

# Law in 101 Words

## Snippets from *The Reduced Law Dictionary* by Roderick Ramage

### Crime and criminology

Crime is what happens at 2 in the morning at the police station, when your would be client is in no condition to give coherent instructions, and then at 10 that morning at the magistrates', where his instructions are no more coherent. "I wasn't there, but, if I was, I didn't do it. Criminology is a way of exercising your brain in the glades of academia. Put it another way. What a criminal lawyer wants to know is whether Johnny actually did nail the cat's tail to the kitchen table. What the criminologist wants to know is why he did it. (With thanks to James Morton for the idea.)

### Domestic emergency

*Harrison v The Royal Bank of Scotland* (2008) does not help employers. On 8 December Ms Harrison's childminder said she could not look after her children on 22 December. Ms Harrison could not find a substitute, so she took the day off. The bank had told her that she could not have the time off and gave her a warning. The EAT upheld the tribunal's finding that the warning was an unlawful detriment and rejected the bank's argument that the disruption of care arrangements must be sudden and unexpected. The disruption can be unexpected even if it is known weeks ahead.

### Learning a lawyer's skills

Many years ago, on this very page, a senior solicitor reminisced about

his early days. As an articled clerk he accompanied his principal to a conference with an eminent silk. The business of the conference done, the conversation relaxed and the articled clerk was drawn into it. He had noticed during the conference (say not that his attention had strayed) that the shelves behind counsel's desk contained more collections of the works of English literature than law reports and commentaries, and now he asked about them. "They," replied the eminent counsel, "are where I learned the main tools of my trade."

### Libel and slander

You are entitled to your good name, and a person who publicly disparages you to a third party without justification, may be guilty of the tort of defamation. A defamatory statement is one which holds you up to hatred, ridicule or contempt: *J'Anson v Stuart* (1787). If the statement is

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made in writing or some other permanent form, it is a libel, and, if oral or in some other transient form, a slander. In the case of a libel the law presumes damage, but, with exceptions, special damage must be proved before legal action may be taken on a slander.

### Pensions and maternity leave

Under s 71 of the Employment Rights Act 1996, an employee on ordinary maternity leave is entitled to the terms and conditions (except remuneration) which would have applied had she not been absent. If the employee belongs to a final salary scheme, she accrues service during her leave and so her absence makes no difference to her benefits. If it is a money purchase scheme, her own contributions are based on her actual pay, so her fund will be smaller and benefits lower than had she not been absent. Not everybody agrees that the employer should pay the shortfall in her contributions.

Yo!

Pity about the "Yo Blair!" and the sniggers which will colour your response to this piece. Studies by linguistic experts have shown that, from about 2004, pupils at middle and high schools in Baltimore have been using "yo" instead of "he or she". Previous attempts to create a neuter third person pronoun have failed. You cannot prescribe language, but an usage which seems to have arisen spontaneously, might just have a chance of success. If it succeeds, please do not rewrite Sir Charles Sedley's Parting to say: As freely as we met we'll part, Each one possessed of yo's own heart.

### Sharia law and the archbishop

The law is multi-layered. If two solicitors disagree but one refers to page x in *Kelly's Draftsman* and the other concedes the point, that determines the law in that case. Either party could challenge it in court, where the outcome might be different, but mostly they do not. Similarly where parents set rules for their children, people form a club or adhere to a religion. They all set the law in their own context, but subject to national law. But the good archbishop who merely

spoke of the boundaries between these laws was pilloried by the paparazzi and his own zealots.

### Whistleblowing

Whistleblowing will probably get you sacked unless it is a "protected disclosure" case when the dismissal will be automatically unfair: ERA 1996 s 43A to s 43L inserted by the Public Interest Disclosure Act 1998. To be protected a disclosure must be of failures of specified duties and be made in good faith to (so far as normally is relevant) your employer or a person prescribed under SI 1999/1549, with an exception for disclosures to other persons in the case of exceptionally serious failures. A disclosure to the local press detailing a potential hazard was protected in *Collins v National Trust*, ET 17/01/96 (2507255/05).

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