CONTRACTUAL**) and verbs (e.g. **CONTRACT**).

Since they cover a specialized body of terminology, the *Dictionaries* do not include words of ordinary parlance unless they have a distinct juridical meaning (e.g. **DAMAGE** or **RECEPTION**). However, discussion of the ordinary usage of a legal term may be included when confusion with its legal acceptance is likely. In these cases, the *Dictionaries* may include a separate definition for each meaning (e.g. **DIVISIBILITY**<sup>1</sup> and **DIVISIBILITY**<sup>2</sup>) or indicate their presence through an observation (e.g. **PAYMENT**).

The Editorial Committees wish to acknowledge the following dictionaries, both legal and general, for serving as important research tools in the preparation of entries: *Black's Law Dictionary*, J.R. Nolan et al., eds., 6<sup>th</sup> ed. (St. Paul: West Publishing Co., 1990), B. A. Garner ed., 7<sup>th</sup> ed. (St. Paul: West Group, 1999) and 9<sup>th</sup> ed. (St. Paul: West Group, 2009); G. Cornu, *Vocabulaire juridique*, 4<sup>th</sup> ed. (Paris: P.U.F., 2003), 7<sup>th</sup> ed. (Paris: P.U.F., 1998) and 9<sup>th</sup> ed. (Paris: P.U.F., 2011); *Dictionnaire historique de la langue française*, A. Rey, ed., (Paris: Dictionnaire Le Robert, 1992) and (Paris: Dictionnaire Le Robert, 2010); *Le Grand Robert de la langue française*, 2<sup>nd</sup> ed., A. Rey, ed., (Paris: Le Robert, 1986) and (Paris: Le Robert, 2001); and the *Oxford English Dictionary* (Oxford: O.U.P., 1971 and 1989).

## A. Presentation of Entries

As a general rule, entries are presented in the singular, except in the case of plural terms. Parts of certain entries are placed within parentheses, either in a multiple word entry or at the end thereof. In some cases, this is to indicate two possible versions of a term. For example, the word **QUIT(S)** may be written in the singular or in the plural; **CONTRACT FOR SERVICES** or **CONTRACT (OF) SERVICES** may be written as either **CONTRACT FOR SERVICES** or **CONTRACT OF SERVICES**.

In other instances, the parentheses serve to modify the order of presentation of a word in an entry, most frequently for an entry beginning with a preposition (e.g. **AUTONOMY OF WILL (THEORY OF THE)**). These entries are listed alphabetically, according to the principal word.

## B. Special Types of Entries

### 1. Entries in Languages other than English

Given the importance of Latin expressions in the Civil law terminology, the nomenclature includes a number of Latin terms (e.g. *CAUSA CAUSANS*). Certain French-language terms also appear (e.g. *CLAUSE COMPROMISSOIRE*). These entries are identified by an indication of the language of origin in parentheses, *viz.* (Latin), (French). Moreover, the presentation of these entries in italics indicates that they are still considered borrowed terms. In other instances, however, when they are received parts of English-language juridical vocabulary, they are presented in Roman type.

### 2. Controversial Usage

One function of a dictionary is to present the language in use at a given time and place. English Civil law parlance in Quebec contains examples of what some experts see as dubious or controversial usage because of the bijuridical and bilingual environment in which it has developed and continues to evolve. Some of these instances are borrowings from Anglo-American legal terminology. The circumstances of borrowing terms vary widely, and in many cases the terminology is not at all controversial. In other cases, terms have been criticized in that they promote confusion with Anglo-American legal ideas. There are also instances of gallicisms which have, in the opinion of some, been unduly relied upon in the English-language civilian lexicon. Many of these matters are subject to disagreement among jurilinguists.<sup>1</sup>

With a view to identifying these usages and promoting standardization of vocabulary, the editors have chosen, in the main, to alert readers to the terms which are controversial by way of observations regarding some of the questions that may be raised with respect to usages such as archaisms, gallicisms, pleonasms, Common law terminology not consonant with Civil law concepts rather than formal indications that the term should not be used (e.g. the observations under the entry **CONSIDERATION**<sup>3</sup>).

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<sup>1</sup> For an illustration, see Nicholas Kasirer, “Le *real estate* existe-t-il en droit civil?”, (1998) 29 *R.G.D.* 465.

### 3. Cross-references

Certain entries are not defined where the Editorial Committees felt that a full treatment of the term was not necessary. In these cases, a reference is made to a relevant entry by the indication “See” which may contain information concerning the use of the undefined term (e.g. **CORRELATION** refers to **CAUSATION**<sup>1</sup>).

## II. ARTICLES

The whole of the information provided in relation to a given entry constitutes an *article* of a *Dictionary*. The central element of the entry is the definition itself. Elements accessory to the definition serve to complete, clarify, situate or elaborate upon the definition given.

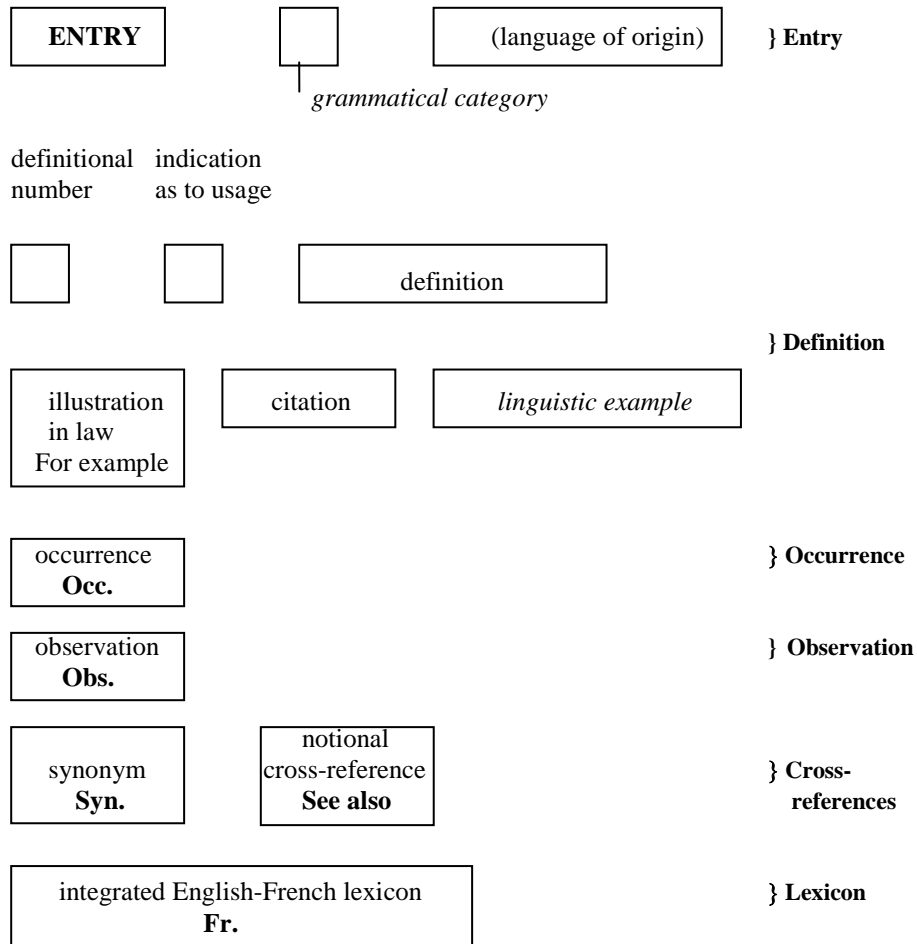
Before describing these different elements, the typographical features of the *Dictionaries* call for some comment.

In the lexicographical portion of the *Dictionaries*, information relating to the term is divided into separate sections, each of which is listed in order and preceded by an abbreviation. For example, a list of occurrences for a given term is preceded by the abbreviation “**Occ.**”. Observations bearing on usage and treatment of the term in different legal sources (**Obs.**), cross-references to synonyms (**Syn.**) and analogous terms (**See also**) are indicated in the same fashion. Italics serve to identify all those features of the term which pertain to the following considerations: linguistic form and function, such as grammatical category, and linguistic examples that draw attention to certain terms. If, however, the text already appears in italics, such indications are made in Roman-type. For instance, a Latin term appearing in a linguistic example will be printed in Roman-type.

English-French equivalents are included with each English article so as to provide the reader with the French-language partner terms for any given entry. These are placed at the end of each article, preceded by the abbreviation “**Fr.**”.

Here follows an explanation of the various elements which may form part of any given entry:

### SCHEMA



#### A. Definition

The purpose of the definition is to provide, in a single sentence or phrase, the essential elements of the meaning of a given juridical term. The definitions are built on basic terms which, within the hierarchical structure of the *Dictionaries*, refer to the notion closest to the defined term. Thus, the definition of the **FAULT**<sup>1</sup> reads “Transgression of an obligatory juridical rule of conduct”; **CIVIL FAULT** builds on the

latter with its definition “Fault susceptible of engaging a person’s civil liability”. Information is added to the root term (i.e. **FAULT**<sup>1</sup>) that qualifies and distinguishes the term from concepts to which it is related.

To this basic term, information is added that may qualify and distinguish a term from related concepts. The definition must be, at once, precise and complete; it must cover the entire concept but only that concept. While necessarily technical, it is drafted in language that aspires to clarify while avoiding as much as possible, the professional jargon of jurists.

The purpose of the definition is not to describe fully all the legal rules governing the application of any given concept in Quebec private law. Some of these legal rules may be explained in the Observations, the function of which extends beyond the lexicographic limits necessarily imposed upon the definitions.

Where applicable, the text of the definition includes the technical designations of the actors encountered in a given juridical situation or transaction. For example, in the definition of the term **SALE**, the terms *seller* and *buyer* appear, which are themselves defined elsewhere in the *Dictionary*.

## 1. Definitions of Polysemous Terms

A term may have multiple meanings that vary according to context (e.g. **CONDITION**<sup>1,2,3</sup>). In order to distinguish these different meanings, each of them is sorted and numbered according to its importance. These numbers serve to indicate the exact acceptation that is referred to (e.g. the definition of **CONDITIONAL OBLIGATION** refers to **CONDITION**<sup>1</sup>).

## 2. Synonymous Definitions

Some entries are defined as synonyms of another term. In these cases, the definition refers to another term or expression that is considered interchangeable with the entry. This may be tempered or qualified by an indication as to usage or by an observation (e.g. **IMPERFECT SOLIDARITY** is sometimes used as a synonym of **OBLIGATION IN SOLIDUM**, but it is mainly used in contrast to **PERFECT SOLIDARITY**).

While some scholars have argued that there are few perfect synonyms in legal terminology, the Editorial Committees of the *Dictionaries* have come oftentimes to the view that there are in fact numerous synonyms in the law. These synonyms reflect, in our estimation, the richness of vocabulary used by doctrinal writing and in decided cases in a specific field of the law. Moreover, multiple-word entries often have numerous synonyms because the combinations increase when one or more words of the compound term have their own synonyms. For example, the expression **CONTRACT FOR THE CARRIAGE OF PROPERTY** is an illustration of this latter situation. In this multiple-word entry, **GOODS** may replace **PROPERTY**.

Within any group of synonyms, only one is designated as a preferred term, i.e. the one under which the definition, illustrations in law, observations and cross-references will appear in the *Dictionaries*. This choice of the preferred synonym is determined by various factors: the frequency of its use (e.g. **CONTRACTUAL** occurs more frequently than **CONVENTIONAL**); the precision of a certain form (e.g. **POTESTATIVE CONDITION** is preferred to **FACULTATIVE CONDITION**), and, when the synonyms are perfectly equivalent, one preferred form has been chosen by the Editorial Committees according to their appreciation of felicitous usage.

With a view to promoting English-language civilian parlance, the Editorial Committees generally refer to the English-language equivalents of Latin or French-language entries as the preferred term (e.g. **GIVING PAYMENT** is preferred over its synonym *DATION EN PAIEMENT*). In the absence of an English-language equivalent, the Latin term will receive a complete lexical consideration (e.g. *ACCIPIENS*).

## **B. Elements Accessory to the Definition**

The elements accessory to a definition include the grammatical category, the language of origin, indications as to usage, illustrations in law, quotations, linguistic examples, occurrences, observations and cross-references.

### **1. Grammatical Category**

Single-word entries are followed by a reference to a grammatical category: noun, adjective, verb or adverb (e.g. **CONTRACT** *n.*). There is no such reference for multiple word entries, except with respect to nominal, adjectival or adverbial phrases (e.g. **SUBJECT OF LAW** *nom.ph.*).

### **2. Language of Origin**

The language of origin is provided in the case of entries in languages other than English. These entries are usually in Latin (e.g. *ERGA OMNES*) and, occasionally, in French (e.g. *CLAUSE COMPROMISSOIRE*). If a part of a multiple-word entry is in a language other than English, the non-English origin is recorded (e.g. *ACTION EN PASSATION DE TITRE* (French); *AD LITEM MANDATE* (Latin)).

### **3. Indications as to Usage**

Indications as to usage may either precede the definition or be included in the observations under a defined term. They are designed to provide additional information regarding the use of a term rather than its meaning. An indication as to usage appearing before the definition, *Neol.* indicates a term rather than its meaning. Where the Editorial Committees are of the view that a particular indication as to usage might become the object of disagreement among scholars, a critical note is included in the observations. Examples include accepted language viewed as imprecise (e.g. **UNDISPOSABILITY**) or considered to be inopportune for some reason (e.g. **JOINTLY AND SEVERALLY**). In these circumstances, the Editorial Committees have chosen to explain their views on

usage rather than merely designate it as a faulty form. This represents a change from the practice followed in the second edition of the *Private Law Dictionary*.

#### 4. Illustrations in Law

Illustrations in law are placed immediately after the definition of a term. Thus, *mandate* and *sale* serve as examples for the expression **NOMINATE CONTRACT**.

#### 5. Quotations

Quotations serve to clarify or make concrete the definition, both as a matter of law and linguistically. The quotations can either clarify certain aspects of the definition or even repeat it, albeit using another formulation. As well, they may articulate certain rules that govern the application of the term, criticize the understanding others may have of the term, or even provide a further classification relevant to the term being defined.

Quotations are generally drawn from Quebec jurisprudence and scholarly writing. However, scholarly writings from other jurisdictions are also used, notably from France and Louisiana.

References as to the place of publication of these quotations are presented in an abbreviated form. Complete references are provided in the *List of Authors and Publications Quoted in Abbreviated Form* found at the end of the *Dictionary*.

#### 6. Linguistic Examples

Linguistic examples are intended to offer models for the proper usage of a term in legal discourse. Their purpose is to show how terms and expressions are used in their particular legal contexts (e.g. *To accept an offer* is given as a linguistic example for **OFFER**).

#### 7. Occurrences

Numerous references taken from provincial and federal legislation illustrate an occurrence of a term in statutory and codal texts. These occurrences are introduced by the abbreviation “**Occ.**”. An occurrence found in a legislative text which is no longer in force is preceded by the indication *former* (e.g. former art. 1767 C.C.Q at **SALE OF AN ENTREPRISE**), although in some instances the text may still be relevant as applicable transitional law.

#### 8. Observations

Observations may focus upon either the legal, or more narrowly, linguistic aspects of an entry. The purpose of an observation of a juridical nature is to complete the definition by pointing out a characteristic feature of the legal regime in question or to draw attention to a possible confusion with related concepts (e.g. **CAUSE**<sup>1</sup>, **CAUSE**<sup>2</sup>). Observations may also upon occasion refer to the use in sources, usually legislative, in which the notion in question is actually used.



The observation may also provide information of a linguistic nature. For example, it may draw attention to the usage of a term in certain statutes or identify a problematic usage (e.g. **JOINT AND SEVERAL**).

Finally, the observation occasionally provides an etymological treatment of a term. This analysis may be appropriate when dealing with a term whose current meaning has been obscured by its ancient origins, or when it contributes to the understanding of the present meaning of a term, or justifies a neologism. The etymological treatment given, however, is not extensive. It only includes the word of origin (the etymon), and its language of origin. The etymon is translated into English when the original meaning differs substantially from its current meaning.

## 9. Cross-references

Cross-references, found at the end of each entry, are intended to provide a comprehensive semantic treatment of a term. These include synonyms and notional cross-references.

These different types of cross-references appear in the order stated and are preceded by an abbreviation or heading in bold-face. When more than one term appears within the same heading as a cross-reference, they are presented in absolute alphabetical order.

### a) Synonyms

Synonyms, or terms expressing exactly the same legal notion, are discussed above.

Within a series of terms regarded as synonyms, one is designated as the preferred term, under which the definition, the illustration in law, the observations and cross-references are found: this is the principal synonym (e.g. **OBLIGATION TO INFORM**). The other terms are understood as subsidiary ones, in that a reference to the principal synonym stands in place of an independent definition (e.g. **DUTY TO INFORM**).

### b) Notional Cross-references

Notional cross-references, introduced by the words “**See also**”, draw attention to a series of closely-related terms. The terms may be associated through a logical relationship of cause and effect (e.g. **RELATIVE NULLITY** and **ACTION IN NULLITY**), or of a part in relation to the whole (e.g. **LEGAL ORDER** and **REGIME**). The cross-references may also indicate a close notional proximity to a related term, as is the case for **GAMING CONTRACT** and **WAGERING CONTRACT**. The cross-references also refer to terms the meanings of which are either in relationships of opposition (e.g. **VOLUNTARY RESILIATION**, **FORCED RESILIATION**), of complementarity (e.g. **ADEQUATE CAUSE**, **DETERMINING CAUSE**, **MATERIAL CAUSE**) or of reciprocity (e.g. **BUYER**, **SELLER**). By cross-referencing

closely related terms, the reader may more accurately grasp the nuances and limits of a particular concept.

Cross-references also indicate all the multiple word entries which contain another entry in the Dictionary.