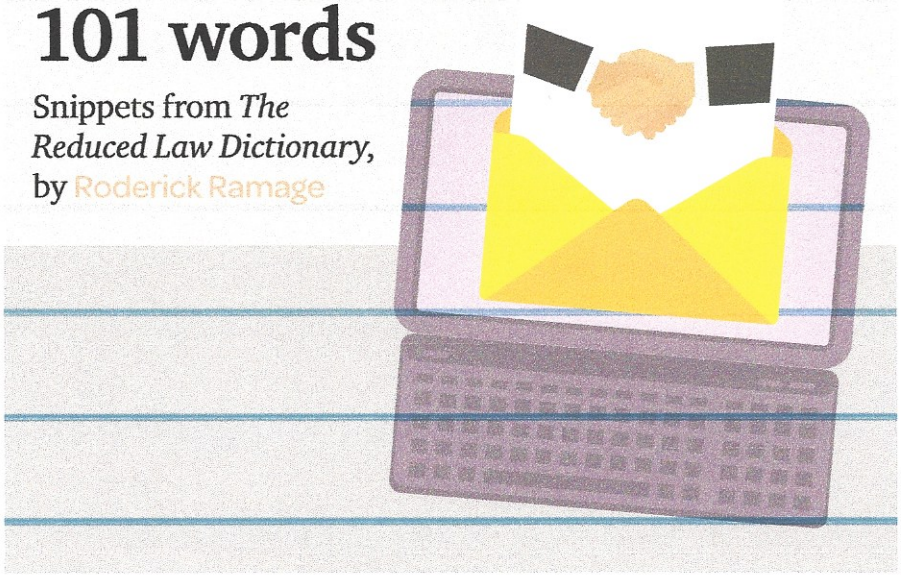
Law in 101 words

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



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Contracts by email

If the requirements for offer and acceptance, consideration and intention to create legal relations are satisfied, they may be communicated in any form. Email does not 'magic away' the normal rules of contract. In *Pretty Pictures v Quixote Films* [2003] the parties had conducted a lengthy negotiation by email, concluding with an email from one setting out the terms and a reply from the other approving them and saying that a written contract would be sent. Held: there was no contract because it was clear that the parties intended that there would be no contract until a deal memo was signed.

In connection with

Forsters, solicitors, advised Irtysh Petroleum plc on the purchase of a Russian company and started proceedings for unpaid fees, which were settled by an agreement covering 'all claims that the parties had or could have had against each other', and the definition of 'claims' ended with 'arising out of or in connection with the action'. Irtysh discovered that the shares had not been transferred and went into liquidation. A transferee from the liquidator claimed against Forsters. *Khanty-Mansiysk Recoveries v Forsters* [2016] held that the words 'in connection with' were plainly of wider scope than 'arising out of' and dismissed the claim.

The law of England & Wales

The Laws in Wales Act 1535 declared Henry VIII's intention 'That his said Country or Dominion of Wales shall be, stand and continue for ever from henceforth incorporated, united and annexed to and with this his Realm of England' and extended the English legal system to Wales. This and the eponymous Act of 1542 harmonised the laws and provided the necessary administrative framework in Wales including the election of Welsh members to the English Parliament. By the Government of Wales Act 2006 s107 the National Assembly of Wales may make laws (Acts of the Assembly) within its legislative competence under ss108-109.

McKenzie friends

In *McKenzie v McKenzie* [1970] the CA said that litigant was entitled to be accompanied by a friend to give him such assistance as does not amount to taking part in the proceedings. The withdrawal of legal aid led to an increased role for paid professional McKenzie friends. An amicus curiae has a different role, described by Lord Salmon in *Allen v McAlpine* [1968], as 'to help the court by expounding the law impartially, or if one of the parties were unrepresented, by advancing the legal arguments on his behalf.' A litigation friend represents a litigant: Court of Protection Rules 2017.

Title to restaurant meal

When holidaymakers suffered acute gastroenteritis as a result of eating contaminated food at a meal provide by the hotel, the holiday company argues that s4(2) of the Supply of Goods and Services Act 1982 could not apply because the holiday contract was just for services and did not involve the transfer of property in food and drink. *Wood v Tui Travel plc* [2017] shows that, in the absence of express agreement to the contrary, property in a meal passes when it is served, and the hotel had provided food that was not of satisfactory quality for the purposes of that section.

Who does what

Some joke that no businessman can make a decision without consulting his lawyer. I don't mind that, because, by and large they come to us for advice but we do not try to run their businesses. With accountants, it is different. They, in Anglo-American sector, have virtually taken over. Some might think wistfully of the apocryphal Yorkshire mill owner, who was persuaded to take on an accountant as a director. At his first board meeting the young accountant, eager to show his mettle, ventured to open his mouth and join the discussion. The chairman interrupted: 'Hold it lad, tha's nubbut scorer'.

Witness statements

Witness statements are key documents in much litigation. In 1975, the New South Wales Law Reform Commission published *Working Paper 14, (1975) – Procedure: Common Law Pleadings*, containing the observation at paragraph 7.3 that: 'Affidavit evidence is said (and with justification) to be more the evidence of the legal advisor than the witness'. In 1996, Lord Woolf wrote in the *Access to Justice Report: Final Report* (HMSO), 1996, referring to witness statements but with equal application to affidavits: 'Witness statements have ceased to be the authentic account of the lay witness; instead they have become an elaborate, costly branch of legal drafting'.

Wrotham Park damages

In *Wrotham Park v Parkside* [1973], the defendant built houses in breach of a restrictive covenant. The basic rule on breach of contract is to put the innocent party in the same position that it would have been in, if the wrongdoer had performed the contract. The claimant could not show any loss, but the judge said: 'In my judgment a just substitute would be such a sum of money as might reasonably have been demanded by the claimant from Parkside as a quid pro quo for relaxing the covenant.' The court may instead look at the benefit to the wrongdoer. NLJ

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