THE PREFIX *DIS* - IN LEGAL LANGUAGE

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Abstract

The paper aims to analyze the prefix *dis-,* which mainly has a negative, privative, or reversative meaning when it combines with verbs, nouns, or adjectives, with a focus on those derivatives occurring in legal language. The approach is not limited to legal terms of art or technical terms with a specialized doctrinal meaning, which pertain exclusively to the legal sphere. Semi-technical terms and common, 'unmarked' words which have not lost their everyday meanings, but are frequently found in legal texts or contexts will also be discussed. The paper also attempts a lexical-semantic and functional analysis of the legal terms formed with the prefix *dis-* in the framework of the main law branches, based on lexicographic and terminological definitions, as well as on specialist sources.

Key words: *derivation, prefix* dis-*, legal language, lexical-semantic analysis, functional analysis*

Résumé

Ce travail se propose d'analyser le préfixe *dis-*, qui impose principalement un sens négatif, privatif ou contraire lorsqu'il se combine avec des verbes, des substantifs ou des adjectifs, en mettant l'accent sur les formes dérivées qui apparaissent dans le langage juridique. Notre approche n'est pas limitée aux termes essentiellement juridiques, ayant un sens doctrinaire de spécialité, qui appartiennent exclusivement à la sphère juridique. Les termes semi-spécialisés et les mots qui font partie du langage commun, les mots « non-marqués », qui ont perdu leur signification quotidienne mais qui se retrouvent fréquemment dans les textes ou les contextes juridiques y seront aussi discutés. Notre travail a également pour but de faire une analyse lexico-sémantique et fonctionnelle des termes juridiques formés avec le préfixe *dis-* dans le contexte des principales branches du droit, en base des définitions lexicographiques et terminologiques, ainsi qu'à partir des sources de spécialistes.

Mots-clés: *dérivation, préfixe* dis-*, langage juridique, analyse lexico-sémantique, analyse fonctionnelle*

1. Preliminary issues

As a rule, prefixes do not alter the word-class of the base, therefore major living prefixes are commonly classified according to meaning[1], with inevitable semantic overlaps between the categories. Negation expressed by means of affixation has been constantly approached in various linguistic studies, e.g. Zimmer, Marchand, Horn, Lieber, Bauer et al., etc.[2]

[1] Quirk & al., 1978, p. 981.

[2] K. Zimmer, *Affixal negation in English and other languages. Supplement to Word*. Monograph no. 5, 1964; M. Marchand, *The Categories and Types of Present-Day English Word Formation,* Second

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According to J. B. de Oliveira[3], negative prefixes may in turn be subclassified into several categories: negative prefixes, reversative or privative prefixes, pejorative prefixes and prefixes of opposition. The most common prefixes which express negation in English are: *a-(an-), dis-, in-, non-,* and *un-*. We will further approach the prefix *dis-* mainly as a negative prefix, as well as a reversative and privative one.

2. Lexical negation: the prefix *dis-*

The prefix *dis-* is a learned borrowing from Latin, meaning 'apart', 'asunder', 'away', 'utterly' (also *di-* < L akin to *bis*, Gk *dis* twice; before *f*, assimilated as *dif-*; before most voiced consonants, *di-*; from Old French *des-*, or directly from Latin *dis-*). It is thus considered either a negative or a privative, reversative prefix[4].

This word-forming element has three basic meanings: 'lack of, not' (e.g. *dishonest*), 'do the opposite of' (e.g. *disallow*), 'apart, away' (e.g. *discard*)[5].

When it expresses the opposite action, *dis-* combines with verbs to form new verbs describing an action that has the opposite effect of, or reverses, the process described by the original verb. *Dis-* also combines with adjectives and nouns to form new adjectives and nouns and in this case, derivatives describe a state, characteristic, attitude, or quality which is the opposite of the one denoted by the initial adjective or noun[6].

Andreou[7] considers that the use of negation, as far as the prefix *dis-* is concerned, covers four levels: standard negatives ('not X', e.g. *disagree*), privatives ('lack of X/without X/remove X from', e.g. *disanalogy*), reversatives ('reverse action of X-ing', e.g. *disconnect*), and pejoratives ('do X wrongly', e.g. *dishear*). Privative meanings usually concern nouns, whereas standard negative, reversative and pejorative meanings are instantiated on verbs.

There is also an important distinction between 'contrary' and 'contradictory' negation. The prefix *dis-* delivers contrary readings (e.g. *dishonest*) and contradictory readings (e.g. *disengaged*) on adjectives. In contrary negation, 'P' and 'not-P' can be false at the same time if they are perceived as terminal points on a gradable scale. For instance, something can be neither *clear* nor *unclear*, it can be characterized by an intermediate state. Contradictory meanings refer to the fact that intermediate states are excluded, for instance one can be either *animate* or *inanimate*[8].

3. The prefix *dis-* in legal language

3.1. The prefix *dis-* in verbs, nouns and adjectives

Among the verbs formed with the prefix *dis-* that occur both in common language and in legal texts, one can mention: *disable, disagree, disallow, disappear, disapprove, disarm, discontinue, disengage, disobey, disorganize, displace, disqualify, distrust, disunite, disuse,* etc. Although these verbs are also found in legal texts, they do

edition, München, Verlag, 1969; L. Horn, *A natural history of negation,* Chicago, University of Chicago Press,1989 (Reprinted in 2001 by CSLI Publications, Stanford, CA); L. Horn, *Uncovering the un-word: a study in lexical pragmatics*, in "Sophia Linguistica", no. 49, 2002, p. 1–64; R. Lieber, *Morphology and lexical semantics*, Cambridge, Cambridge University Press, 2004; Bauer et al., *The Oxford reference guide to English morphology*, Oxford, Oxford University Press, 2013.

[3] João Bittencourt de Oliveira, 2004, p. 2.

[4] Quirk & al., 1978, p. 982-984.

[5] http://www.etymonline.com/index.php?allowed_in_frame=0&search=dis-

[6] *Collins Cobuild English Guides 2 Word Formation,* p. 35-36.

[7] Andreou, 2015, p. 391-392.

[8] Andreou, 2015, p. 392.

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not pertain to the category of purely technical terms or terms which are found exclusively in the legal sphere[9].

There are also nouns where the privative meaning of *dis-* is present: *disagreement, dishonour, disobedience, disorder, disqualification,* etc, or adjectives (with a contrary or contradictory meaning): *dishonest, disproportionate, dissimilar.*

The type of negation the prefix *dis-* renders in cases such as *disobey* 'not obey' or *disagree* 'not agree' is very similar to standard (clausal) negation.

In some cases, the prefix *dis-* provides other nuances besides the negative, privative or reversative meaning. For instance, the verb *displace* is not only the opposite of *place,* it also involves the idea of compelling (to force something/ someone out of its usual or original position). The noun *displacement* may designate the removal from office, substitution, or forced removal of a person from his home, country, especially because of war (e.g. *displacement of refugees*). The verb *disable* is not the opposite of *able,* since *able* can be only an adjective or a noun.

The verb *disinherit* (*dis-* + *inherit*) is not the opposite of *inherit.* If the latter means 'to receive (property such as a house, or money, etc.) from someone upon his death under the laws of intestate succession', *disinherit* denotes the act of depriving a would-be heir (usually son or daughter) of the expectancy to inherit the estate. Therefore, it does not negate the act of receiving property, it implies the action of the testator (the archaic term for a person who deprives someone of an inheritance being *disheritor*) with consequences upon the beneficiary or heir. If an heir inherits property, a testator disinherits a would-be heir.

The verb *disown* (*dis-* + *own*) behaves like *disinherit*, it expresses the act of repudiating any connection with someone, whereas *own* as a verb means 'to have or possess as property; to have legal title to'. A similar situation is that of the verb *dispossess* (a borrowing from Old French *despossesser*, from *des-* + *possesser*) used in property law and referring to the act of depriving another of the possession or occupancy of real estate. *To possess* means 'to have or own something', therefore the direct object of *inherit, own* and *possess* is inanimate, whereas the verbs *disinherit, disown* and *dispossess* have an animate direct object. A synonym of *dispossess* is the verb *disseise.*

It is interesting to note that some verbs combine with the prefix *de-* instead of *dis-* to describe an action which reverses a process. For instance, "if an organization is 'deregulated', the rules and regulations which control how it operates are removed"[10]. The list of verbs includes: *deactivate, decentralize, decertify, declassify, decommission, deescalate, deindustrialize, demilitarize, denaturalize, depersonalize, depoliticize, destabilize,* etc.

We will analyze below, in alphabetical order, the legal meanings and uses of several verbs, as well as nouns and adjectives, as resulting from lexicographic, terminological definitions and other reliable specialist sources.

Disallowance, from the verb *disallow*, to refuse to allow, or to reject, as in *The*

[9] E. Alcaraz Varó, B. Hughes, *Legal Translation Explained*, Routledge, 2014. They provide a classification of the legal vocabulary. Thus, purely technical terms, together with semi-technical vocabulary and shared, common or 'unmarked' vocabulary, form a symbolic or representational group which includes all the terms denoting things or ideas found in the real world, either physical or mental. Grammatical words or phrases with no direct referents either in reality or in the universe of concepts are considered functional items.

[10] *Collins Cobuild English Guides 2 Word Formation,* p. 33.

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judge disallowed the defendant's application for bail[11], but usually applied to an insurance company's refusal to pay a claim, is an Old French borrowing and refers to the act of refusing to grant something asked for, or to confirm the truth of a statement. As a legal term, it also refers to financial penalties, as in the following example:

"National Audit Office (NAO) has recently reported on Defra's management of the risk of '*disallowance*' - ie financial penalties imposed by the European Commission where it considers that action taken by the department to control and administer CAP payments has not been compliant with EU regulations"[12].

The verb *disable* (mid-15 century, from *dis*- 'do the opposite of' + *ablen* 'to make fit') means 'to deprive someone or somebody of the ability to function; to impair, to diminish'. It may be a legal term, denoting the act of legally disqualifying someone, of rendering someone legally incapable.

The noun *disability*, the past participle *disabled* (used as a noun when preceded by the definite article), *disablement* (1. the act of incapacitating or immobilizing. 2. the imposition of a legal disability), and *disabling* (present participle with the value of an adjective) form the following phrases in legal language:

developmental disability an impairment of general intellectual functioning or adaptive behaviour often caused by a neurodevelopmental disorder.

partial disability a worker's inability to function and perform all the duties that he/she was able to do before an accident, although some working or other activity on the job is still possible.

permanent disability a disability that will indefinitely prevent a worker from performing some or all of the duties that he/she was able to do before an accident.

physical disability an incapacity caused by a physical defect or infirmity, or by bodily imperfection or mental weakness.

temporary disability a disability that exists until an injured worker is as far restored as the nature of the injury will permit.

temporary total disability total disability that is not permanent.

total disability a worker's inability to perform employment-related duties because of a physical or mental impairment.

civil disability (in this case *disability* denotes *incapacity* before the law) the condition of a person who has had a legal right or privilege revoked as a result of a criminal conviction, as when a driver's license is revoked after a DWI conviction.

disability benefits/ compensation payments from public or private funds to a disabled person who cannot work, such as social-security or workers'-compensation benefits (USA).

disability clause a life-insurance policy provision/clause providing for a waiver of premiums if the policyholder becomes totally and permanently disabled, and sometimes providing also for monthly payments equal to a percentage of the policy's face value.

disability discrimination an offence to discriminate unjustifiably against a disabled person under the Equality Act 2010 (in the UK, except in Northern Ireland where the Disability Discrimination Act 1995 still applies as a civil rights law).

[11] João Bittencourt de Oliveira, 2004, p. 5.

[12]https://www.thefreelibrary.com/The+thorny+issue+of+disallowance%3B+EUROPEAN+REPORT-a0426511799

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disability insurance (also called *disability income insurance*) insurance policy paying disability benefit to protect a person from a loss of income during a period of incapacity for work due to illness or injury.

disability living allowance a tax-free benefit payable to disabled people under 65 who need help with mobility or care costs (UK).

disability retirement plan (USA) the term includes an employee-welfare benefit plan, an employee-pension benefit plan, or a combination of the two.

disability working allowance a tax-free benefit payable to those who already receive a qualifying benefit, such as disability living allowance (UK).

disabled person a person who has a physical or mental impairment with substantial, long-term effect on his abilities to perform daily activities.

disablement benefit (full phrase *industrial injuries disablement benefit*) a pension or lump sum payable by the state to a person disabled by injury caused by an accident at work, an accident travelling directly to or from work, or a prescribed industrial disease contracted in the course of employment.

disabling restraints limits on the alienation of property (also called *restraint on alienation*). These limits may become void as being against public policy.

disabling statute a law that disqualifies a person of a specified class from exercising a right or freedom.

These phrases mostly occur in employment law, but they can also be found in insurance law (*disability insurance, disability clause*), real property law (*disabling restraints*), civil law/ civil rights (*disability discrimination, disabling statute*).

Disaffirm means 'to repudiate, to revoke consent; (in contract law) to declare a voidable contract to be void'.

The noun *disarmament* (*dis-* + *armament*) occurs in international law and refers to the negotiated or voluntary reduction or elimination of a country's armed forces or weapons, especially nuclear weapons, e.g. *United Nations Institute for Disarmament Research*.

The verb *disbar* (recorded around 1630, from *dis-* 'opposite of' + *bar*), as a legal term, means 'to deprive of the privileges of a barrister, to expel a barrister from his Inn of Court' (England and Wales). A synonym is *to strike off the roll* in the USA.

The corresponding noun is *disbarment*, a punishment for unethical or criminal conduct. The Benchers of the barrister's Inn (in the law of England and Wales) pronounce a sentence of disbarment, subject to a right of appeal to the judges who 'visit' all the Inns of Court.

Discommon as a verb may be a legal term, the main meaning being 'to deprive of the right of common (e.g., the right to pasture)'[13].

Discontinue is a late 14th century Old French borrowing, i.e. *discontinuer*, from Medieval Latin *discontinuare* (*dis-* 'not' + *continuare* 'to continue'). If the verb *continue* refers to maintaining without interruption an action, *discontinue* expresses the opposite, it breaks continuity. As a legal term, it means 'to abandon or terminate by a legal discontinuance'.

Discontinuance, as a legal term, means 1. the termination of a lawsuit by the plaintiff; a voluntary dismissal or nonsuit; 2. the termination of an estate-tail by a tenant in tail who conveys a larger estate in the land than is legally allowed[14].

[13] *Black's Law Dictionary*, 1999, p. 477.
[14] *Ibidem.*

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The verb *disenfranchise/ disfranchise* (from *dis-* + *enfranchise*) is mainly used in politics, but it is also a legal term meaning: 1. to deprive (a person) of the right to vote or other rights of citizenship; 2. to deprive (a place) of the right to send representatives to an elected body[15].

Although *entail* has several meanings, *disentail* has only one legal sense, i.e. to free (an estate) from entail (*dis-* + *entail*).

Disentailing deed is used in relation to *entailed interest*, 'an equitable interest in land under which ownership is limited to a person and the heirs of his body (either generally or those of a specified class)'[16].

Disentailment is the barring of an entailed interest.

As a verb, *dishonour* may be a legal term. Borrowed from Old French *deshonorer*, from Late Latin *dishonorare* (*dis-* + *honorare*), it refers to the failure to honour a bill of exchange in commercial law, to refuse to pay a negotiable instrument.

Dishonesty (from Old French *deshonesté*, from *des-* + Latin *honestatem*) has a privative meaning as a legal term. It designates an element of liability in the commission of theft, abstracting electricity, deception, handling stolen goods, and other offences[17].

If *joinder* is the act of joining together (having a legal sense), *disjoinder* is the undoing of the joinder of parties or claims.

Dismortgage is a term used in property law and referring to a borrower's payment of a defaulted mortgage debt[18].

The verb *dispauper* is a legal term, meaning 'to deprive a person of the ability to sue *in forma pauperis*'[19], without paying filing fees and covering court costs.

Disqualification, from the verb *disqualify* (*dis-* + *qualify*), is the act of depriving someone of a right, usually because he has committed an offence or failed to fulfil certain conditions.

The legal definition of *seisin* (1. the possession of land or chattels; 2. The right to immediate possession of an estate or to immediate succession)[20], proves that *disseisin* is the act of disseising, i.e. the act of wrongfully depriving someone of the freehold possession of property. The verb is *disseise*, the person who deprives another is *disseisor* (the feminine is, historically, *disseisoress* or *disseisitrix*), the person deprived is *disseisee.*

3.2. Other meanings

Some of the verbs derived with the prefix *dis-* are considered words with other meanings: *disarray, discharge, disclaim, disclose, discount, discover, dismiss, disrepair, dissolve*[21]. These are borrowings, especially from French, but also from Latin (directly or via French).

The verb *discharge* (Middle English *descharge(n)*, early 14th c., 'to release, exempt, exonerate', from Old French *deschargier* 'to unload, discharge', from Late Latin *discarricare*, formed with the prefix *dis-* 'do the opposite of' + *carricare* 'load') is a borrowing from French.

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[15] http://www.thefreedictionary.com/disenfranchise
[16] *Oxford Dictionary of Law*, 1997, p. 162.
[17] *Oxford Dictionary of Law*, 1997, p. 145.
[18] *Black's Law Dictionary*, 1999, p. 1282 (see *redemption* 4.).
[19] *Black's Law Dictionary*, 1999, p. 484.
[20] https://www.merriam-webster.com/dictionary/seisin
[21] *Collins Cobuild English Guides 2 Word Formation,* p. 36.

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As a noun and legal term, *discharge* refers to the release from an obligation, debt, or liability, having three main meanings: 1. discharge of a contract (termination of contractual obligations); 2. release of a debtor from all debts that can be proved (with minor exceptions) at the end of bankruptcy proceedings; 3. release of a convicted defendant without imposing a punishment on him[22]. It may also refer to the dismissal of a case or the firing of an employee. It is used in civil law, and also in criminal law, whereas the main meaning of the noun *charge* falls within the scope of criminal law, i.e. a formal accusation of a crime preceding prosecution.

Discharge is part the following phrases used in legal language[23]:

constructive discharge a termination of employment brought about by making the employee's working conditions so intolerable that he feels coerced into leaving.

retaliatory discharge a discharge that is made in retaliation for the employee's conduct and that clearly violates public policy.

unconditional discharge a release either from an obligation (without any conditions), or from confinement (without any parole requirements).

wrongful discharge a discharge for illegal reasons or reasons against public policy.

The legal sphere sometimes interferes with the military one, which leads to phrases containing the noun *discharge*, meaning 'dismissal of a member of the military from military service', as follows:

administrative discharge a military-service discharge which is not given by court-martial.

bad-conduct discharge a punitive discharge imposed by a court-martial, usually for repeated minor offenses.

dishonourable discharge the most severe punitive discharge that a court-martial can give to a member of the military.

general discharge an administrative discharge given to a member of the armed services who does not qualify for an honourable discharge.

honourable discharge a formal final judgment stating that a soldier has left service in a status of honour.

undesirable discharge an administrative discharge given to a member of the armed services who does not qualify for an honourable discharge.

In the field of bankruptcy, there are several phrases: *dischargeability proceeding* (a hearing to determine if a debt may be discharged or is subject to an exception), *dischargeable claim* (a claim that can be discharged), *discharge hearing* (a hearing at which the debtor is informed that a discharge has been granted, or, if not granted, the reasons for denial), *discharge in bankruptcy* (the release of a debtor from personal liability for prebankruptcy debts, or a bankruptcy court's decree releasing a debtor from such liability).

The verb *disclaim* (Middle English, c. 1400, from Anglo-French *disclaim(er)*, Old French *desclam(er)* 'disclaim, disavow', from *des-* + *clamer* 'to call, claim, cry out') means 'to deny interest in; disavow; disown'. The legal meanings are 'to renounce a claim or right to; to repudiate a legal claim'.

Disclaimer is a noun, i.e. the refusal or renunciation of a right, claim, or property. It may also refer to a person who disclaims or a document that disclaims.

[22] *Oxford Dictionary of Law*, 1997, p. 142-143.
[23] Based on *Black's Law Dictionary*, 1999, p. 475-476.

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Another French borrowing is the verb *disclose* (late 14th century, Middle English *disclose(n), desclosen*, from Old French *desclos* 'open, explicit', past participle of *desclore*, equiv. to *des-* DIS- + *clore* 'to close', from Latin *claudere*).

The noun *disclosure* refers to the act of making known something that was previously unknown. In contract law, the term is used in contrast with *nondisclosure* [24]. A full duty of disclosure exists in the case of contracts *uberrimae fidei fidei* (Lat. of the utmost good faith), usually contracts of insurance.

Disclosure occurs in the following phrases:

disclosure of documents (in civil proceedings, UK) disclosure by a party to civil litigation of the documents in his possession, custody, or power.

disclosure of information (UK) 1. (in employment law) the communication by an employer to employees and their trade-union representatives of information relevant to collective bargaining, proposed redundancies, and the preservation of employees' health and safety at work. 2. (in criminal proceedings) it refers to disclosures that the prosecution must make to the defence[25].

disclosure of interest (UK) the obligation of local authority members to disclose their or their spouses' financial interest in any matter discussed at a local authority meeting.

compulsory disclosure (USA) a mandatory disclosure of information.

full disclosure (USA) a complete disclosure of material facts.

Dismiss is a borrowing from Latin (early 15th century *dimissus*, past participle of *dimittere* 'send away; renounce, abandon', from *dis-* 'away' + *mittere* 'send'). Therefore, it is not the opposite of *miss.*

The general legal meaning of the noun *dismissal* refers to the termination of an action or claim without further hearing. It is also used in employment law, where it denotes the termination of an employee's contract of employment by the employer. The term can be found in such phrases as[26]:

dismissal of action the termination of a civil action in favour of the defendant.

dismissal procedures agreement a collective agreement containing provisions relating to the dismissal of employees and intended to replace the statutory provisions concerning unfair dismissal.

dismissal statement related to *statement of reasons for dismissal* a written notice of the reasons for an employee's dismissal or for the nonrenewal of a fixed-term contract.

In American law, the term *dismissal* occurs in the following phrases: *dismissal for failure to prosecute, dismissal for want of equity* (a court's dismissal of a lawsuit on substantive grounds), *dismissal for want of prosecution, dismissal without prejudice* (a dismissal which does not prevent the plaintiff from filing again the lawsuit within the limitations period applicable in the case), *dismissal with prejudice, involuntary dismissal* (a court's dismissal of a lawsuit because of the plaintiff's failure to prosecute), *voluntary dismissal* (a plaintiff's dismissal of a lawsuit at the plaintiff's request or by the parties' stipulation)[27].

[24] *Oxford Dictionary of Law*, 1997, p. 308.
[25] *Oxford Dictionary of Law*, 1997, p. 143-144.
[26] Based on *Oxford Dictionary of Law*, 1997.
[27] Based on *Black's Law Dictionary*, 1999, p. 482.

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The verb *dissolve* has a legal meaning, namely 'to end an official organization or a legal arrangement' (e.g. *to dissolve Parliament*). It is a Latin borrowing (*dissolvere*, from *dis-* 'apart' + *solvere* 'to loose'). The noun *dissolution* may refer, for instance, to the dissolution of a party (in the area of party organization), *dissolution of parliament* (parliamentary procedure), etc. A *dissolving condition* is a resolutory condition in civil law.

From the verb *dismantle,* the form *dismantling* occurs in EU documents, e.g. *tariff dismantlin*g (suspension of customs duties, in the field of tariff policy), or *dismantling of MCA monetary compensatory amount* (in the field of agricultural policy)[28].

4. Conclusions

The prefix *dis-* has a negative, privative, or reversative meaning and it combines with verbs, nouns, or adjectives. In general, it occurs in words borrowed directly from Latin (e.g. *dismiss*) or from Latin via Old French (e.g. *discharge*). Sometimes, a *dis-* derivative is an internal coinage (*disbar, disown*).

Most of the derivatives containing the prefix *dis-* are present in both common language and legal language (such as *disagree*) and there are fewer semi-technical terms (acquiring new meanings when moving from common language to legal language, e.g. *discontinuance*) and technical terms (exclusively pertaining to the legal sphere, e.g. *disbar, disseise*). There are also words which have common language meanings, but when they combine with the prefix *dis-*, they acquire a legal meaning. Such are the terms *discommon* (to deprive of the right of common, e.g. the right to pasture), or *dispauper* (to deprive a person of the ability to sue *in forma pauperis*). All these terms are used in various law branches or concern law-related aspects.

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