

S.

s.abbr.1.STATUTE. 2.SECTION(1).3. (usu. cap.) SENATE.

S-1

S-1. An SEC form that a company usu. must file before listing and trading its securities on a national exchange. • Used primarily by first-time issuers of securities, this form is the basic, full-length registration statement that requires a great deal of information about the issuer and the securities being sold. The SEC has also adopted modified forms for smaller enterprises, such as Forms SB-1 and SB-2. — Also termed Form S-1.

SABBATH-BREAKING

Sabbath-breaking. The violation of laws or rules on observing the Sabbath; esp., the violation of a blue law.

SABBATH LAW

Sabbath law. See BLUE LAW.

SABOTAGE

sabotage (sab-⟨schwa⟩-tahzh), n.1. The destruction, damage, or knowingly defective production of materials, premises, or utilities used for national defense or for war. 18 USCA §§ 2151 et seq. [Cases: War and National Emergency 53. C.J.S. War and National Defense § 67.] 2. The willful and malicious destruction of an employer's property or interference with an employer's normal operations, esp. during a labor dispute. — sabotage, vb.

SABOTEUR

saboteur (sab-⟨schwa⟩-t⟨schwa⟩r), n. A person who commits sabotage.

SAC

sac, n. See SOC.

SACER

sacer (sas-⟨schwa⟩r), adj. [Latin “sacred; forfeited to a god”] Roman law. (Of an outlaw or a wrongdoer) punished by being placed outside the law's protection. See CONSECRATIO CAPITIS; OUTLAWRY.

SACHBARO

sachbaro. See SAGIBARO.

SACHE

Sache (zahk-⟨schwa⟩). [German] A thing; an article or matter. See THING.

SACRAMENTALIS

sacramentalis (sak-r<<schwa>>-men-tay-lis), n. pl.[Law Latin fr. Latin sacramentum “an oath-taker”] Hist. A compurgator; one who takes an oath swearing to a defendant's innocence. Pl. sacramentales, (sak-r<<schwa>>-men-tay-leez).

SACRAMENTO

sacramento (sak-r<<schwa>>-men-toh), n. [Latin “by oath”] Roman law. A legal action in the earliest form of civil procedure in which, at its commencement, each of the contending parties deposited or gave security for a certain sum (called the sacramentum), which the loser forfeited to the public. — Also termed legis actio sacramento. See LEGIS ACTIO.

SACRAMENTUM

sacramentum (sak-r<<schwa>>-men-t<<schwa>>m), n.[Latin “an oath”] Roman law. 1.SACRAMENTO. 2. An oath of allegiance given by a soldier upon enlistment.

SACRAMENTUM DECISIONIS

sacramentum decisionis (sak-r<<schwa>>-men-t<<schwa>>m di-sizh-ee-oh-nis). [Latin “the oath of decision”] Civil law. The offer by one party to accept the opposing party's oath as decisive of the issues involved in a lawsuit. Pl. sacramenta decisionis.

“The defendant or person accused was ... to make oath of his own innocence, and to produce a certain number of compurgators, who swore they believed his oath. Somewhat similar also to this is the sacramentum decisionis, or the voluntary and decisive oath of the civil law; where one of the parties to the suit, not being able to prove his charge, offers to refer the decision of the cause to the oath of his adversary: which the adversary was bound to accept, or tender the same proposal back again; otherwise the whole was taken as confessed by him.” 3 William Blackstone, Commentaries on the Laws of England 342 (1768).

SACRAMENTUM FIDELITATIS

sacramentum fidelitatis (sak-r<<schwa>>-men-t<<schwa>>m fi-del-<<schwa>>-tay-tis). [Law Latin] Hist. The oath of fidelity, given by a vassal to a lord.

SACRILEGE

sacrilege (sak-r<<schwa>>-lij).1. The act or an instance of desecrating or profaning a sacred thing. 2.Hist. Larceny of sacred objects, as from a church.

SACRILEGIUM

sacrilegium (sak-r<<schwa>>-lee-jee-<<schwa>>m), n. [Latin fr. sacer “sacred” + legere “to steal”] Roman law. 1. The theft of a sacred thing. • This was usu. a capital offense. See CAPITALIS. 2. Violation of an imperial law.

“In the later Empire the conception of sacrilegium was somewhat distorted and those ‘who through ignorance or negligence confound, violate and offend the sanctity of a divine law’ ... were

considered guilty of sacrilegium. 'Divine' is here used in the sense of imperial, issued by the emperor Thus sacrilegium and sacrilegus became rather general terms applied to the neglect or violation of imperial orders or enactments." Adolf Berger, *Encyclopedic Dictionary of Roman Law* 689 (1953).

SACRILEGUS

sacrilegus (s<<schwa>>-kril-<<schwa>>-g<<schwa>>s), adj. & n. [Latin "sacrilegious"] Roman law. (A person) guilty of sacrilegium. See SACRILEGIUM.

SACRISTAN

sacristan (sak-ri-st<<schwa>>n). [Latin] Hist. A caretaker of a church; a sexton of a church.

SACRISTY

sacristy (sak-ri-stee). See VESTRY(1).

SADAQ

sadaq. See MAHR.

SAEMEND

saemend (see-m<<schwa>>nd). [Old English] Hist. An arbitrator; an umpire.

SAET

SAET.abbr. SUBSTANCE-ABUSE EVALUATION AND TREATMENT.

SAEVITIA

saevitia (si-vish-ee-<<schwa>>). [Latin fr. saevus "cruel"] Hist. Cruelty in a marriage, as a result of which cohabitation is dangerous enough to justify a decree of separation.

SAFE

safe,adj.1. Not exposed to danger; not causing danger <driving at a safe limit of speed>.2. Unlikely to be overturned or proved wrong.

SAFE-BERTH CLAUSE

safe-berth clause.Maritime law. A provision in a voyage or time charterparty obligating the charterer to choose a berth for loading and unloading the chartered ship where the ship will be safe from damage. • The ship's master can refuse to enter the berth without breaching the charter. But if the master reasonably enters the berth and the ship is damaged, the charterer is liable. Cf. SAFE-PORT CLAUSE.

SAFE BLOWER

safe blower.One who uses explosives to open a safe, esp. for the purpose of stealing the contents. Cf. SAFE CRACKER.

SAFE BREAKER

safe breaker. See **SAFE CRACKER**.

SAFE CONDUCT

safe conduct. Int'l law. 1. A privilege granted by a belligerent allowing an enemy, a neutral, or some other person to travel within or through a designated area for a specified purpose. 2. A document conveying this privilege. — Sometimes written safe-conduct. — Also termed safeguard; passport.

“Passports and safeguards, or safe conducts, are letters of protection, with or without an escort, by which the person of an enemy is rendered inviolable. These may be given in order to carry on the peculiar commerce of war, or for reasons which have no relation to it, which terminate in the person himself.” Theodore D. Woolsey, *Introduction to the Study of International Law* § 155, at 265 (5th ed. 1878).

“Safe-conduct The grantee is inviolable so long as he complies with the conditions imposed on him or necessitated by the circumstances of the case. Unless stated, a safe-conduct does not cover goods or luggage. They may be given also for ships and for goods. To be effective under international law the grant must have been arranged between belligerents.” David M. Walker, *The Oxford Companion to Law* 1098 (1980).

SAFE CRACKER

safe cracker. One who breaks into a safe, esp. for the purpose of stealing the contents. — Also termed safe breaker. Cf. **SAFE BLOWER**.

SAFE-DEPOSIT BOX

safe-deposit box. A lockbox stored in a bank's vault to secure a customer's valuables. • It usu. takes two keys (one held by the bank and one held by the customer) to open the box. — Often shortened to deposit box. — Also termed safety-deposit box. [Cases: Warehousemen 38. C.J.S. Warehousemen and Safe Depositaries § 137.]

SAFE-DEPOSIT COMPANY

safe-deposit company. See **DEPOSITARY**(1).

SAFEGUARD

safeguard. See **SAFECONDUCT**.

SAFE HARBOR

safe harbor. 1. An area or means of protection. 2. A provision (as in a statute or regulation) that affords protection from liability or penalty. • SEC regulations, for example, provide a safe harbor for an issuer's business forecasts that are made in good faith. — Also termed safe-harbor clause; safe-harbor provision. [Cases: Securities Regulation 60.27(5). C.J.S. Securities Regulation § 192.]

SAFE-HAVEN LAW

safe-haven law.Family law. A statute that protects a parent who abandons a baby at a designated place such as a hospital, a physician's office, or a fire station, where it can receive emergency medical assistance as needed. • The law typically stipulates that a parent who leaves a baby at such a place will not be publicly identified or prosecuted. Such laws have been enacted in many states in response to a perceived increase in incidents of child abandonment. — Also termed Baby Moses law.

SAFE HOUSE

safe house.A residence where people live under protection, usu. in anonymity. • Safe houses are operated for a range of purposes, both legal and illegal. Shelters for abused spouses and runaway children are safe houses. Law-enforcement agencies keep safe houses for undercover operations and to protect witnesses who have been threatened. Lawbreakers use them to shield criminal activity such as drug manufacturing.

SAFEKEEPING

safekeeping. 1. The act of protecting something in one's custody. 2. Under the Securities Investors Protection Act, the holding of a security on behalf of the investor or broker that has paid for it. 15 USCA § 78III(2). [Cases: Securities Regulation 185.13–185.16. C.J.S. Securities Regulation §§ 309–310, 312, 315–316, 318–319, 322.]

SAFE-PLEDGE

safe-pledge. See PLEDGE(5).

SAFE-PORT CLAUSE

safe-port clause.Maritime law. A provision in a voyage or time charterparty obligating the charterer to choose a port where the ship will be safe from damage. • The ship's master can refuse to enter the port without breaching the charter. But if the master reasonably enters the port and the ship is damaged, the charterer is liable. Cf. SAFE-BERTH CLAUSE. [Cases: Shipping 39, 55. C.J.S. Shipping §§ 74, 85, 88, 91, 141–144.]

SAFE-STORAGE STATUTE

safe-storage statute.A law that prohibits persons from leaving firearms unattended in places where children may gain access to them. — Also termed child-access prevention statute.

SAFETY APPLIANCE ACT

Safety Appliance Act.A federal law regulating the safety of equipment used by railroads in interstate commerce.49 USCA §§ 20301 et seq. [Cases: Employers' Liability 47; Railroads 229. C.J.S. Employers' Liability for Injuries to Employees §§ 75–76; Railroads §§ 807–815.]

SAFETY-DEPOSIT BOX

safety-deposit box.See SAFE-DEPOSIT BOX.

SAFETY ENGINEERING

safety engineering. The inspection and study of potentially dangerous conditions, usu. in an industrial environment, so that precautionary measures can be taken.

SAFETY OFFICER

safety officer. See OFFICER(1).

SAFE WORKPLACE

safe workplace. A place of employment in which all dangers that should reasonably be removed have been removed; a place of employment that is reasonably safe given the nature of the work performed. See OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION . [Cases: Employers' Liability 30; Labor Relations 9.5. C.J.S. Employers' Liability for Injuries to Employees §§ 52–53, 56, 103; Labor Relations §§ 2, 19.5, 19.10, 19.20, 19.30, 19.45.]

SAGIBARO

sagibaro (sag-*<<schwa>>*-bar-oh), n. [Old English] Hist. A determiner of disputes; a judge. — Also termed sachbaro (sak-bar-oh).

SAID

said, adj. Aforesaid; above-mentioned. • The adjective said is obsolescent in legal drafting, its last bastion being patent claims. But even in that context the word is giving way to the ordinary word the, which if properly used is equally precise. See AFORESAID.

“The word ‘said’ is used by many practitioners rather than ‘the’ to refer back to previously recited elements, sometimes to a previously cited anything. This practice is unobjectionable, although perhaps overly legalistic. If ‘saids’ or ‘thes’ are used, one should be consistent in the usage and not alternate between those words in repetitions of the same element or among different elements.” Robert C. Faber, *Landis on Mechanics of Patent Claim Drafting* § 23, at 50 (3d ed. 1990).

SAILOR'S WILL

sailor's will. See soldier's will under WILL.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Saint Lawrence Seaway Development Corporation. A wholly-owned corporation in the U.S. Department of Transportation responsible for developing, operating, and maintaining a part of the St. Lawrence Seaway from Montreal to Lake Erie. • It charges tolls at rates negotiated with the St. Lawrence Seaway Authority of Canada. — Abbr. SLSDC.

SAKE AND SOKE

sake and soke (sayk / sohk). Hist. A lord's right to hold court and compel attendance. — Also spelled sak and soc (sak / sok). See SOC.

SALABLE

salable (say-l<<schwa>>-b<<schwa>>l orsayl-<<schwa>>-b<<schwa>>l), adj. Fit for sale in the usual course of trade at the usual selling price; MERCHANTABLE. [Cases: Sales 272. C.J.S. Sales §§ 254–256.] — salability (say-l<<schwa>>-bil-<<schwa>>-tee or sayl-<<schwa>>-bil-<<schwa>>-tee), n.

SALABLE VALUE

salable value. See fair market value under VALUE(2).

SALARIIUM

salarium (s<<schwa>>-lair-ee-<<schwa>>m), n. [Latin “salt money”] 1. Roman law. An allowance, esp. for living expenses, given to persons in noble professions (such as teachers and doctors) who were not allowed to sue for fees. 2. Roman law. Wages for persons engaged in military service on an emergency basis. • The regular soldier's pay is a stipendium. 3. Hist. The rent or profits of a hall or house.

SALARY

salary. An agreed compensation for services — esp. professional or semiprofessional services — usu. paid at regular intervals on a yearly basis, as distinguished from an hourly basis. • Salaried positions are usu. exempt from the requirements of the Fair Labor Standards Act (on overtime and the like) but are subject to state regulation. Cf. WAGE. [Cases: Master and Servant 70. C.J.S. Employer–Employee Relationship §§ 140–145, 150–151, 163–172, 174–176.]

accrued salary. A salary that has been earned but not yet paid.

SALE

sale, n. 1. The transfer of property or title for a price. See UCC § 2-106(1). [Cases: Sales 1; Vendor and Purchaser 1. C.J.S. Sales § 2; Vendor and Purchaser §§ 2, 5.] 2. The agreement by which such a transfer takes place. • The four elements are (1) parties competent to contract, (2) mutual assent, (3) a thing capable of being transferred, and (4) a price in money paid or promised.

absolute sale. A sale in which possession and title to the property pass to the buyer immediately upon the completion of the bargain. Cf. conditional sale. [Cases: Sales 454; Vendor and Purchaser 79. C.J.S. Vendor and Purchaser §§ 125, 141.]

approval sale. See sale on approval.

auction sale. See AUCTION.

average gross sales. The amount of total sales divided by the number of sales transactions in a specific period.

bona fide sale. A sale made by a seller in good faith, for valuable consideration, and without notice of a defect in title or any other reason not to hold the sale. [Cases: Vendor and Purchaser 220. C.J.S. Vendor and Purchaser §§ 482–485, 517.]

bootstrap sale. 1. A sale in which the purchase price is financed by earnings and profits of the thing sold; esp., a leveraged buyout. See BUYOUT. 2. A seller's tax-saving conversion of a business's ordinary income into a capital gain from the sale of corporate stock.

bulk sale. See BULK SALE.

cash-against-documents sale. See documentary sale.

cash sale. 1. A sale in which cash payment is concurrent with the receipt of the property sold. [Cases: Sales 82(1). C.J.S. Sales § 208.] 2. A securities transaction on the stock-exchange floor requiring cash payment and same-day delivery.

compulsory sale. The forced sale of real property in accordance with either an eminent-domain order or an order for a judicial sale arising from nonpayment of taxes. [Cases: Taxation 672. C.J.S. Taxation § 1179.]

conditional sale. 1. A sale in which the buyer gains immediate possession but the seller retains title until the buyer performs a condition, esp. payment of the full purchase price. See retail installment contract under CONTRACT. [Cases: Sales 450. C.J.S. Sales § 2.] 2. A sale accompanied by an agreement to resell upon specified terms. Cf. absolute sale.

consignment sale. A sale of an owner's property (such as clothing or furniture) by a third party entrusted to make the sale. UCC § 9-102(a)(20). See CONSIGNMENT. [Cases: Factors 5, 20; Sales 8. C.J.S. Bailments § 11; Sales § 3.]

consumer-credit sale. A sale in which the seller extends credit to the consumer. • A consumer-credit sale includes a lease in which the lessee's rental payments equal or exceed the retail value of the item rented. [Cases: Consumer Credit 3. C.J.S. Interest and Usury; Consumer Credit §§ 280–293, 306.]

credit sale. A sale of goods to a buyer who is allowed to pay for the goods at a later time. [Cases: Sales 82(1). C.J.S. Sales § 208.]

distress sale. 1. A form of liquidation in which the seller receives less for the goods than what would be received under normal sales conditions; esp., a going-out-of-business sale. 2. A foreclosure or tax sale. [Cases: Internal Revenue 4860; Taxation 581, 672. C.J.S. Internal Revenue § 745; Taxation §§ 1041–1043, 1179.]

dock sale. A sale in which a purchaser takes possession of the product at the seller's shipping dock, esp. for transportation outside the state.

documentary sale. A sale in which the buyer pays upon the seller's tender of documents of title covering the goods, plus a sight draft requiring the buyer to pay “at sight.” • This type of sale typically occurs before delivery of the goods, which might be en route when the buyer pays. — Also termed cash-against-documents sale.

exclusive sale. A sale made by a broker under an exclusive-agency listing. See exclusive-agency listing under LISTING. [Cases: Brokers 40. C.J.S. Brokers §§ 117–120, 125, 143.]

execution sale.A forced sale of a debtor's property by a government official carrying out a writ of execution. — Also termed forced sale; judgment sale; sheriff's sale. See EXECUTION. [Cases: Execution 213. C.J.S. Executions §§ 211–212.]

executory sale.A sale agreed upon in principle but with a few minor details remaining.

fair sale.A foreclosure sale or other judicial sale conducted with fairness toward the rights and interests of the affected parties. [Cases: Judicial Sales 1; Mortgages 380. C.J.S. Judicial Sales §§ 2–5, 11; Mortgages §§ 490–491, 495, 690–691, 695, 697.]

fire sale. 1. A sale of merchandise at reduced prices because of fire or water damage. 2. Any sale at greatly reduced prices, esp. due to an emergency. • Fire sales are often regulated to protect the public from deceptive sales practices.

forced sale. 1. See execution sale. 2. A hurried sale by a debtor because of financial hardship or a creditor's action. Cf. voluntary sale.

foreclosure sale.The sale of mortgaged property, authorized by a court decree or a power-of-sale clause, to satisfy the debt. See FORECLOSURE. [Cases: Mortgages 360, 514. C.J.S. Mortgages §§ 626–628, 630, 855.]

fraudulent sale.A sale made to defraud the seller's creditors by converting into cash property that should be used to satisfy the creditors' claims. [Cases: Fraudulent Conveyances 1.]

gross sales.Total sales (esp. in retail) before deductions for returns and allowances. — Also termed sales in gross.

installment sale.See INSTALLMENT SALE.

isolated sale.An infrequent or one-time sale that does not carry an implied warranty of merchantability because the seller is not a merchant with respect to goods of that kind. UCC § 2-314(1). [Cases: Sales 272. C.J.S. Sales §§ 254–256.]

judgment sale.See execution sale.

judicial sale.A sale conducted under the authority of a judgment or court order, such as an execution sale. — Also termed sheriff's sale. [Cases: Judicial Sales 1. C.J.S. Judicial Sales §§ 2–5, 11.]

lumping sale.A court-ordered sale in which several distinct pieces of property are sold together for a single sum.

memorandum sale.A conditional sale in which the buyer takes possession but does not accept title until approving the property. [Cases: Sales 459.]

net sale.The amount of money remaining from a sale, after deducting returns, allowances, rebates, discounts, and other expenses.

present sale.Under the UCC, a sale accomplished by the making of a contract. UCC § 2-106(1). [Cases: Sales 1(1). C.J.S. Sales §§ 2, 9, 29, 48.]

private sale. An unadvertised sale negotiated and concluded directly between the buyer and seller, not through an agent.

public sale. 1. A sale made after public notice, such as an auction or sheriff's sale; specif., a sale to which the public has been invited by advertisement to appear and bid at auction for the items to be sold. 2. Patents. An actual exchange for value or an offer through some medium (e.g., a sales brochure) of an article, product, or process to a member of the general public. [Cases: Patents 76. C.J.S. Patents §§ 107, 110–111.]

retail installment sale. See INSTALLMENT SALE.

sale against the box. See short sale against the box.

sale and leaseback. See LEASEBACK.

sale and return. See sale or return.

sale as is. A sale in which the buyer accepts the property in its existing condition unless the seller has misrepresented its quality. — Also termed sale with all faults. [Cases: Sales 260, 267. C.J.S. Sales §§ 238, 247–248, 263–270.]

sale by sample. A sale in which the parties understand that the goods exhibited constitute the standard with which the goods not exhibited correspond and to which all deliveries should conform. • Any sample that is made part of the basis of the bargain creates an express warranty that the whole of the goods will conform to the sample or model. UCC § 2-313(c). — Also termed sample sale. [Cases: Sales 73. C.J.S. Sales § 176.]

sale in gross. 1. A sale of a tract of land made with no guarantee about the exact amount or size of the land being sold. [Cases: Vendor and Purchaser 65(2). C.J.S. Vendor and Purchaser §§ 128, 131.] 2. (pl.) See gross sales.

sale on approval. A sale in which completion hinges on the buyer's satisfaction, regardless of whether the goods conform to the contract. • Title and risk of loss remain with the seller until the buyer approves. UCC § 2-326(1)(a). — Also termed approval sale. [Cases: Sales 168.5(.5). C.J.S. Sales §§ 165–166, 190.]

sale on credit. A sale accompanied by delivery of possession, but with payment deferred to a later date. [Cases: Sales 82(1). C.J.S. Sales § 208.]

sale or return. A sale in which the buyer may return the goods to the seller, regardless of whether they conform to the contract, if the goods were delivered primarily for resale. • This transaction is a type of consignment in which the seller (usu. a distributor) sells goods to the buyer (often a retailer), who then tries to resell the goods, but a buyer who cannot resell is allowed to return them to the seller. Title and risk of loss are with the buyer until the goods are returned. UCC § 2-326(1)(b). — Also termed sale and return. [Cases: Sales 168.5(.5). C.J.S. Sales §§ 165–166, 190.]

sale per aversionem (p<<schwa>>r <<schwa>>-v<<schwa>>r-zhee-oh-n<<schwa>>m). Civil law. A conveyance of all immovable property that falls within the boundaries stated in a purchase

agreement, as opposed to a specified amount of acreage. • The sales price will not be modified because of a surplus or shortage in the amount of property that is exchanged, because the boundary description is the binding definition of the property conveyed. La. Civ. Code art. 2495. [Cases: Vendor and Purchaser 65(2). C.J.S. Vendor and Purchaser §§ 128, 131.]

sale positive.A sale with no reserve price.

sales in gross.See gross sales.

sale short.See short sale.

sale with all faults.See sale as is.

sale with right of redemption.A sale in which the seller reserves the right to retake the goods by refunding the purchase price.

sample sale.See sale by sample.

sheriff's sale. 1. See execution sale. 2. See judicial sale.

short sale.A sale of a security that the seller does not own or has not contracted for at the time of sale, and that the seller must borrow to make delivery. • Such a sale is usu. made when the seller expects the security's price to drop. If the price does drop, the seller can make a profit on the difference between the price of the shares sold and the lower price of the shares bought to pay back the borrowed shares. — Also termed sale short. [Cases: Securities Regulation 45.17. C.J.S. Securities Regulation § 117.]

short sale against the box.A short sale of a security by a seller who owns enough shares of the security to cover the sale but borrows shares anyway because the seller wants to keep ownership a secret or because the owned shares are not easily accessible. • Delivery may be made with either the owned or the borrowed shares, so it is less risky than an ordinary short sale. The phrase against the box refers to the owned shares that are in safekeeping; formerly, the “box” was a container used to store stock certificates. — Often shortened to sale against the box.

similar sales.Eminent domain. Sales of like property in the same locality and time frame, admissible in a condemnation action to determine the marketable value of the particular property at issue. [Cases: Evidence 142. C.J.S. Evidence §§ 774–775, 780–781.]

simulated sale.A sale in which no price or other consideration is paid or intended to be paid, and in which there is no intent to actually transfer ownership. • Simulated sales are usu. done in an attempt to put property beyond the reach of creditors. — Also termed simulated transaction. [Cases: Fraudulent Conveyances 1.]

tax sale.A sale of property because of nonpayment of taxes. See tax deed under DEED. [Cases: Taxation 614. C.J.S. Taxation §§ 1101, 1104–1110.]

voluntary sale.A sale made freely with the seller's consent. Cf. forced sale.

wash sale.A sale of securities made at about the same time as a purchase of the same securities (such as within 30 days), resulting in no change in beneficial ownership. • A loss from a

wash sale is usu. not tax-deductible. And securities laws prohibit a wash sale made to create the false appearance of market activity. — Also termed wash transaction. [Cases: Internal Revenue 3216; Securities Regulation 60.25. C.J.S. Internal Revenue § 126; Securities Regulation §§ 214, 226–227.]

SALE AND EXCHANGE

sale and exchange. See SALE OR EXCHANGE.

SALE AND RETURN

sale and return. See sale or return under SALE.

SALE NOTE

sale note. See NOTE(1).

SALE-OF-BUSINESS DOCTRINE

sale-of-business doctrine. The outmoded rule holding that the transfer of stock incident to the sale of a business does not constitute a transfer of securities. • This doctrine was rejected by the U.S. Supreme Court in *Landreth Timber Co. v. Landreth*, 471 U.S. 681, 105 S.Ct. 2297 (1985), and its companion case, *Gould v. Rufenacht*, 471 U.S. 701, 105 S.Ct. 2308 (1985). [Cases: Securities Regulation 5.25(2). C.J.S. Securities Regulation § 27.]

SALE OF LAND

sale of land. A transfer of title to real estate from one person to another by a contract of sale. • A transfer of real estate is often referred to as a conveyance rather than a sale. [Cases: Vendor and Purchaser 1, 3. C.J.S. Vendor and Purchaser §§ 2–3, 5.]

SALE ON APPROVAL

sale on approval. See SALE.

SALE ON CREDIT

sale on credit. See SALE.

SALE OR EXCHANGE

sale or exchange. 1. Tax. A voluntary transfer of property for value (as distinguished from a gift) resulting in a gain or loss recognized for federal tax purposes. 2. A transfer of property; esp., a situation in which proceeds of a sale are to be vested in another estate of the same character and use. — Also termed (in both senses) sale and exchange. [Cases: Internal Revenue 3232; Taxation 998. C.J.S. Internal Revenue §§ 128–129, 490–491; Taxation § 1734.]

SALE OR RETURN

sale or return. See SALE.

SALE PER AVERSIONEM

sale per aversionem.See SALE.

SALE POSITIVE

sale positive.See SALE.

SALES AGREEMENT

sales agreement.A contract in which ownership of property is presently transferred, or will be transferred in the future, from a seller to a buyer for a fixed sum. UCC § 2-106(1). [Cases: Sales 1(1), 3.1. C.J.S. Sales §§ 2-4, 9, 29, 48.]

SALES-ASSESSMENT-RATIO STUDY

sales-assessment-ratio study.A method for calculating the assessment level for taxable property in a jurisdiction, by comparing the assessed value and the actual sales price of a statistically reliable sample of the property in the jurisdiction, to determine the percentage by which the assessed values are above or below the sales prices. [Cases: Taxation 348(3).]

SALES FINANCE COMPANY

sales finance company.See FINANCE COMPANY.

SALE SHORT

sale short.See short sale under SALE.

SALES IN GROSS

sales in gross.See gross sales under SALE.

SALES INVOICE

sales invoice.See INVOICE.

SALES JOURNAL

sales journal.A book used to record sales of merchandise on account.

SALES LOAD

sales load.See LOAD.

SALES MIX

sales mix.The relative combination of individual-product sales to total sales.

SALES PRICE

sales price.See PRICE.

SALES PUFFERY

sales puffery.See PUFFING(1).

SALES TAX

sales tax. See TAX.

SALE WITH ALL FAULTS

sale with all faults. See sale as is under SALE.

SALE WITH RIGHT OF REDEMPTION

sale with right of redemption. See SALE.

SALIC LAW

Salic law (sal-ik orsay-lik). An influential early medieval Frankish code of law that originated with the Salian Franks and that deals with a variety of civil property and family issues but is primarily a penal code listing the punishments for various crimes. • Salic law is the principal compilation of the early Germanic laws known collectively as *leges barbarorum* (“laws of the barbarians”). Salic law also designated a rule barring females from the line of succession to the throne, as a result of which references to Salic law have sometimes referred only to the code provision excluding women from inheriting certain lands (which probably existed only because military duties were connected with the inheritance). In the late 19th century, Oliver Wendell Holmes revived scholarly interest in Salic law by referring to it throughout *The Common Law* (1881). — Also termed Salique law; law Salique (s<<schwa>>-leekorsal-ik); lex Salica (leks sal-<<schwa>>-k<<schwa>>).

SALIC MARRIAGE

salic marriage. See morganatic marriage under MARRIAGE(1).

SALTING

salting, n. Labor law. A union tactic that involves a paid union employee going to work for a targeted nonunion employer with the intention of organizing the workforce. • The union agent (known as a salt) is considered an employee of the nonunion company and is protected by the National Labor Relations Act.

SALUS

salus (sal-<<schwa>>s), n. [Latin] Health; prosperity; safety.

SALVA GARDIA

salva gardia. See DE SALVA GARDIA.

SALVAGE

salvage (sal-vij), n. 1. The rescue of imperiled property. 2. The property saved or remaining after a fire or other loss, sometimes retained by an insurance company that has compensated the owner for the loss. [Cases: Insurance 2194, 2717. C.J.S. Insurance § 1119.] 3. Compensation allowed to a person who, having no duty to do so, helps save a ship or its cargo. — Also termed

(in sense 3) salvage award; reward. [Cases: Salvage 1. C.J.S. Salvage §§ 2, 4, 24.] — salvage, vb.

“Salvage is a reward payable either by the shipowner or by the owners of goods carried in the ship to persons who save the ship or cargo from shipwreck, capture or other loss. The right to salvage is an ancient rule of maritime law and is not based on contractual rights. The actual amount payable is, as a rule, assessed by the Court. Sometimes an express agreement, fixing an amount, is made before the assistance is rendered, but this is not a question of salvage in the strict sense, which always implies service by persons who are under no obligation to render it.” 2 E.W. Chance, *Principles of Mercantile Law* 98 (P.W. French ed., 10th ed. 1951).

“With reference to aid rendered to distressed property on navigable waters the word ‘salvage’ is often used indifferently to describe the salvage operation and the salvage operation and the salvage award — the latter being the compensation granted for the services rendered.” Martin J. Norris, *The Law of Salvage* § 2, at 2 (1958).

“A salvage award, or reward, is the compensation allowed to the volunteer whose services on navigable waters have aided distressed property in whole or in part. The award is not regarded merely as pay on the principle of quantum meruit or as remuneration pro opera et labore, but as a reward to persons participating and the owners of salvaging property, voluntarily rendering their services and to encourage others to similarly undertake the saving of life and property. That part of the award constituting more than quantum meruit has, on occasions, been referred to as a ‘bounty,’ ‘gratuity,’ and ‘bonus.’” Martin J. Norris, *The Law of Salvage* § 3, at 3–4 (1958).

SALVAGE AWARD

salvage award. See SALVAGE(3).

SALVAGE CHARGES

salvage charges. Insurance. Costs necessarily incurred in salvage.

SALVAGE LOSS

salvage loss. See LOSS.

SALVAGER

salvager. See SALVOR.

SALVAGE SERVICE

salvage service. The aid or rescue given, either voluntarily or by contract, to a vessel in need of assistance because of present or apprehended danger. • Although salvage may involve towing, it is distinguished from towing service, which is rendered merely to expedite a voyage, not to respond to dangerous circumstances. [Cases: Salvage 6. C.J.S. Salvage §§ 4, 7.]

SALVAGE VALUE

salvage value. See VALUE(2).

SALVAM FECIT TOTIUS PIGNORIS CAUSAM

salvam fecit totius pignoris causam (sal-v<<schwa>>m fee-sit toh-shee-<<schwa>>s pig-n<<schwa>>-ris kaw-z<<schwa>>m). [Law Latin] Scots law. He furnished the means of saving the whole pledge. • On this basis a bottomry creditor posting the last bond obtained preference over the remaining bottomry creditors. See bottomry bond under BOND(2).

SALVA SUBSTANTIA

salva substantia (sal-v<<schwa>> s<<schwa>>b-stan-shee-<<schwa>>). [Latin] Roman & civil law. The substance (of the property) being preserved; the substance remaining intact. — Also termed *salva rei substantia*.

“A right of liferent, therefore, cannot be constituted in a subject which necessarily perishes in the use; it must be a subject which can be used *salva substantia*.” John Trayner, *Trayner's Latin Maxims* 563 (4th ed. 1894).

SALVO

salvo (sal-voh). [Latin fr. *salvus* “safe”] Hist. 1. Saving; excepting. • This term was used in deeds. 2. Safely.

SALVO BENEFICIO COMPETENTIAE

salvo beneficio competentiae (sal-voh ben-<<schwa>>-fish-ee-oh kom-p<<schwa>>-ten-shee-ee). [Latin] Hist. Saving the benefit of being held liable only to the extent that one's means permit. See *BENEFICIUM COMPETENTIAE*.

SALVO CONDUCTU

salvo conductu. See *DE SALVO CONDUCTU*.

SALVO JURE

salvo jure (sal-voh joor-ee). [Latin “the rule being safe”] Without prejudice to.

SALVOR

salvor (sal-v<<schwa>>r), n. [Law Latin] A person who saves a vessel and its cargo from danger or loss; a person entitled to salvage. — Also termed *salvager*. [Cases: *Salvage* 18, 19. C.J.S. *Salvage* §§ 23–33, 35–38.]

“A salvor is a person, who, without any particular relation to a ship or property in distress, performs useful service, and gives it as a volunteer without any pre-existing contract that connected him with the duty of employing himself for the preservation of the ship or property.” Martin J. Norris, *The Law of Salvage* § 4, at 4 (1958).

“A ‘salvor’ is a person who, without any particular relation to a ship in distress, proffers useful service, and gives it as a volunteer adventurer, without any pre-existing covenant that connected him with the duty of employing himself for the preservation of the ship. To be a salvor, one must have the intention and capacity to save the distressed property involved, but need not

have an intent to acquire it.” 68 Am. Jur. 2d Salvage § 2, at 270 (1993).

SALVUS PLEGIUS

salvus plegius (sal-v<<schwa>>s plee-jee-<<schwa>>s). [Law Latin] Hist. A safe pledge; a satisfactory pledge. See PLEDGE. — Also termed certus plegius.

SAM

SAM. See shared-appreciation mortgage under MORTGAGE.

SAME

same,pron. The very thing just mentioned or described; it or them <two days after receiving the goods, Mr. Siviglio returned same>.

SAME-ACTOR INFERENCE

same-actor inference.Employment law. The doctrine that when an employee is hired and fired by the same person, and the termination occurs a reasonably short time after the hiring, the termination will be presumed not to be based on a discriminatory reason. [Cases: Civil Rights 1534. C.J.S. Civil Rights §§ 168–169.]

SAME-CONDUCT TEST

same-conduct test.Criminal law. A test for determining whether a later charge arising out of a single incident is barred by the Double Jeopardy Clause; specif., an analysis of whether the later charge requires the state to prove the same conduct that it was required to prove in a previous trial against the same defendant. • The Supreme Court abandoned the Blockburger test and adopted the same-conduct test in 1990 (*Grady v. Corbin*, 495 U.S. 508, 110 S.Ct. 2084), but overruled that decision and revived Blockburger three years later (*U.S. v. Dixon*, 509 U.S. 688, 113 S.Ct. 2849 (1993)). Cf. BLOCKBURGER TEST; SAME-TRANSACTION TEST.

SAME-ELEMENTS TEST

same-elements test.1.BLOCKBURGER TEST. 2.LEGAL-ELEMENTS TEST.

SAME-EVIDENCE TEST

same-evidence test.See BLOCKBURGER TEST.

SAME INVENTION

same invention.Patents. 1. A second invention claiming the identical subject matter as a previous invention. [Cases: Patents 120. C.J.S. Patents § 246.] 2. Within a reissue statute, the invention described in the original patent. [Cases: Patents 141.]

SAME-INVENTION DOUBLE PATENTING

same-invention double patenting.See statutory double patenting under DOUBLE PATENTING .

SAME-INVENTION DOUBLE PATENTING REJECTION

same-invention double patenting rejection. See statutory double patenting rejection under REJECTION.

SAME OFFENSE

same offense. See OFFENSE(1).

SAME-SEX HARASSMENT

same-sex harassment. See HARASSMENT.

SAME-SEX MARRIAGE

same-sex marriage. See MARRIAGE(1).

SAME-TRANSACTION TEST

same-transaction test. Criminal law. A double-jeopardy test, never adopted, that would require the government to bring all charges arising out of a single incident against a defendant in one prosecution. • Justice Brennan advocated the same-transaction test in a case involving a conviction for felony-murder and a later prosecution for the underlying felony. *Harris v. Okla.*, 433 U.S. 682, 97 S.Ct. 2912 (1977). Cf. BLOCKBURGER TEST; SAME-CONDUCT TEST .

SAMPLE SALE

sample sale. See sale by sample under SALE.

SAMPLING

sampling, n. Copyright. The process of taking a small portion of a sound recording and digitally manipulating it as part of a new recording. • Sampling may infringe the copyright of the sample's source, esp. the musical-works and sound-recording copyrights. — Also termed digital sampling. [Cases: Copyrights and Intellectual Property 67.2. C.J.S. Copyrights and Intellectual Property § 58.]

SANAE MENTIS

sanae mentis (san-ee men-tis). [Law Latin] Hist. Of sound mind; of sane mind.

SANCIRE

sancire (san-sI-ree), vb. [Latin] Roman law. To enact; confirm; prescribe.

SANCTIO

sanctio (sangk-shee-oh), n. [Latin fr. sancio “to ordain, confirm, or forbid under penalty”] Roman law. A particular clause in a statute imposing a penalty on any violation of that statute. Pl. sanctiones (sangk-shee-oh-nee-z).

“Sanctio (legis). A clause in a statute which strengthens its efficacy by fixing a penalty for its violation, by forbidding its derogation through a later enactment, or by releasing from

responsibility any one who by acting in accordance with the statute violated another law. The purpose of the sanction clause was to settle the relation between the new statute and former and future legislation. Thus the *sanctio* could also state that a previous statute remained fully or partially in force without being changed by the new one.” Adolf Berger, *Encyclopedic Dictionary of Roman Law* 689 (1953).

SANCTION

sanction (sangk-sh<<schwa>>n), n.1. Official approval or authorization <the committee gave sanction to the proposal>. Cf. RATIFICATION(1).2. A penalty or coercive measure that results from failure to comply with a law, rule, or order <a sanction for discovery abuse>. Cf. DISCIPLINE. [Cases: Costs 2; Federal Civil Procedure 1278, 2750; Pretrial Procedure 44. C.J.S. Costs §§ 2–3, 8–9; Discovery § 31.]

“Without adequate sanctions the procedure for discovery would often be ineffectual. Under Rule 37 [of the Federal Rules of Civil Procedure], ... any party or person who seeks to evade or thwart full and candid discovery incurs the risk of serious consequences, which may involve imprisonment for contempt of court, an order that designated facts be taken to be established, an order refusing the delinquent party the right to support or oppose designated claims or defenses, striking out pleadings or parts of pleadings, rendering judgment by default, dismissal of the action or a claim therein, or assessment of expenses and attorney's fees. Sanctions are intended to prompt a party to respond.” 8A Charles Alan Wright et al., *Federal Practice and Procedure* § 2281, at 594–95 (2d ed. 1994).

criminal sanction.A sanction attached to a criminal conviction, such as a fine or restitution. — Also termed penal sanction.

“A criminal sanction ... is a legally authorized post-conviction deprivation suffered by a human being through governmental action. By using the words ‘post-conviction’ in that definition, criminal sanctions are thus limited to those imposed upon defendants in criminal proceedings who, by reason or in consequence of a judgment entered upon a verdict of guilty found by a jury, or judge sitting without a jury (the latter having been legally waived), or upon a plea of guilty, or a plea of *nolo contendere*, stand convicted.” A *Treatise on the Law of Crimes* § 2.00, at 66 (Marian Quinn Barnes ed., 7th ed. 1967).

death-penalty sanction.Civil procedure. A court's order dismissing the suit or entering a default judgment in favor of the plaintiff because of extreme discovery abuses by a party or because of a party's action or inaction that shows an unwillingness to participate in the case. • Such a sanction is rarely ordered, and is usu. preceded by orders of lesser sanctions that have not been complied with or that have not remedied the problem. — Often shortened to death penalty. [Cases: Federal Civil Procedure 1278; Pretrial Procedure 46. C.J.S. Discovery § 31.]

shame sanction.A criminal sanction designed to stigmatize or disgrace a convicted offender, and often to alert the public about the offender's conviction. • A shame sanction usu. publicly associates the offender with the crime that he or she committed. An example is being required to post a sign in one's yard stating, “Convicted Child Molester Lives Here.” — Also termed shame

sentence; shaming sanction; shaming sentence; scarlet-letter punishment; scarlet-letter sentence.

3.Int'l law. An economic or military coercive measure taken by one or more countries toward another to force it to comply with international law <U.N. sanctions against a renegade nation>.

sanction,vb.1. To approve, authorize, or support <the court will sanction the trust disposition if it is not against public policy>.2. To penalize by imposing a sanction <the court sanctioned the attorney for violating the gag order>.

SANCTIONABLE

sanctionable,adj. (Of conduct or action) meriting sanctions; likely to be sanctioned. [Cases: Federal Civil Procedure 1278, 2750–2848.]

SANCTIONAL ENFORCEMENT

sanctional enforcement.See secondary right under RIGHT.

SANCTIONING RIGHT

sanctioning right.See secondary right under RIGHT.

SANCTIONS TORT

sanctions tort.A means of recovery for another party's discovery abuse, whereby the judge orders the abusive party to pay a fine to the injured party for the discovery violation. • This is not a tort in the traditional sense, but rather a form of punishment that results in monetary gain for the injured party. [Cases: Federal Civil Procedure 1278; Pretrial Procedure 44.1.]

SANCTITY OF CONTRACT

sanctity of contract.The principle that the parties to a contract, having duly entered into it, must honor their obligations under it. [Cases: Contracts 1. C.J.S. Contracts §§ 2–3, 9, 12.]

“[Sanctity of contract] is merely another facet of freedom of contract, but the two concepts cover, to some extent, different grounds. The sanctity of contractual obligations is merely an expression of the principle that once a contract is freely and voluntarily entered into, it should be held sacred, and should be enforced by the Courts if it is broken. No doubt this very sanctity was an outcome of freedom of contract, for the reason why contracts were held sacred was the fact that the parties entered into them of their own choice and volition, and settled the terms by mutual agreement.” P.S. Atiyah, *An Introduction to the Law of Contract* 12 (3d ed. 1981).

SANCTUARY

sanctuary. 1. A safe place, esp. where legal process cannot be executed; asylum.

“Every consecrated church was a sanctuary. If a malefactor took refuge therein, he could not be extracted; but it was the duty of the four neighbouring vills to beset the holy place, prevent his escape and send for a coroner.... [A]fter he had enjoyed the right of asylum for forty days, he was to be starved into submission; but the clergy resented this interference with the peace of Holy Church.” 2 Frederick Pollock & Frederic William Maitland, *History of English Law Before the*

Time of Edward I 590–91 (2d ed. 1899).

“In medieval England, as elsewhere in Europe, there were a number of ecclesiastical places where the king's writ did not run. The underlying theory was that consecrated places should not be profaned by the use of force, but the result in practice was that thieves and murderers could take refuge and thereby gain immunity even against the operation of criminal justice. This was the privilege called ‘sanctuary.’ In the case of parochial churches, the sanctuary lasted for forty days only. Before the expiration of this period, the fugitive had to choose whether to stand trial or ‘abjure’ the realm This was only permitted if he made a written confession to the coroner, which resulted in the forfeiture of his property as on conviction; his life only was spared” J.H. Baker, *An Introduction to English Legal History* 585 (3d ed. 1990).

2. A holy area of a religious building; esp., the area in a church where the main altar is located.

SANDBAGGING

sandbagging, n.1. A trial lawyer's remaining cagily silent when a possible error occurs at trial, with the hope of preserving an issue for appeal if the court does not correct the problem. • Such a tactic does not usu. preserve the issue for appeal because objections must be promptly made to alert the trial judge of the possible error. [Cases: Appeal and Error 181; Criminal Law 1030(1); Federal Courts 611. C.J.S. Appeal and Error §§ 202, 207; Criminal Law §§ 1682, 1684.] 2. Corporations. An antitakeover tactic wherein the target company delays a hostile bidder's final offer by agreeing to negotiate, then prolonging bad-faith negotiations as long as possible. — sandbag, vb.

S&L

S&L.abbr.SAVINGS-AND-LOAN ASSOCIATION.

S&T

S&T.abbr.SCIENCE AND TECHNOLOGY DIRECTORATE.

SANDPAPERING

sandpapering, n. A lawyer's general preparation of a witness before a deposition or trial. Cf. HORSESHEDDING.

SANDWICH LEASE

sandwich lease. See LEASE.

SANE

sane, adj. Having a relatively sound and healthy mind; capable of reason and of distinguishing right from wrong. [Cases: Criminal Law 46; Mental Health 3.1. C.J.S. Criminal Law §§ 96–98, 113.]

SANE MEMORY

sane memory. See CAPACITY(3).

SANGUIS

sanguis (sang-gwis), n. [Latin "blood"] 1. Roman law. Blood relationship. 2. Hist. Consanguinity. 3. Hist. The right of a chief lord to judge cases involving bloodshed.

SANITARY CODE

sanitary code. A set of ordinances regulating the food and healthcare industries. [Cases: Food 1; Health 354.]

SANITY

sanity. The state or condition of having a relatively sound and healthy mind. Cf. INSANITY. [Cases: Mental Health 3.1, 432. C.J.S. Criminal Law §§ 549–554.]

SANITY HEARING

sanity hearing. 1. An inquiry into the mental competency of a person to stand trial. [Cases: Criminal Law 623. C.J.S. Criminal Law §§ 549, 551–557.] 2. A proceeding to determine whether a person should be institutionalized. [Cases: Mental Health 37. C.J.S. Insane Persons § 53.]

SANS CE QUE

sans ce que (sanz see k<<schwa>> orsawn s<<schwa>> k<<schwa>>). [Law French] See ABSQUE HOC.

SANS FRAIS

sans frais (sawnfray). [Law French] Without expense.

SANS IMPEACHMENT DE WAST

sans impeachment de wast (sanz im-pee-ch-m<<schwa>>nt d<<schwa>> wayst). [Law French] Hist. Without impeachment of waste.

SANS JOUR

sans jour (sawnzhooror sanz joor). [Law French] Hist. Without day; SINE DIE. See ALLER SANS JOUR.

SANS RECOURS

sans recours (sawn r<<schwa>>-koooror sanz ri-kuur). See WITHOUT RECOURSE.

SAP

sap, n. A club, a blackjack, a hose containing rocks in the middle, or any other object generally used as a bludgeon.

SAPIENS NATURAM DELICTI

sapiens naturam delicti (say-pee-enz n<<schwa>>-t[y]oor-<<schwa>>m di-lik-tI). [Law Latin] Hist. Partaking of the character of a delict.

SAPJ

SAPJ. See senior administrative patent judge under JUDGE.

SAR

SAR.abbr.1.STOCK-APPRECIATION RIGHT. 2.SUSPICIOUS-ACTIVITY REPORT.

SASINE

sasine. See SEISIN.

SATELLITE LITIGATION

satellite litigation. 1. One or more lawsuits related to a major piece of litigation that is being conducted in another court <the satellite litigation in state court prevented the federal judge from ruling on the issue>.2. Peripheral skirmishes involved in the prosecution of a lawsuit <the plaintiffs called the sanctions “satellite litigation,” drummed up by the defendants to deflect attention from the main issues in the case>.

SATELLITE STATE

satellite state.See client state under STATE.

SATISDARE

satisdare (sat-is-dair-ee), vb.[Latin fr. satis “sufficient” + dare “to give”] Roman law. To give security in the form of satisdatio. See SATISDATIO.

SATISDATIO

satisdatio (sat-is-day-shee-oh), n.[Latin fr. satisdare] Roman law. Security given by a person, such as a debtor, through a surety. Pl. satisdationes (sat-is-day-shee-oh-nee-z).

SATISFACTION

satisfaction,n.1. The giving of something with the intention, express or implied, that it is to extinguish some existing legal or moral obligation. • Satisfaction differs from performance because it is always something given as a substitute for or equivalent of something else, while performance is the identical thing promised to be done. — Also termed satisfaction of debt. [Cases: Accord and Satisfaction 1. C.J.S. Accord and Satisfaction §§ 2–17, 25–33.] 2. The fulfillment of an obligation; esp., the payment in full of a debt.

“Satisfaction closely resembles performance. Both depend upon presumed intention to carry out an obligation, but in satisfaction the thing done is something different from the thing agreed to be done, whereas in performance the identical act which the party contracted to do is considered to have been done. The cases on satisfaction are usually grouped under four heads, namely, (i) satisfaction of debts by legacies; (ii) satisfaction of legacies by legacies; (iii) satisfaction (or

ademption) of legacies by portions; and (iv) satisfaction of portion-debts by legacies, or by portions. Strictly, however, only the first and last of these heads are really cases of satisfaction; for satisfaction presupposes an obligation, which, of course, does not exist in the case of a legacy in the will of a living person.” R.E. Megarry, *Snell's Principles of Equity* 226–27 (23d ed. 1947).

3.SATISFACTION PIECE. 4.Wills & estates. The payment by a testator, during the testator's lifetime, of a legacy provided for in a will; ADVANCEMENT. Cf. ADEMPITION. [Cases: Wills 772. C.J.S. Wills §§ 1762–1769.] 5.Wills & estates. A testamentary gift intended to satisfy a debt owed by the testator to a creditor. See ACCORD AND SATISFACTION. — satisfy,vb.

SATISFACTION CONTRACT

satisfaction contract.See CONTRACT.

SATISFACTION OF DEBT

satisfaction of debt.See SATISFACTION(1).

SATISFACTION OF JUDGMENT

satisfaction of judgment. 1. The complete discharge of obligations under a judgment. [Cases: Federal Civil Procedure 2398; Judgment 874–899. C.J.S. Judgments §§ 656–676, 678–692.] 2. The document filed and entered on the record indicating that a judgment has been paid. [Cases: Federal Civil Procedure 2398; Judgment 897. C.J.S. Judgments § 686.]

“Generally, a satisfaction of a judgment is the final act and end of a proceeding. Satisfaction implies or manifests an expression of finality as to all questions of liability and damages involved in the litigation. Once satisfaction occurs, further alteration or amendment of a final judgment generally is barred. Satisfaction of a judgment, when entered of record by the act of the parties, is prima facie evidence that the creditor has received payment of the amount of the judgment or its equivalent, and operates as an extinguishment of the judgment debt.” 47 Am. Jur. 2d Judgments § 1006, at 443 (1995).

SATISFACTION OF LIEN

satisfaction of lien. 1. The fulfillment of all obligations made the subject of a lien. 2. The document signed by the lienholder releasing the property subject to a lien.

SATISFACTION OF MORTGAGE

satisfaction of mortgage. 1. The complete payment of a mortgage. 2. A discharge signed by the mortgagee or mortgage holder indicating that the property subject to the mortgage is released or that the mortgage debt has been paid and the mortgage conditions have been fully satisfied. [Cases: Mortgages 309–315. C.J.S. Mortgages §§ 451, 465–466, 468, 477–485, 488.]

SATISFACTION PIECE

satisfaction piece.A written statement that one party (esp. a debtor) has discharged its obligation to another party, who accepts the discharge. — Also termed certificate of discharge; satisfaction. [Cases: Mortgages 309. C.J.S. Mortgages §§ 451, 465–466, 477–478.]

SATISFACTORY EVIDENCE

satisfactory evidence. See EVIDENCE.

SATISFACTORY PROOF

satisfactory proof. See satisfactory evidence under EVIDENCE.

SATISFIED TERM

satisfied term. See TERM(4).

SATURDAY-NIGHT SPECIAL

Saturday-night special. 1. A handgun that is easily obtained and concealed. [Cases: Weapons 4, 8. C.J.S. Weapons §§ 9–10, 13–15.] 2. Corporations. A surprise tender offer typically held open for a limited offering period (such as one week) to maximize pressure on a shareholder to accept. • These tender offers are now effectively prohibited by § 14(e) of the Williams Act. 15 USCA § 78n(e).

SAUNKEFIN

saunkefin (sawn-k<<schwa>>-fan). [fr. Law French sang quifin] Hist. End of blood; the failure of a line of succession.

SAUSA

SAUSA.abbr.Special Assistant to the United States Attorney. See UNITED STATES ATTORNEY .

SAUVAGINE

sauvagine (soh-v<<schwa>>-zheen). [Law French] Hist. 1. Wild animal. 2. Wild nature of an animal.

SAVE

save, vb. 1. To preserve from danger or loss <save a ship in distress>. 2. To lay up; to hoard <save money>. 3. To toll or suspend (the operation, running, etc.) of something <save a statute of limitations>. 4. To except, reserve, or exempt (a right, etc.) <to save vested rights>. 5. To lessen or avoid (a cost, resource, etc.) <save labor>.

SAVE HARMLESS

save harmless. See HOLD HARMLESS.

SAVE-HARMLESS AGREEMENT

save-harmless agreement. See HOLD-HARMLESS AGREEMENT.

SAVE-HARMLESS CLAUSE

save-harmless clause. See INDEMNITY CLAUSE.

SAVER DEFAULT

saver default (say-v<<schwa>>r di-fawlt). [Law French] Hist. To excuse a default. — Also spelled saver de fault; saver default.

“Saver default is the same as to excuse a default. And this is properly when a man having made default in court, comes afterwards, and alleges a good cause why he did it, as imprisonment at the same time, or the like.” *Termes de la Ley* 352 (1st Am. ed. 1812).

SAVING

saving,n. An exception; a reservation.

SAVING CLAUSE

saving clause. 1. A statutory provision exempting from coverage something that would otherwise be included. • A saving clause is generally used in a repealing act to preserve rights and claims that would otherwise be lost. [Cases: Statutes 228, 277. C.J.S. Statutes §§ 370–372, 431.] 2.SAVING-TO-SUITORS CLAUSE. 3.SEVERABILITY CLAUSE. — Also termed savings clause.

SAVINGS ACCOUNT

savings account.A savings-bank depositor's account usu. bearing interest or containing conditions (such as advance notice) to the right of withdrawal.

SAVINGS-ACCOUNT TRUST

savings-account trust.See Totten trust under TRUST.

SAVINGS-AND-LOAN ASSOCIATION

savings-and-loan association.A financial institution — often organized and chartered like a bank — that primarily makes home-mortgage loans but also usu. maintains checking accounts and provides other banking services. — Often shortened to S & L. — Also termed loan association; thrift institution; thrift. Cf. BUILDING-AND-LOAN ASSOCIATION. [Cases: Building and Loan Associations 1, 24–40. C.J.S. Building and Loan Associations, Savings and Loan Associations, and Credit Unions §§ 2–4, 11, 18–19, 66–113, 115.]

“The thrift institutions, mutual savings banks, savings and loan associations, and credit unions, originally were created to meet needs for saving, credit and loans of people whose resources and income were modest. Commercial banks, merchants, money lenders, and pawn shops often did not serve this demand for loans or savings as well, or with interest rates as favorable to poor individuals, and families. During the last two centuries, thrift institutions were gradually developed, therefore, by social reformers, philanthropic benefactors, religious and fraternal organizations, trade unions, employers, and thrift entrepreneurs (in most countries of the world) as a collateral type of banking or financial intermediation.” William A. Lovett, *Banking and Financial Institutions Law in a Nutshell* 236 (1997).

SAVINGS BANK

savings bank. See BANK.

SAVINGS-BANK TRUST

savings-bank trust. See Totten trust under TRUST.

SAVINGS BOND

savings bond. See BOND(3).

SAVINGS CLAUSE

savings clause. See SAVING CLAUSE.

SAVINGS NOTE

savings note. See NOTE(1).

SAVING-TO-SUITORS CLAUSE

saving-to-suitors clause. Maritime law. In the federal statutory provision granting admiralty and maritime jurisdiction to the federal courts, a clause that preserves the option to file suit in a nonadmiralty court. 28 USCA § 1333(1). • The nonadmiralty court is typically either a state court or a law-side federal court. Under the reverse-Erie doctrine, the nonadmiralty court is required to apply the same law that the admiralty court would have used. — Also termed saving clause. [Cases: Admiralty 2. C.J.S. Admiralty §§ 13–18.]

SAVOR

savor, vb. To partake of the character of or bear affinity to (something). • In traditional legal idiom, an interest arising from land is said to “savor of the realty.” — Also spelled savour.

S.B.

S.B. See senate bill under BILL(3).

SBA

SBA. abbr. SMALL BUSINESS ADMINISTRATION.

SBIC

SBIC. abbr. SMALL-BUSINESS INVESTMENT COMPANY.

SC

sc. abbr. SCILICET.

S.C.

S.C. abbr. 1. SUPREME COURT. 2. Same case. • In former practice, when put between two citations, the abbreviation indicated that the same case was reported in both places. 3. SENATUS CONSULTUM.

SCAB

scab. A person who works under conditions contrary to a union contract; esp., a worker who crosses a union picket line to replace a union worker during a strike. — Also termed strikebreaker; (in BrE) black-leg labor.

SCABINI

scabini (sk<<schwa>>-bI-nI). [Law Latin] Hist. Judges or the judge's assessors in the court held by the count; magistrates. • The term was found in a charter from the wardens of Lynn in Norfolk, during the reign of Henry VIII. But even earlier than that, the title was used in Charlemagne's empire (the French equivalent being *édevins*) and later Germanized as *Schöffen*.

SCALAM

scalam (skay-l<<schwa>>m), n.[Latin] Hist. Scale. • Ad scalam was the method of paying money to the Exchequer, in which sixpence was added to each 20 shillings to compensate for a deficiency in weight, although no scales were actually used.

SCALE

scale,n.1. A progression of degrees; esp., a range of wage rates. 2. A wage according to a range of rates. 3. An instrument for weighing. 4.Hist. In the practice of the English Supreme Court of Judicature, the fee charged by a solicitor for a particular type of case. • Unless the court ordered otherwise, the lower scale applied to all causes and matters assigned by the Judicature Acts to the King's Bench, or the Probate, Divorce, and Admiralty divisions; to all actions for debt, contract, or tort; and to almost all causes and matters assigned by the acts to the Chancery division and in which the amount in controversy was less than £1,000. The higher scale applied in all other cases, and in actions falling under one of the lower-scale classes if the principal relief sought was injunctive.

SCALE ORDER

scale order.See ORDER(8).

SCALE TOLERANCE

scale tolerance.The nominal variation of the mass or weight of the same goods on different scales.

SCALING LAW

scaling law.Hist. A statute establishing a process for adjusting value differences between depreciated paper money and specie. • Statutes of this type were necessary when paper depreciated after both the American Revolution and the Civil War.

SCALPER

scalper. 1. A seller who buys something (esp. a ticket) at face value (or less) and then tries to resell it for a higher price. — Also termed ticket speculator. 2. An investment adviser who buys a

security before recommending it to clients. 3. A market-maker who puts an excessive markup or markdown on a transaction.

SCALPING

scalping, n. 1. The practice of selling something (esp. a ticket) at a price above face value once it becomes scarce (usu. just before a high-demand event begins). 2. The purchase of a security by an investment adviser before the adviser recommends that a customer buy the same security. • This practice is usu. considered unethical because the customer's purchase will increase the security's price, thus enabling the investment adviser to sell at a profit. 3. The excessive markup or markdown on a transaction by a market-maker. • This action violates National Association of Securities Dealers guidelines. — scalp, vb.

SCANDAL

scandal. 1. Disgraceful, shameful, or degrading acts or conduct. 2. Defamatory reports or rumors; esp., slander. See SCANDALOUS MATTER.

“Scandal consists in the allegation of anything which is unbecoming the dignity of the court to hear, or is contrary to decency or good manners, or which charges some person with a crime not necessary to be shown in the cause, to which may be added that any unnecessary allegation, bearing cruelly upon the moral character of an individual, is also scandalous. The matter alleged, however, must be not only offensive, but also irrelevant to the cause, for however offensive it be, if it be pertinent and material to the cause the party has a right to plead it. It may often be necessary to charge false representations, fraud and immorality, and the pleading will not be open to the objection of scandal, if the facts justify the charge.” Eugene A. Jones, *Manual of Equity Pleading and Practice* 50–51 (1916).

SCANDALOUS MATTER

scandalous matter. Civil procedure. A matter that is both grossly disgraceful (or defamatory) and irrelevant to the action or defense. • A federal court — upon a party's motion or on its own — can order a scandalous matter struck from a pleading. Fed. R. Civ. P. 12(f). Cf. IMPERTINENT MATTER. [Cases: Federal Civil Procedure 1127; Pleading 364(4). C.J.S. Pleading § 683.]

SCANDALOUS SUBJECT MATTER

scandalous subject matter. Trademarks. A word, phrase, symbol, or graphic depiction that the U.S. Patent and Trademark Office may refuse to register because it is shockingly offensive to social mores. • Although the Lanham Act uses the phrase “immoral, deceptive, or scandalous subject matter,” courts have not distinguished “scandalous” from “immoral.” [Cases: Trade Regulation 161. C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 159.]

SCANDALUM MAGNATUM

scandalum magnatum (skan-d<<schwa>>-l<<schwa>>m mag-nay-t<<schwa>>m). [Law Latin] Hist. Actionable slander of powerful people; specif., defamatory comments regarding persons of high rank, such as peers, judges, or state officials.

“Words spoken in derogation of a peer, a judge, or other great officer of the realm, which are called scandalum magnatum, are held to be still more heinous; and, though they be such as would not be actionable in the case of a common person, yet when spoken in disgrace of such high and respectable characters, they amount to an atrocious injury: which is redressed by an action on the case founded on many ancient statutes; as well on behalf of the crown, to inflict the punishment of imprisonment on the slanderer, as on behalf of the party, to recover damages for the injury sustained.” 3 William Blackstone, Commentaries on the Laws of England 123–24 (1768).

SCARLET-LETTER PUNISHMENT

scarlet-letter punishment. See shame sanction under SANCTION.

SCARLET-LETTER SENTENCE

scarlet-letter sentence. See shame sanction under SANCTION.

SCATTER-POINT ANALYSIS

scatter-point analysis. A method for studying the effect that minority-population changes have on voting patterns, involving a plotting of the percentage of votes that candidates receive to determine whether voting percentages increase or decrease as the percentages of voters of a particular race increase or decrease.

SCÈNES À FAIRE

scènes à faire (sen ah fair). [French “scenes for action”] Copyright. Standard or general themes that are common to a wide variety of works and are therefore not copyrightable. • Examples of scènes à faire are obvious plot elements and character types. [Cases: Copyrights and Intellectual Property 12(2).]

SCHEDULE

schedule, n. A written list or inventory; esp., a statement that is attached to a document and that gives a detailed showing of the matters referred to in the document <Schedule B to the title policy lists the encumbrances on the property>. — schedule, vb. — scheduled, adj.

SCHEDULED INJURY

scheduled injury. See INJURY.

SCHEDULED PROPERTY

scheduled property. See PROPERTY.

SCHEME

scheme. 1. A systemic plan; a connected or orderly arrangement, esp. of related concepts <legislative scheme>. 2. An artful plot or plan, usu. to deceive others <a scheme to defraud creditors>.

SCHISM

schism (siz-<<schwa>>m orskiz-<<schwa>>m).1. A breach or rupture; a division, esp. among members of a group, as of a union. 2. A separation of beliefs and doctrines by persons of the same organized religion, religious denomination, or sect. [Cases: Religious Societies 23, 35. C.J.S. Religious Societies §§ 70, 98–100.]

“It has been held that the civil courts are not concerned with mere schisms stemming from disputations over matters of religious doctrine, not only because such questions are essentially ecclesiastical rather than judicial, but also because of the separation between the church and the state However, it has also been held that the situation is different in the case of self-governing congressional churches, for here the courts do not hesitate to assume jurisdiction when a schism affects property rights, for in this form ... each local congregation is independent and autonomous and there is no recourse within the denomination.” 66 Am. Jur. 2d Religious Societies § 51, at 804 (1973).

SCHOOL

school,n.1. An institution of learning and education, esp. for children. [Cases: Schools 11. C.J.S. Schools and School Districts §§ 4, 74, 76, 396–398.]

“Although the word ‘school’ in its broad sense includes all schools or institutions, whether of high or low degree, the word ‘school’ frequently has been defined in constitutions and statutes as referring only to the public common schools generally established throughout the United States When used in a statute or other contract, ‘school’ usually does not include universities, business colleges, or other institutions of higher education unless the intent to include such institutions is clearly indicated.” 68 Am. Jur. 2d Schools § 1, at 355 (1993).

common school.See public school.

district school.A public school contained in and maintained by a school district. See SCHOOL DISTRICT.

private school.A school maintained by private individuals, religious organizations, or corporations, funded, at least in part, by fees or tuition, and open only to pupils selected and admitted based on religious affiliations or other particular qualifications. [Cases: Schools 1. C.J.S. Schools and School Districts §§ 2, 807.]

public school.An elementary, middle, or high school established under state law, regulated by the local state authorities in the various political subdivisions, funded and maintained by public taxation, and open and free to all children of the particular district where the school is located. — Also termed common school. [Cases: Schools 11. C.J.S. Schools and School Districts §§ 4, 74, 76, 396–398.]

2. The collective body of students under instruction in an institution of learning. 3. A group of people adhering to the same philosophy or system of beliefs.

SCHOOL BOARD

school board.An administrative body, made up of a number of directors or trustees,

responsible for overseeing public schools within a city, county, or district. Cf. BOARD OF EDUCATION. [Cases: Schools 51. C.J.S. Schools and School Districts §§ 110–111.]

SCHOOL BOND

school bond. See BOND(3).

SCHOOL DISTRICT

school district. A political subdivision of a state, created by the legislature and invested with local powers of self-government, to build, maintain, fund, and support the public schools within its territory and to otherwise assist the state in administering its educational responsibilities. [Cases: Schools 21. C.J.S. Schools and School Districts §§ 14–17, 21.]

consolidated school district. A public-school district in which two or more existing schools have consolidated into a single district. [Cases: Schools 33. C.J.S. Schools and School Districts §§ 18, 67.]

SCHOOL LAND

school land. See LAND.

SCIENCE AND TECHNOLOGY DIRECTORATE

Science and Technology Directorate. The division of the Department of Homeland Security responsible for coordinating research and development, including preparing for and responding to terrorist threats involving weapons of mass destruction. • The Directorate also works with the Chemical, Biological, Radiological, and Nuclear Countermeasures Program and the Environmental Measurements Lab in the Department of Energy, the National BW (biological warfare) Defense Analysis Center in the Department of Defense, and the Plum Island Animal Disease Center. — Abbr. S & T.

SCIENCE OF LEGISLATION

science of legislation. See LAW REFORM.

SCIENDUM EST

sciendum est (sI-en-d<<schwa>>m est). [Latin] Roman law. It is to be known or understood. • This phrase often introduced a particular topic or explanation.

SCIENS ET PRUDENS

sciens et prudens (sI-en-z et proo-denz). [Latin] Hist. In full knowledge and understanding.

SCIENTER

scienter (sI-en-t<<schwa>>r or see-), n. [Latin “knowingly”] 1. A degree of knowledge that makes a person legally responsible for the consequences of his or her act or omission; the fact of an act's having been done knowingly, esp. as a ground for civil damages or criminal punishment. See KNOWLEDGE; MENS REA . [Cases: Criminal Law 20; Negligence 212, 302. C.J.S.

Criminal Law §§ 31–33, 35–39; Negligence §§ 44, 46–55, 913.] 2. A mental state consisting in an intent to deceive, manipulate, or defraud. • In this sense, the term is used most often in the context of securities fraud. The Supreme Court has held that to establish a claim for damages under Rule 10b-5, a plaintiff must prove that the defendant acted with scienter. *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 96 S.Ct. 1375 (1976). [Cases: Securities Regulation 60.45. C.J.S. Securities Regulation § 217.]

SCIENTER ACTION

scienter action. A lawsuit in which the plaintiff must prove that the defendant acted knowingly or knew of the danger — e.g., at common law an action for damage caused by a domestic animal. See SCIENTER.

SCIENTIFIC CREATIONISM

scientific creationism. See CREATIONISM.

SCIENTIFIC EVIDENCE

scientific evidence. See EVIDENCE.

SCIENTIFIC KNOWLEDGE

scientific knowledge. See KNOWLEDGE.

SCIENTIFIC METHOD

scientific method. An analytical technique by which a hypothesis is formulated and then systematically tested through observation and experimentation. [Cases: Criminal Law 388.1; Evidence 555. C.J.S. Evidence §§ 597–598, 601, 649, 652, 713.]

SCI. FA.

sci. fa. abbr. SCIRE FACIAS.

SCIL

scil. abbr. SCILICET.

SCILICET

scilicet (sil-<<schwa>>-set or -sit). [fr. Latin scire licet “that you may know”] That is to say; namely; VIDELICET. • Like videlicet, this word is used in pleadings and other instruments to introduce a more particular statement of matters previously mentioned in general terms. It has never been quite as common, however, as videlicet. — Abbr. sc.; scil.; (erroneously) ss.

SCIN

SCIN. See self-canceling installment note under NOTE(1).

SCINTILLA

scintilla (sin-til-<<schwa>>). A spark or trace <the standard is that there must be more than a

scintilla of evidence>. Pl. scintillas (sin-til-<<schwa>>z). [Cases: Evidence 597; Federal Civil Procedure 2146.C.J.S. Evidence §§ 1301, 1304, 1306, 1339.]

SCINTILLA JURIS

scintilla juris (sin-til-<<schwa>> joor-is). [Law Latin “a spark of right”] Hist. A fragment of law or right. • This refers to a figurative expression in the law of uses providing a trace of seisin rights to remain in the feoffees sufficient to allow contingent uses to be executed under the Statute of Uses. It was abolished in the Law of Property Amendment Act of 1860. See STATUTE OF USES .

SCINTILLA-OF-EVIDENCE RULE

scintilla-of-evidence rule.A common-law doctrine holding that if even the slightest amount of relevant evidence exists on an issue, then a motion for summary judgment or for directed verdict cannot be granted and the issue must go to the jury. • Federal courts do not follow this rule, but some states apply it. — Also termed scintilla rule. [Cases: Federal Civil Procedure 2146, 2546; Judgment 185(5); Trial 139.1(8). C.J.S. Judgments § 263; Trial §§ 362, 472.]

SCIRE FACIAS

scire facias (sI-ree fay-shee-<<schwa>>s). [Law Latin “you are to make known, show cause”] A writ requiring the person against whom it is issued to appear and show cause why some matter of record should not be annulled or vacated, or why a dormant judgment against that person should not be revived. — Abbr. sci. fa.[Cases: Scire Facias 1. C.J.S. Scire Facias §§ 2–3, 10, 14.]

amicable scire facias to revive a judgment.A written agreement in which a person against whom a revival of an action is sought agrees to the entry of an adverse judgment.

scire facias ad audiendum errores (sI-ree fay-shee-<<schwa>>s ad aw-dee-en-d<<schwa>>m e-ror-eez). [Law Latin “that you cause to know to hear errors”] Hist. A common-law writ allowing a party who had assigned error to compel the opposing party to plead. • It was abolished in 1875.

scire facias ad disprobandum debitum (sI-ree fay-shee-<<schwa>>s ad dis-proh-ban-d<<schwa>>m deb-<<schwa>>t<<schwa>>m). [Law Latin “that you cause to know to disprove the debt”] Hist. A writ allowing a defendant in a foreign attachment against the plaintiff to disprove or avoid the debt recovered by the plaintiff, within a year and a day from the time of payment.

scire facias ad rehabendam terram (sI-ree fay-shee-<<schwa>>s ad re-h<<schwa>>-ben-d<<schwa>>m ter-<<schwa>>m), n.[Law Latin “that you cause to know to recover the land”] Hist. A writ allowing a judgment debtor to recover lands taken in execution after the debtor has satisfied the judgment.

scire facias quare restitutionem non (sI-ree fay-shee-<<schwa>>s kwair-ee res-t<<schwa>>-t[y]oo-shee-oh-n<<schwa>>m non), n.[Law Latin “that you cause to know why restitution not”] Hist. A writ for restitution after an execution on a judgment is levied but not paid

and the judgment is later reversed on appeal.

scire facias sur mortgage (sI-ree fay-shee-<<schwa>>s s<<schwa>>r mor-gij), n.[Law Latin “that you cause to know on mortgage”] Hist. A writ ordering a defaulting mortgagor to show cause why the mortgage should not be foreclosed and the property sold in execution. [Cases: Mortgages 388. C.J.S. Mortgages § 696.]

scire facias sur municipal claim (sI-ree fay-shee-<<schwa>>s s<<schwa>>r myoo-nis-<<schwa>>-p<<schwa>>l klaym), n.[Law Latin “that you cause to know on municipal claim”] Hist. A writ compelling the payment of a municipal claim out of the property to which a municipal lien is attached.

SCIRE FECI

scire feci (sI-ree fee-sI). [Latin “I have caused to know”] Hist. The sheriff's return to a writ of scire facias, indicating that notice was given to the parties against whom the writ was issued.

SCIRE FIERI INQUIRY

scire fieri inquiry (sI-ree fI-<<schwa>>-rI), n.[Law Latin] Hist. A writ to ascertain the location of a testator's property from an executor, when the sheriff returned nulla bona to a writ of execution fieri facias de bonis testatoris. See FIERI FACIAS.

SCITE

scite (sIt). [fr. Latin situs] Archaic. 1. A location; a site. 2. The site of a capital message. 3. A municipal ordinance. — Also termed site.

SCOFFLAW

scofflaw (skof-law). A person who treats the law with contempt; esp., one who avoids various laws that are not easily enforced <some scofflaws carry mannequins in their cars in order to drive in the carpool lane>.

SCOLD

scold,n. Hist. A person who regularly breaks the peace by scolding people, increasing discord, and generally being a public nuisance to the neighborhood. • This behavior was formerly punishable in various ways, including having an iron bridle fitted to the person's mouth. — Also termed common scold; objurgatrix. See BRANKS. [Cases: Criminal Law 45.25.]

SCOLDING BRIDLE

scolding bridle.See BRANKS.

SCOPE NOTE

scope note.In a digest, a précis appearing after a title and showing concisely what subject matter is included and what is excluded.

“In the Century and Decennial Digests, though not in the various digests of the Key-Number

Series, there is printed immediately following each topic title a couple of paragraphs which are called the Scope-Note. The first paragraph of this scope-note shows very briefly the character of the subject-matter included under the title. The second paragraph shows the 'Exclusions' — i.e., what related matter has been excluded in order to conform to the plan of the Digest — and directs the reader to the proper title under which such related matter may be found. Consequently a little study of the scope-note will oftentimes repay the searcher for a few moments' time consumed in so doing." William M. Lile et al., *Brief Making and the Use of Law Books* 116 (3d ed. 1914).

SCOPE OF A PATENT

scope of a patent.Patents. The limits of a patent's protection, as defined by the allowed claims. [Cases: Patents 165. C.J.S. Patents §§ 283, 287, 290, 293, 304.]

SCOPE OF AUTHORITY

scope of authority.Agency. The range of reasonable power that an agent has been delegated or might foreseeably be delegated in carrying out the principal's business. See SCOPE OF EMPLOYMENT; RESPONDEAT SUPERIOR. [Cases: Principal and Agent 26, 92–137. C.J.S. Agency §§ 19, 21–22, 44, 47, 50, 73, 143–165, 172, 174–242, 248–256, 361, 363–368, 378–379, 385–386, 388, 390–392, 394, 397, 400, 405–409, 411, 421, 457, 493–499, 501, 503, 521–526, 531, 534, 539–541, 546, 548; Architects §§ 21–22, 24.]

SCOPE OF BUSINESS

scope of business.The range of activities that are reasonably necessary to operate a commercial venture successfully, as determined by the nature of the venture and the activities of others engaged in the same occupation in the same area.

SCOPE OF EMPLOYMENT

scope of employment.The range of reasonable and foreseeable activities that an employee engages in while carrying out the employer's business; the field of action in which a servant is authorized to act in the master–servant relationship. See RESPONDEAT SUPERIOR. Cf. COURSE OF EMPLOYMENT; ZONE OF EMPLOYMENT . [Cases: Master and Servant 302.]

SCOPE-OF-WORK CLAUSE

scope-of-work clause.A contractual provision that highlights in summary fashion what work is to be performed under the contract.

SCORCHED-EARTH DEFENSE

scorched-earth defense.Corporations. An antitakeover tactic by which a target corporation sells its most valuable assets or divisions in order to reduce its value after acquisition and thus try to defeat a hostile bidder's tender offer. Cf. CROWN-JEWEL DEFENSE; PAC-MAN DEFENSE.

S CORPORATION

S corporation.See CORPORATION.

SCOT

scot.Hist. A payment; esp., a customary tax.

soul scot.Hist. Eccles. law. See MORTUARY(3). — Also written soul shot.

SCOTAL

scotal (skot-<<schwa>>l).Hist. An extortionary practice by which forest officers forced people to patronize the officers' alehouses, often in exchange for the officers' ignoring forest offenses. • This practice was prohibited in 1217 by the Charter of the Forest, ch. 7. — Also spelled scotale (skot-ayl).

SCOT AND LOT

scot and lot.Hist. 1.The customary payment of a share of taxes based on one's ability. 2. A municipal tax on the right to vote.

SCOTCH MARRIAGE

Scotch marriage.See MARRIAGE(1).

SCOTCH VERDICT

Scotch verdict.See NOT PROVEN.

SCOTTARE

scottare (sk<<schwa>>-tair-ee), vb.[Law Latin] Hist. To pay a tax.

SCPA

SCPA.abbr. SEMICONDUCTOR CHIP PROTECTION ACT.

SCRAMBLING POSSESSION

scrambling possession.See POSSESSION.

SCRAP VALUE

scrap value.See salvage value under VALUE(2).

SCRATCHING THE TICKET

scratching the ticket.A party member's rejection of a candidate on a regular party ticket by canceling the candidate's name or by voting for one or more nominees of the opposing political party.

SCRAWL

scrawl. See SCROLL(3).

SCREENING COMMITTEE

screening committee.See COMMITTEE.

SCREENING GRAND JURY

screening grand jury. See GRAND JURY.

SCREENING MECHANISM

screening mechanism. See ETHICAL WALL.

SCREEN-SCRAPING

screen-scraping, n. Intellectual property. The practice of extracting data directly from one website and displaying it on another website. • The source website's database is not used — only the display. Screen-scraping may infringe the extracted website-owner's copyright in the contents. — screen-scrape, vb.

SCRIBA

scriba (skrI-b<<schwa>>), n. [Latin] Roman law. A court or office clerk; a scribe; a secretary. • In England, the scriba regis was the king's secretary. Cf. NOTARIUS.

SCRIBE

scribe. See SECRETARY(3).

SCRIBERE EST AGERE

scribere est agere (skrI-b<<schwa>>-ree est aj-<<schwa>>-ree). [Latin] Hist. To write is to act.

“But now it seems clearly to be agreed, that, by the common law and the statute of Edward III, words spoken amount only to a high misdemeanor, and no treason. For they may be spoken in heat, without any intention If the words be set down in writing, it argues more deliberate intention; and it has been held that writing is an overt act of treason; for scribere est agere. But even in this case the bare words are not the treason, but the deliberate act of writing them.” 4 William Blackstone, Commentaries on the Laws of England 80 (1769).

SCRIBES

Scribes. See AMERICAN SOCIETY OF WRITERS ON LEGAL SUBJECTS.

SCRIP

scrip. 1. A document that entitles the holder to receive something of value. See LAND SCRIP. 2. Money, esp. paper money, that is issued for temporary use.

Internet scrip. 1. Value that may be exchanged over the Internet but may not be exchanged for money. • Internet scrip is analogous to coupons or bonus points that can be exchanged by a consumer for goods or services but that have no cash value. 2. See e-money under MONEY. — Also termed online scrip.

online scrip. See Internet scrip.

SCRIP DIVIDEND

scrip dividend. See DIVIDEND.

SCRIPT

script. 1. An original or principal writing. 2. Handwriting.

SCRIPTO

scripto (skrip-toh). [Latin] Hist. By writing.

SCRIPTO VEL JURAMENTO

scripto vel juramento (skrip-toh vel juur-*<<schwa>>*-men-toh). [Law Latin] Hist. By writ or oath. • The phrase appeared in reference to the mode of proof required in certain cases.

SCRIPTUM INDENTATUM

scriptum indentatum (skrip-t*<<schwa>>*m in-den-tay-t*<<schwa>>*m). [Law Latin “indented writing”] Hist. An indenture.

SCRIVARIUS

scrivarius (skri-var-ee-uus). Law Latin. A notary public.

SCRIVENER

scrivener (skriv-*<<schwa>>*-n*<<schwa>>*r). A writer; esp., a professional drafter of contracts or other documents.

money scrivener. See MONEY SCRIVENER.

SCRIVENER'S ERROR

scrivener's error. See clerical error under ERROR(2).

SCRIVENER'S EXCEPTION

scrivener's exception. An exemption from the attorney–client privilege whereby the privilege does not attach if the attorney is retained solely to perform a ministerial task for the client, such as preparing a statutory-form deed. [Cases: Witnesses 200. C.J.S. Witnesses §§ 322–324.]

SCROLL

scroll, n. 1. A roll of paper; a list. 2. A draft or outline to be completed at a later time. 3. A written mark; esp., a character affixed to a signature in place of a seal. — Also termed (in sense 3) scrawl.

SCRUET-ROLL

scruet-roll (skroo-*<<schwa>>*-t-rohl). Hist. The record of bail accepted in a habeas corpus case.

SCRUTATOR

scrutator (skroo-tay-t<<schwa>>r), n.[Latin fr. scrutari “to search”] Hist. A bailiff or officer who enforces the king's water rights, as by supervising wreckage, flotsam, and jetsam; a customs officer.

S.CT.

S.Ct.abbr.1.SUPREME COURT. 2. Supreme Court Reporter.

SCUTAGE

scutage (skyoo-tij), n.[fr. Latin scutum “a shield”] Hist. 1.A monetary payment levied by the king on barons as a substitute for some or all of the knights to be supplied to the king by each baron. • This payment seems to date from the 12th century, Henry II (1154–1189) having levied five scutages in the first 11 years of his reign. 2. A fee paid by a tenant-in-chief by knight-service in lieu of serving in a war. 3. A tax on a knight's estate to help furnish the army. — Also termed escuage.

“Scutage Shield-money, in mediaeval feudal law, a payment in lieu of military service, paid by a tenant-in-chief in respect of the service of knights which he owed to the Crown. His personal obligation to serve could not be discharged by scutage but only by fine. Payment of scutage, though known in France and Germany, was most highly developed in England where it became a general tax on knights' estates at rates which by the thirteenth century were standardized. King John demanded frequent and heavy scutages and Magna Carta forbade the levying of scutage without the consent of a general council. Scutage was divided between the King and the tenants-in-chief who gave personal service in the campaign. It became obsolete by the fourteenth century.” David M. Walker, *The Oxford Companion to Law* 1121 (1980).

SCUTAGIO HABENDO

scutagio habendo.See DE SCUTAGIO HABENDO.

SCYRA

scyra (shy-r<<schwa>>), n.[Law Latin “shire”] Hist. 1.A county; shire. 2. A county's inhabitants.

S.D.

S.D.abbr.Southern District, in reference to U.S. judicial districts.

S/D B/L

s/d b/l.abbr.Sight draft with bill of lading attached. See sight draft under DRAFT.

S.E.

S.E.abbr.SOUTH EASTERN REPORTER.

SEA

sea. 1. The ocean <on the sea>.2. A large landlocked part of the ocean; a large body of salt water smaller than a regular ocean <the Mediterranean Sea>.3. The ocean swell <a rough sea>.4. An extremely large or extended quantity <a sea of documents>.

free seas.See high seas.

high seas.The seas or oceans beyond the jurisdiction of any country. • Under traditional international law, the high seas began 3 miles from the coast; today, the distance is generally accepted to be 12 miles. Under the 1982 U.N. Convention on the Law of the Sea, coastal shores now have a 200-mile exclusive economic zone. — Also termed free seas; open seas; main sea. [Cases: Criminal Law 97(3); International Law 5, 7. C.J.S. Criminal Law § 164; International Law §§ 14–20, 23–24.]

main sea.Archaic. The open ocean; high seas.

navigable sea.See NAVIGABLE SEA.

open seas.See high seas.

territorial sea.See territorial waters under WATER.

SEABED

seabed. The sea floor; the ground underlying the ocean, over which nations may assert sovereignty, esp. if underlying their territorial waters.

SEA BRIEF

sea brief.See SEA LETTER.

SEAGOING VESSEL

seagoing vessel.See VESSEL.

SEAL

seal,n.1. A fastening that must be broken before access can be obtained; esp., a device or substance that joins two things, usu. making the seam impervious. — Also termed common-law seal. 2. A piece of wax, a wafer, or some other substance affixed to the paper or other material on which a promise, release, or conveyance is written, together with a recital or expression of intention by which the promisor, releasor, or grantor manifests that a piece of wax, wafer, or other substance is a seal. • The purpose of a seal is to secure or prove authenticity. 3. A design embossed or stamped on paper to authenticate, confirm, or attest; an impression or sign that has legal consequence when applied to an instrument. [Cases: Seals 1.C.J.S. Seals §§ 2–3.]

“The use of the seal in England seems to have begun after the Norman Conquest, spreading from royalty and a few of the nobility to those of lesser rank. Originally a seal often consisted of wax bearing the imprint of an individualized signet ring, and in the seventeenth century Lord Coke said that wax without impression was not a seal. But in the United States the courts have not required either wax or impression. Impressions directly on the paper were recognized early and

are still common for notarial and corporate seals, and gummed wafers have been widely used. In the absence of statute decisions have divided on the effectiveness of the written or printed word 'seal,' the printed initials 'L.S.' (locus sigilli, meaning place of the seal), a scrawl made with a pen (often called a 'scroll') and a recital of sealing. Most states in which the seal is still recognized now have statutes giving effect to one or more such devices." Restatement (Second) of Contracts § 96 cmt. a (1979).

"The time-honoured form of seal was a blob of wax at the foot of the document, bearing an imprint of some kind, often a crest or motto. The use of wax was not, however, necessary for a seal, and any mark or impression on the paper was sufficient as long as it was made with the intention of affixing a seal. Recent English cases have been willing to find the necessary intention in circumstances where courts in the past would almost certainly have declined; so much so that it may now be the common law that a document purporting to be executed as a deed but lacking actual sealing will be regarded as sealed as long as it contains a printed or written indication of where the mark or impression constituting the seal should be placed if it were to be affixed." Peter Butt, *Land Law* 481–82 (2d ed. 1988).

corporate seal. A seal adopted by a corporation for executing and authenticating its corporate and legal instruments. [Cases: Corporations 51. C.J.S. Corporations § 106.]

great seal. 1. The official seal of the United States, of which the Secretary of State is the custodian. — Also termed seal of the United States. [Cases: United States 5.5.] 2. The official seal of a particular state. — Also termed seal of the state; state seal. [Cases: States 23. C.J.S. States § 39.] 3. The official seal of Great Britain, of which the Lord Chancellor is the custodian.

notary seal. See NOTARY SEAL.

private seal. A corporate or individual seal, as distinguished from a public seal. [Cases: Seals 1. C.J.S. Seals §§ 2–3.]

public seal. A seal used to certify documents belonging to a public authority or government bureau.

quarter seal. A seal (originally a quarter section of the great seal) maintained in the Scotch chancery to be used on particular grants from the Crown. See great seal (3).

seal of the state. See great seal (2).

seal of the United States. See great seal (1).

state seal. See great seal (2).

wafer seal. A plastic or paper disk, usu. red or gold, affixed to a legal document as a substitute for a wax seal. • Wafers are more common in the U.K. than in the U.S. — Sometimes shortened to wafer.

seal, vb. 1. To authenticate or execute (a document) by use of a seal. 2. To close (an envelope, etc.) tightly; to prevent access to (a document, record, etc.).

SEALANE

sea lane.Int'l & maritime law. A designated course or regularly used route for ships, esp. in restricted waters such as harbors and straits. • Although sea lanes have obvious safety advantages, they were long resisted by sea captains, who saw them as a threat to their freedom to navigate.

SEALAW

sea law.See MARITIME LAW.

SEALED AND DELIVERED

sealed and delivered.See SIGNED, SEALED, AND DELIVERED.

SEALED BID

sealed bid.See BID(2).

SEALED-CONTAINER RULE

sealed-container rule.Products liability. The principle that a seller is not liable for a defective product if the seller receives the product from the manufacturer and sells it without knowing of the defect or having a reasonable opportunity to inspect the product. [Cases: Products Liability 9; Sales 430. C.J.S. Products Liability §§ 16–17; Sales § 289.]

SEALED CONTRACT

sealed contract.See contract under seal under CONTRACT.

SEALED INSTRUMENT

sealed instrument.At common law and under some statutes, an instrument to which the bound party has affixed a personal seal, usu. recognized as providing indisputable evidence of the validity of the underlying obligations. • The common-law distinction between sealed and unsealed instruments has been abolished by many states, and the UCC provides that the laws applicable to sealed instruments do not apply to contracts for the sale of goods or negotiable instruments. UCC § 2-203. See contract under seal under CONTRACT. [Cases: Contracts 36; Seals 1. C.J.S. Contracts § 76; Seals §§ 2–3.]

“At common law, the seal served to render documents indisputable as to the terms of the underlying obligation, thereby dispensing with the necessity of witnesses; the sealed instrument was considered such reliable evidence that it actually became the contract itself — called a ‘specialty’ — the loss of which meant loss of all rights of the obligee against the obligor. The seal also had many other consequences at common law, some of which have been retained in jurisdictions which still recognize the seal In states where the seal is still recognized, its primary legal significance is often the application of a longer statute of limitations to actions on sealed instruments.” 69 Am. Jur. 2d Seals § 2, at 617–18 (1993).

“In medieval England a wax seal may have performed [the functions of a formality] tolerably well. But in the United States few people owned or used a seal and the ritual deteriorated to the

point that wax was dispensed with and printing houses decorated the signature lines of their standard forms with the printed letters 'L.S.' for locus sigilli (place of the seal). Perfunctory invocation of the rules for sealed documents called into question the seal's utility in making promises enforceable." E. Allan Farnsworth, *Changing Your Mind: The Law of Regretted Decisions* 46 (1998).

SEALED-RECORD STATUTE

sealed-record statute. See CONFIDENTIALITY STATUTE.

SEALED TESTAMENT

sealed testament. See mystic will under WILL.

SEALED VERDICT

sealed verdict. See VERDICT.

SEALED WILL

sealed will. See mystic will under WILL.

SEA LETTER

sea letter. Hist. A manifest issued during a war by authorities of a port where a neutral vessel is fitted, certifying the vessel's nationality, specifying the nature of and destination of the vessel's cargo, and allowing the vessel to sail under the neutral flag of its owner. • The last sea letter was issued at the Port of New York in 1806, and the use of sea letters was discontinued by proclamation of President James Madison. — Also spelled sea-letter. — Also termed sea brief; sea pass; passport.

"Our laws require masters of vessels, on entering a port for traffic, to lodge with the consul their registers, sea-letters, and passports" Theodore D. Woolsey, *Introduction to the Study of International Law* 161–62 (5th ed. 1878).

SEALING OF RECORDS

sealing of records. The act or practice of officially preventing access to particular (esp. juvenile-criminal) records, in the absence of a court order. Cf. EXPUNGEMENT OF RECORD. [Cases: Records 32. C.J.S. Records §§ 65, 67–73.]

SEAL OF CAUSE

seal of cause. Scots law. The seal of a burgh court, by which a royal burgh could, consistently with its charter powers, create a subordinate corporation by charter. • The seal of cause was most commonly used to create charitable corporations and craft guilds.

SEAL OF THE STATE

seal of the state. See great seal (2) under SEAL.

SEAL OF THE UNITED STATES

seal of the United States. See great seal (1) under SEAL.

SEAMAN

seaman. Maritime law. Under the Jones Act and the Longshore and Harbor Workers' Compensation Act, a person who is attached to a navigating vessel as an employee below the rank of officer and contributes to the function of the vessel or the accomplishment of its mission. • Seamen's injuries are covered under the Jones Act and the general maritime law. — Also termed crew member; mariner; member of a crew. See JONES ACT. Cf. STEVEDORE. [Cases: Seamen 2. C.J.S. Seamen §§ 2–3, 155.]

“The Jones Act plaintiff must be a ‘seaman’ who is injured (or killed) ‘in the course of his employment.’ The ‘course of ... employment’ requirement at least excluded passengers, guests, trespassers, pirates (unless of course the pirate was suing his own employer) and so on. Who else might be excluded (or included) was, as a matter of initial construction, impossible to say. After a half-century of litigation the answer to the riddle is not apparent. The Supreme Court has alternated between giving the term ‘seaman’ an exceedingly broad construction and giving it a much narrower one. Consequently defendants have been encouraged to argue, in all but the most obvious cases, that plaintiff is not a Jones Act seaman and that the action must be dismissed. Thus there has always been, there continues to be, and presumably there will go on being a substantial volume of depressing litigation of this type.” Grant Gilmore & Charles L. Black Jr., *The Law of Admiralty* § 6-21, at 328 (2d ed. 1975).

“The traditional seaman is a member of the crew of a merchant vessel However, vessels are not limited in their functions to the transportation of goods over water. The performance by a vessel of some other mission, such as operating as a cruise ship, necessitates the presence aboard ship of employees who do not ‘man, reef and steer’ the vessel Exploration for oil and gas on navigable waters has led to further expansion of the concept of a ‘seaman.’ In 1959, in the celebrated case of *Offshore Oil Co. v. Robison*, 266 F.2d 769 (5th Cir. 1959), the Fifth Circuit held that floating drilling structures are ‘vessels’ and that the amphibious oil workers aboard them are entitled to the seaman's remedies against their employers and the operators of the ‘vessels’ on which they are employed.” Frank L. Maraist, *Admiralty in a Nutshell* 178–80 (2d ed. 1988).

able-bodied seaman. An experienced seaman who is qualified for all seaman's duties and certified by an inspecting authority. — Abbr. AB; ABS. — Also termed able seaman; bluewater seaman. [Cases: Seamen 11, 29. C.J.S. Seamen §§ 113–121, 123, 132–133, 148.]

merchant seaman. A sailor employed by a private vessel, as distinguished from one employed in public or military service. [Cases: Seamen 2. C.J.S. Seamen §§ 2–3, 155.]

ordinary seaman. A seaman who has some experience but who is not proficient enough to be classified as an able-bodied seaman. — Abbr. OS; OD. [Cases: Seamen 11, 29. C.J.S. Seamen §§ 113–121, 123, 132–133, 148.]

SEAMAN'S WILL

seaman's will. See soldier's will under WILL.

SEA PASS

sea pass. See SEA LETTER.

SEARCH

search, n. 1. Criminal procedure. An examination of a person's body, property, or other area that the person would reasonably be expected to consider as private, conducted by a law-enforcement officer for the purpose of finding evidence of a crime. • Because the Fourth Amendment prohibits unreasonable searches (as well as seizures), a search cannot ordinarily be conducted without probable cause. [Cases: Searches and Seizures 13. C.J.S. Searches and Seizures §§ 8, 13, 20, 23, 70, 72.]

“It must be recognized that whenever a police officer accosts an individual and restrains his freedom to walk away, he has ‘seized’ that person. And it is nothing less than sheer torture of the English language to suggest that a careful exploration of the outer surfaces of a person's clothing all over his or her body in an attempt to find weapons is not a ‘search.’ ” Terry v. Ohio, 392 U.S. 1, 16, 88 S.Ct. 1868, 1877 (1968) (Warren, J.).

administrative search. A search of public or commercial premises carried out by a regulatory authority for the purpose of enforcing compliance with health, safety, or security regulations. • The probable cause required for an administrative search is less stringent than that required for a search incident to a criminal investigation. — Also termed regulatory search; inspection search. [Cases: Searches and Seizures 79. C.J.S. Searches and Seizures §§ 99–101, 189.]

border search. 1. A search conducted at the border of a country, esp. at a checkpoint, for the purpose of excluding illegal aliens and contraband. [Cases: Aliens 53.8; Customs Duties 126(1). C.J.S. Aliens §§ 70, 169–170; Customs Duties §§ 225, 228–229, 231.]

“[W]arrantless searches and seizures conducted at national boundaries are permitted under the general authority of the United States to ensure the integrity of its borders. As the Supreme Court stated in *Carroll v. United States*, such activity ensures ‘national self-protection reasonably requiring one entering the country to identify himself as entitled to come in, and his belongings as effects which may be lawfully brought in.’ [267 U.S. 132, 154, 45 S.Ct. 280, 285 (1925).] Thus, the right to remain silent and protect one's personal belongings from government intrusion, normally afforded constitutional protection, are surrendered at the border.” Charles H. Whitebread, *Criminal Procedure* § 12.02, at 227 (1980).

2. Loosely, a search conducted near the border of a country. • Generally, searches near the border are treated no differently from those conducted elsewhere in the country.

checkpoint search. 1. A search anywhere on a military installation. 2. A search in which police officers set up roadblocks and stop motorists to ascertain whether the drivers are intoxicated.

Chimel search. See protective search.

consent search. A search conducted after a person with the authority to do so voluntarily waives Fourth Amendment rights. • The government has the burden to show that the consent was given freely — not under duress. *Bumper v. North Carolina*, 391 U.S. 543, 548–49, 88 S.Ct. 1788, 1792 (1968). — Also termed consensual search. [Cases: Searches and Seizures 171–186. C.J.S. Searches and Seizures §§ 111–127.]

“The voluntariness of a consent to search is ‘to be determined from the totality of all the circumstances.’ [Schneckloth v. Bustamonte, 412 U.S. 218, 93 S.Ct. 2041 (1973).] Among the factors to be considered in determining the effectiveness of an alleged consent to search are whether the defendant (1) has minimal schooling or was of low intelligence; (2) was mentally ill or intoxicated; (3) was under arrest at the time the consent was given; (4) was overpowered by officers, handcuffed, or similarly subject to physical restriction; (5) has seized from him by the police the keys to the premises thereafter searched; (6) employed evasive conduct or attempted to mislead the police; (7) denied guilt or the presence of any incriminatory objects in his premises; (8) earlier gave a valid confession or otherwise cooperated, as by instigating the search, or at least the investigation leading to the search; (9) was hesitant in agreeing to the search; or (10) was refused his request to consult with counsel. The presence of some of these factors is not controlling, however, as each case must stand or fall on its own special facts.” Jerold H. Israel & Wayne R. LaFave, *Criminal Procedure in a Nutshell* 141–42 (5th ed. 1993).

constructive search. A subpoena of a corporation's records.

“[I]t is settled that the so-called ‘constructive search’ involved in an administrative subpoena of corporate books or records constitutes a ‘search’ or ‘seizure’ within the meaning of the Fourth Amendment.” 68 Am. Jur. 2d Searches and Seizures § 44, at 674 (1993).

emergency search. A warrantless search conducted by a police officer who has probable cause and reasonably believes that, because of a need to protect life or property, there is not enough time to obtain a warrant. See EMERGENCY DOCTRINE(3).

exigent search (eks-<<schwa>>-j<<schwa>>nt). A warrantless search carried out under exigent circumstances, such as an imminent danger to human life or a risk of the destruction of evidence. See exigent circumstances under CIRCUMSTANCE. [Cases: Searches and Seizures 42.1. C.J.S. Searches and Seizures §§ 14, 57–61, 63.]

illegal search. See unreasonable search.

inventory search. A complete search of an arrestee's person before that person is booked into jail. • All possessions found are typically held in police custody. [Cases: Automobiles 349.5(12); Controlled Substances 117; Searches and Seizures 58. C.J.S. Motor Vehicles § 1334; Searches and Seizures § 77.]

no-knock search. A search of property by the police without knocking and announcing their presence and purpose before entry. • A no-knock search warrant may be issued under limited circumstances, as when a prior announcement would probably lead to the destruction of the objects searched for, or would endanger the safety of the police or another person. [Cases: Controlled Substances 153.]

private search.A search conducted by a private person rather than by a law-enforcement officer. • Items found during a private search are generally admissible in evidence if the person conducting the search was not acting at the direction of a law-enforcement officer. [Cases: Searches and Seizures 33. C.J.S. Searches and Seizures §§ 23, 43.]

protective search.A search of a detained suspect and the area within the suspect's immediate control, conducted to protect the arresting officer's safety (as from a concealed weapon) and often to preserve evidence. • A protective search can be conducted without a warrant. *Chimel v. California*, 395 U.S. 752, 89 S.Ct. 2034 (1969). — Also termed search incident to arrest; *Chimel search* (sh<<schwa>>-mel). [Cases: Arrest 63, 63.5(8); Searches and Seizures 70. C.J.S. Arrest § 40; Searches and Seizures §§ 88–89.]

regulatory search.See administrative search.

search incident to arrest.See protective search.

sector search.See zone search.

shakedown search.A usu. random and warrantless search for illicit or contraband material (such as weapons or drugs) in a prisoner's cell. — Often shortened to shakedown. [Cases: Prisons 4(7). C.J.S. Prisons and Rights of Prisoners §§ 58, 60, 74–75.]

strip search.A search of a person conducted after that person's clothes have been removed, the purpose usu. being to find any contraband the person might be hiding. [Cases: Controlled Substances 126.]

unreasonable search.A search conducted without probable cause or other considerations that would make it legally permissible. — Also termed illegal search.

voluntary search.A search in which no duress or coercion was applied to obtain the defendant's consent. See consent search.

warranted search.A search conducted under authority of a search warrant.

warrantless search.A search conducted without obtaining a proper warrant. • Warrantless searches are permissible under exigent circumstances or when conducted incident to an arrest. See exigent circumstances under CIRCUMSTANCE; protective search.

zone search.A search of a crime scene (such as the scene of a fire or explosion) by dividing it up into specific sectors. — Also termed sector search.

2. An examination of public documents or records for information; esp., TITLE SEARCH.
3.Int'l law. The wartime process of boarding and examining the contents of a merchant vessel for contraband. • A number of treaties regulate the manner in which the search must be conducted. See RIGHT OF SEARCH. [Cases: War and National Emergency 20. C.J.S. War and National Defense §§ 26, 28.]

SEARCH-AND-SEIZURE WARRANT

search-and-seizure warrant.See SEARCH WARRANT.

SEARCH BOOK

search book. A lawbook that contains no statements of the law but instead consists of lists or tables of cases, statutes, and the like, used simply to help a researcher find the law. • Most indexes, other than index-digests, are search books.

SEARCH COMMITTEE

search committee. See COMMITTEE.

SEARCH INCIDENT TO ARREST

search incident to arrest. See protective search under SEARCH.

SEARCH OF PATENTABILITY

search of patentability. See PATENTABILITY SEARCH.

SEARCH REPORT

search report. Patents. A list of prior-art documents cited by the patent examiner during the patent application's preliminary examination.

SEARCH WARRANT

search warrant. Criminal law. A judge's written order authorizing a law-enforcement officer to conduct a search of a specified place and to seize evidence. See Fed. R. Crim. P. 41. — Also termed search-and-seizure warrant. See WARRANT(1). [Cases: Searches and Seizures 101. C.J.S. Searches and Seizures §§ 128–132, 149.]

anticipatory search warrant. A search warrant based on an affidavit showing probable cause that evidence of a certain crime (such as illegal drugs) will be located at a specific place in the future. [Cases: Searches and Seizures 122. C.J.S. Searches and Seizures § 172.]

blanket search warrant. 1. A single search warrant that authorizes the search of more than one area. 2. An unconstitutional warrant that authorizes the seizure of everything found at a given location, without specifying which items may be seized.

covert-entry search warrant. A warrant authorizing law-enforcement officers to clandestinely enter private premises in the absence of the owner or occupant without prior notice, and to search the premises and collect intangible evidence, esp. photographs and eyewitness information. • Although previously used in federal criminal investigations, these types of warrants were first given express statutory authority by the USA Patriot Act. 18 USCA § 3103a. Information gathered while executing a sneak-and-peek warrant can later be used to support a search warrant under which physical evidence can be seized. — Also termed sneak-and-peek search warrant; surreptitious-entry search warrant.

no-knock search warrant. A search warrant that authorizes the police to enter premises without knocking and announcing their presence and purpose before entry because a prior announcement would lead to the destruction of the objects searched for or would endanger the

safety of the police or another person. Cf. KNOCK-AND-ANNOUNCE RULE. [Cases: Searches and Seizures 143.1. C.J.S. Searches and Seizures §§ 195–201.]

sneak-and-peek search warrant. See covert-entry search warrant.

surreptitious-entry search warrant. See covert-entry search warrant.

SEA REEVE

sea reeve (see reev). Hist. An officer appointed to watch the shore and enforce a lord's maritime rights, including the right to wreckage.

SEA ROVER

sea rover. 1. A person who roves the sea for plunder; a pirate. 2. A pirate vessel.

SEARS–COMPCO DOCTRINE

Sears–Compcdo doctrine. The principle that Congress, by passing copyright, trademark, and patent laws, has preempted some state-law protection of information that is not protected by those statutes. *Sears, Roebuck & Co. v. Stiffel Co.*, 376 U.S. 225, 84 S.Ct. 784 (1964); *Compcdo Corp. v. Day-Brite Lighting, Inc.*, 376 U.S. 234, 84 S.Ct. 779 (1964). • The doctrine reflects a congressional policy decision that public access to information outweighs private economic incentives to collect and disseminate it. It limits how far states may protect against misappropriation. [Cases: Copyrights and Intellectual Property 109. C.J.S. Copyrights and Intellectual Property §§ 104, 108.]

SEASONABLE

seasonable, adj. Within the time agreed on; within a reasonable time < seasonable performance of the contract>.

SEASONAL EMPLOYMENT

seasonal employment. See EMPLOYMENT.

SEAT

seat, n. 1. Membership and privileges in an organization; esp., membership on a securities or commodities exchange < her seat at the exchange dates back to 1998>. [Cases: Exchanges 7. C.J.S. Exchanges § 15.] 2. The center of some activity < the seat of government>.

SEATED LAND

seated land. See LAND.

SEAT OF GOVERNMENT

seat of government. The nation's capital, a state capital, a county seat, or other location where the principal offices of the national, state, and local governments are located. [Cases: Counties 27; States 22. C.J.S. Counties § 46; States § 38.]

SEAWARD

seaward. See CUSTOS MARIS.

SEAWORTHY

seaworthy,adj. (Of a vessel) properly equipped and sufficiently strong and tight to resist the perils reasonably incident to the voyage for which the vessel is insured. • An implied condition of marine-insurance policies, unless otherwise stated, is that the vessel will be seaworthy. [Cases: Seamen 9; Shipping 80, 121. C.J.S. Seamen § 33; Shipping §§ 177, 179–180, 195, 321–322, 324.] — seaworthiness,n.

SEAWORTHY VESSEL

seaworthy vessel.See VESSEL.

SEC

SEC.abbr.SECURITIES AND EXCHANGE COMMISSION.

sec.abbr.Section. See SECTION(1).

SECESSION

secession. The process or act of withdrawing, esp. from a religious or political association <the secession from the established church> <the secession of 11 states at the time of the Civil War>.

SECK

seck (sek), adj. Hist. 1. Lacking the right or remedy of distress. 2. Lacking profits, usu. due to a reversion without rent or other service. See rent seck under RENT(2).

SECOND

second,n. Parliamentary law. 1. A statement by a member other than a motion's maker that the member also wants the assembly to consider the motion <Is there a second to the motion?>.2.Criminal law. A person who directs, assists, or supports another engaged in a duel. See DUEL(2). — second,vb.

SECOND AMENDMENT

Second Amendment.The constitutional amendment, ratified with the Bill of Rights in 1791, guaranteeing the right to keep and bear arms as necessary for securing freedom through a well-regulated militia. See RIGHT TO BEAR ARMS. [Cases: Weapons 1. C.J.S. Weapons §§ 1–8, 61–62.]

SECONDARY

secondary,adj. (Of a position, status, use, etc.) subordinate or subsequent.

secondary,n. Hist. An officer of the courts of the King's Bench and common pleas, so called

because he was next to the chief officer. • By the Superior Courts (Officers) Act (1837), the secondary office was abolished. St. 7 Will. 4; 1 Vict., ch. 30.

SECONDARY ABUSE

secondary abuse. See ABUSE.

SECONDARY ACTIVITY

secondary activity. Labor law. A union's picketing or boycotting a secondary or neutral party, with the goal of placing economic pressure on that party so that it will stop doing business with the employer that is the primary subject of the labor dispute. • Secondary activities are forbidden by the Labor-Management Relations Act. 29 USCA § 158(b)(4). See secondary boycott under BOYCOTT; secondary picketing under PICKETING. Cf. PRIMARY ACTIVITY. [Cases: Labor Relations 344. C.J.S. Labor Relations §§ 309–313, 315–319, 323.]

SECONDARY AFFINITY

secondary affinity. See AFFINITY.

SECONDARY AMENDMENT

secondary amendment. See AMENDMENT(3).

SECONDARY ASSUMPTION OF RISK

secondary assumption of risk. See ASSUMPTION OF THE RISK.

SECONDARY AUTHORITY

secondary authority. See AUTHORITY(4).

SECONDARY BENEFICIARY

secondary beneficiary. See contingent beneficiary (2) under BENEFICIARY.

SECONDARY BOYCOTT

secondary boycott. See BOYCOTT.

SECONDARY CONSIDERATION

secondary consideration. See SECONDARY FACTOR.

SECONDARY CONVEYANCE

secondary conveyance. See CONVEYANCE.

SECONDARY CREDITOR

secondary creditor. See CREDITOR.

SECONDARY DEVISE

secondary devise. See alternative devise under DEVISE.

SECONDARY DISTRIBUTION

secondary distribution. See DISTRIBUTION.

SECONDARY EASEMENT

secondary easement. See EASEMENT.

SECONDARY ENFORCEMENT

secondary enforcement. See secondary right under RIGHT.

SECONDARY EVIDENCE

secondary evidence. See EVIDENCE.

SECONDARY FACTOR

secondary factor. (usu. pl.) Patents. Objective evidence that courts consider in determining a patent claim's nonobviousness. • Secondary factors include “commercial success, long-felt but unsolved need, failure of others, and unexpected results.” *Graham v. John Deere Co.*, 383 U.S. 1, 17–18, 86 S.Ct. 684, 694 (1966). — Also termed secondary consideration. [Cases: Patents 36.1. C.J.S. Patents §§ 87–88, 98–99.]

SECONDARY INSURED

secondary insured. See additional insured under INSURED.

SECONDARY INSURER

secondary insurer. See excess insurer under INSURER.

SECONDARY INVENTION

secondary invention. Patents. An invention that uses or incorporates established elements or combinations to achieve a new and useful result. [Cases: Patents 174. C.J.S. Patents § 308.]

SECONDARY LENDER

secondary lender. A wholesale mortgage buyer who purchases first mortgages from banks and savings-and-loan associations, enabling them to restock their money supply and loan more money.

SECONDARY LIABILITY

secondary liability. See LIABILITY.

SECONDARY-LINE COMPETITION

secondary-line competition. See vertical competition under COMPETITION.

SECONDARY-LINE INJURY

secondary-line injury. Antitrust. Under the price-discrimination provisions of the Robinson–Patman Act, the act of hindering or seeking to hinder competition among a seller's

customers by selling substantially the same products at favorable prices to one customer, or a select group of customers, to the detriment of others. 15 USCA § 13(a). • A secondary-line injury, which refers to competition among the seller's customers, is distinguishable from a primary-line injury, which refers to the anticompetitive effects that predatory pricing has on the direct competitors of the seller. Cf. PRIMARY-LINE INJURY Y.

SECONDARY MARKET

secondary market.See MARKET.

SECONDARY MEANING

secondary meaning.Intellectual property. A special sense that a trademark or tradename for a business, goods, or services has acquired even though the trademark or tradename was not originally protectable. • The term does not refer to a subordinate or rare meaning, but rather to a later meaning that has been added to the original one borne by the mark or name and that has now become in the market its usual and primary meaning. — Also termed special meaning; trade meaning. [Cases: Trade Regulation 478. C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 101–102, 118.]

“Secondary meaning is association, nothing more. It exists only in the minds of those of the public who have seen or known or have heard of a brand of goods by some name or sign and have associated the two in their minds.” Harry D. Nims, *The Law of Unfair Competition and Trade-Marks* 105 (1929).

SECONDARY MORTGAGE MARKET

secondary mortgage market.See MORTGAGE MARKET.

SECONDARY MOTION

secondary motion.See MOTION(2).

SECONDARY OBLIGATION

secondary obligation.See OBLIGATION.

SECONDARY OFFERING

secondary offering.See OFFERING.

SECONDARY PARTY

secondary party.Commercial law. 1. A party not primarily liable under an instrument, such as a guarantor. [Cases: Bills and Notes 49; Guaranty 33. C.J.S. Bills and Notes; Letters of Credit §§ 24–25.] 2. The drawer or indorser of a negotiable instrument.

SECONDARY PICKETING

secondary picketing.See PICKETING.

SECONDARY REGISTER

secondary register.See SUPPLEMENTAL REGISTER.

SECONDARY RESERVE RATIO

secondary reserve ratio.See RESERVE RATIO.

SECONDARY RIGHT

secondary right.See RIGHT.

SECONDARY STRIKE

secondary strike.See STRIKE.

SECONDARY TERM

secondary term.Oil & gas. The term of an oil-and-gas lease after production has been established, typically lasting "as long thereafter as oil and gas is produced from the premises." See HABENDUM CLAUSE; PRIMARY TERM.

SECONDARY TRADING

secondary trading.See TRADING.

SECONDARY USE

secondary use.See shifting use under USE(4).

SECOND CHAIR

second chair,n. A lawyer who helps the lead attorney in court, usu. by examining some of the witnesses, arguing some of the points of law, and handling parts of the voir dire, opening statement, and closing argument <the young associate was second chair for the fraud case>. — second-chair,vb.

SECOND-COLLISION DOCTRINE

second-collision doctrine.See CRASHWORTHINESS DOCTRINE.

SECOND COUSIN

second cousin.See COUSIN.

SECOND-DEGREE AMENDMENT

second-degree amendment.See secondary amendment under AMENDMENT(3).

SECOND-DEGREE MANSLAUGHTER

second-degree manslaughter.See involuntary manslaughter under MANSLAUGHTER.

SECOND-DEGREE MURDER

second-degree murder.See MURDER.

SECOND-DEGREE PRINCIPAL

second-degree principal. See principal in the second degree under PRINCIPAL (2).

SECOND DELIVERANCE

second deliverance. See DELIVERANCE.

SECOND DELIVERY

second delivery. See DELIVERY.

SECOND DISTRESS

second distress. See DISTRESS.

SECONDHAND EVIDENCE

secondhand evidence. See HEARSAY.

SECOND-IMPACT DOCTRINE

second-impact doctrine. See CRASHWORTHINESS DOCTRINE.

SECOND LIEN

second lien. See LIEN.

SECOND-LOOK DOCTRINE

second-look doctrine. 1. WAIT-AND-SEE PRINCIPLE. 2. An approach that courts use to monitor the continuing effectiveness or validity of an earlier order. • For example, a family court may reconsider a waiver of alimony, and a federal court may reconsider a law that Congress has passed a second time after the first law was struck down as unconstitutional.

SECOND MORTGAGE

second mortgage. See MORTGAGE.

SECOND OFFENSE

second offense. See OFFENSE(1).

SECOND-PARENT ADOPTION

second-parent adoption. See ADOPTION.

SECOND-PERMITTEE DOCTRINE

second-permittee doctrine. Insurance. The principle that, when a third person is allowed to use an insured's car by permission granted by someone else to whom the insured gave permission to use the car, the third person's use of the car will be a permissive use, under the insured's automobile-liability-insurance policy, as long as that use falls within the scope of the permission originally given by the insured. [Cases: Insurance 2666.C.J.S. Insurance §§ 1051–1052.]

SECONDS

seconds,n. Commercial law. Goods that are defective or nonconforming because they do not meet a recognized standard.

SECOND SURCHARGE

second surcharge.See SURCHARGE.

SECOND-TIER PATENT

second-tier patent.See UTILITY MODEL.

SECOND USER

second user.See JUNIOR USER.

SECRECY

secrecy. The state or quality of being concealed, esp. from those who would be affected by the concealment; hidden.

SECRET

secret,n.1. Something that is kept from the knowledge of others or shared only with those concerned. See STATE SECRET; TRADE SECRET. 2. Information that cannot be disclosed without a breach of trust; specif., information that is acquired in the attorney–client relationship and that either (1) the client has requested be kept private or (2) the attorney believes would be embarrassing or likely to be detrimental to the client if disclosed. • Under the ABA Code of Professional Responsibility, a lawyer cannot reveal a client's secret unless the client consents after full disclosure. DR 4-101. Cf. CONFIDENCE(3). [Cases: Attorney and Client 32(13). C.J.S. Attorney and Client §§ 51–52.]

SECRETARIUS

secretarius (sek-r<<schwa>>-tair-ee-<<schwa>>s), n.[Law Latin] See APOCRISARIUS.

SECRETARY

secretary. 1. An administrative assistant. 2. A corporate officer in charge of official correspondence, minutes of board meetings, and records of stock ownership and transfer. — Also termed clerk of the corporation. [Cases: Corporations 302. C.J.S. Corporations § 470.] 3.Parliamentary law. An officer charged with recording a deliberative assembly's proceedings. — Also termed clerk; recorder; recording secretary; recording officer; scribe.

corresponding secretary.An officer in charge of an organization's correspondence, usu. including notices to members.

financial secretary. 1. An officer in charge of billing, collecting, and accounting for dues from the members. 2.TREASURER.

SECRETARY GENERAL

Secretary General.The chief administrative officer of the United Nations, nominated by the Security Council and elected by the General Assembly.

SECRETARY OF AGRICULTURE

Secretary of Agriculture.The member of the President's cabinet who heads the U.S. Department of Agriculture.

SECRETARY OF COMMERCE

Secretary of Commerce.The member of the President's cabinet who heads the U.S. Department of Commerce.

SECRETARY OF DEFENSE

Secretary of Defense.The member of the President's cabinet who heads the U.S. Department of Defense.

SECRETARY OF EDUCATION

Secretary of Education.The member of the President's cabinet who heads the U.S. Department of Education.

SECRETARY OF EMBASSY

secretary of embassy.A diplomatic officer appointed as secretary or assistant, usu. to an ambassador or minister plenipotentiary.

SECRETARY OF ENERGY

Secretary of Energy.The member of the President's cabinet who heads the U.S. Department of Energy.

SECRETARY OF HEALTH AND HUMAN SERVICES

Secretary of Health and Human Services.The member of the President's cabinet who heads the U.S. Department of Health and Human Services.

SECRETARY OF HOMELAND SECURITY

Secretary of Homeland Security.The member of the President's cabinet who heads the U.S. Department of Homeland Security.

SECRETARY OF HOUSING AND URBAN DEVELOPMENT

Secretary of Housing and Urban Development.The member of the President's cabinet who heads the U.S. Department of Housing and Urban Development.

SECRETARY OF LABOR

Secretary of Labor.The member of the President's cabinet who heads the U.S. Department of Labor.

SECRETARY OF LEGATION

secretary of legation. An officer employed to attend a foreign mission and perform certain clerical duties.

SECRETARY OF STATE

Secretary of State. 1. The member of the President's cabinet who heads the U.S. Department of State. • The Secretary is the first-ranking member of the cabinet and is also a member of the National Security Council. He or she is fourth in line of succession to the presidency after the Vice President, the Speaker of the House, and the President pro tempore of the Senate. [Cases: United States 40. C.J.S. United States §§ 58–60.] 2. A state government official who is responsible for the licensing and incorporation of businesses, the administration of elections, and other formal duties. • The secretary of state is elected in some states and appointed in others.

SECRETARY OF THE INTERIOR

Secretary of the Interior. The member of the President's cabinet who heads the U.S. Department of the Interior.

SECRETARY OF THE TREASURY

Secretary of the Treasury. The member of the President's cabinet who heads the U.S. Department of the Treasury.

SECRETARY OF TRANSPORTATION

Secretary of Transportation. The member of the President's cabinet who heads the U.S. Department of Transportation.

SECRETARY OF VETERANS AFFAIRS

Secretary of Veterans Affairs. The member of the President's cabinet who heads the U.S. Department of Veterans Affairs.

SECRET BALLOT

secret ballot. See BALLOT(2).

SECRET DIPLOMACY

secret diplomacy. See DIPLOMACY.

SECRETE

secrete (si-kreet), vb. To conceal or secretly transfer (property, etc.), esp. to hinder or prevent officials or creditors from finding it.

SECRET EQUITY

secret equity. See latent equity under EQUITY.

SECRET EVIDENCE

secret evidence. See EVIDENCE.

SECRETION OF ASSETS

secretion of assets. The hiding of property, usu. for the purpose of defrauding an adversary in litigation or a creditor.

SECRET LIEN

secret lien. See LIEN.

SECRET PARTNER

secret partner. See PARTNER.

SECRET SERVICE

Secret Service. See UNITED STATES SECRET SERVICE.

SECRET SESSION

secret session. See executive session under SESSION(1).

SECRET TESTAMENT

secret testament. See mystic will under WILL.

SECRET TRUST

secret trust. See TRUST.

SECRET WILL

secret will. See mystic will under WILL.

SECTA

secta (sek-t<<schwa>>), n. [Latin "suit"] 1. Roman law. A group of followers, as of a particular religion or school of philosophy, law, etc.; a religious sect. 2. Hist. People whom a plaintiff must bring to court to support the plaintiff's case. 3. Hist. A lawsuit.

SECTA AD MOLENDINUM

secta ad molendinum. See DE SECTA AD MOLENDINUM.

SECTA CURIAE

secta curiae (sek-t<<schwa>> kyoor-ee-ee). [Latin "suit of court"] Hist. Attendance at court, esp. by feudal tenants, who are obligated to attend the lord's court as jurors or parties.

SECTA FACIENDA PER ILLAM QUAE HABET ENICIAM PARTEM

secta facienda per illam quae habet eniciam partem (sek-t<<schwa>> fay-shee-en-d<<schwa>> p<<schwa>>r il-<<schwa>>m kwee hay-b<<schwa>>t i-nish-ee-<<schwa>>m pahr-t<<schwa>>m), n. [Law Latin "suit to be performed by her who has

the eldest part”] Hist. A writ ordering the eldest heir or coparcener to perform suit and services for all the coheirs or coparceners.

SECTA REGALIS

secta regalis (sek-t<<schwa>> ri-gay-lis). [Latin “king's suit”] Hist. An obligation to attend the sheriff's court twice a year, so called because it had the same functions and jurisdiction as the king's court.

SECTARIAN

sectarian,adj. Of or relating to a particular religious sect <sectarian college>.

SECTATORIS

sectatoris (sek-t<<schwa>>-tor-is), n.[Latin] Roman law. A supporter of a candidate for office, who accompanied a candidate during a campaign, primarily to impress voters. Pl. sectatores.

SECTA UNICA TANTUM FACIENDA PRO PLURIBUS HAEREDITATIBUS

secta unica tantum facienda pro pluribus haereditatibus (sek-t<<schwa>> yoo-n<<schwa>>-k<<schwa>> tan-t<<schwa>>m fay-shee-en-d<<schwa>> proh ploor-<<schwa>>-b<<schwa>>s h<<schwa>>-red-<<schwa>>-tay-t<<schwa>>-b<<schwa>>s), n.[Law Latin “one suit alone to be performed for several inheritances”] Hist. A writ exempting the eldest heir, distrained by a lord to perform several services for the coheirs, from performing all services but one.

SECTION

section. 1. A distinct part or division of a writing, esp. a legal instrument. — Abbr. §; sec.; s.
2.Real estate. A piece of land containing 640 acres, or one square mile. • Traditionally, public lands in the United States were divided into 640-acre squares, each one called a “section.” — Also termed section of land.

half section.A piece of land containing 320 acres, laid off either by a north–south or by an east–west line; half a section of land.

quarter section.A piece of land containing 160 acres, laid off by a north–south or east–west line; one quarter of a section of land, formerly the amount usu. granted to a homesteader. — Often shortened to quarter.

SECTION 8 AFFIDAVIT

Section 8 affidavit. See DECLARATION OF USE.

SECTION 8 AND 15 AFFIDAVIT

Section 8 and 15 affidavit.See COMBINED § 8 AND § 15 AFFIDAVIT.

SECTION 8 AND 15 DECLARATION

Section 8 and 15 declaration.See COMBINED § 8 AND § 15 AFFIDAVIT.

SECTION 8 DECLARATION

Section 8 declaration. See DECLARATION OF USE.

SECTION 8(F) AGREEMENT

section 8(f) agreement.Labor law. A labor contract that is negotiated between an employer in the construction business and a union that cannot demonstrate that it represents a majority of the employees at the time the contract is executed. 29 USCA § 158(f). • This is an exception to the general rule that an employer need only negotiate with a union that can demonstrate majority status. It was enacted in part because of the nature of the construction industry, in which the employers may have several different jobs in different parts of the country, the jobs are typically completed in a relatively short time, and the workforce is often transient. Since the workforce often does not have sufficient ties to a particular employer to petition for a certification election, section 8(f) agreements are directed toward providing a certain level of protection in recognition of that fact. But section 8(f) agreements are not equivalent to collective-bargaining agreements. For example, the employer can legally repudiate the agreement at any time, and the employees may not legally picket to enforce the agreement. The main protection such an agreement provides is a monetary obligation, which can be enforced, if necessary, in federal court. And if the union achieves majority status, the section 8(f) agreement will essentially become a fully enforceable collective-bargaining agreement.

SECTION 15 AFFIDAVIT

Section 15 affidavit.See DECLARATION OF INCONTESTABILITY.

SECTION 15 DECLARATION

Section 15 declaration.See DECLARATION OF INCONTESTABILITY.

SECTION 43(A) ACTION

Section 43(a) action.Trademarks. A private cause of action codified in the Lanham Trademark Act and covering a broad spectrum of deceptive trade practices, including passing off, false advertising, trade-dress infringement, trademark dilution, and cyberspiracy. 15 USCA § 1125(a).

SECTION 101 REJECTION

Section 101 rejection.See REJECTION.

SECTION 102 REJECTION

Section 102 rejection.See REJECTION.

SECTION 103 REJECTION

Section 103 rejection.See REJECTION.

SECTION 112 REJECTION

Section 112 rejection. See vague-and-indefinite rejection under REJECTION.

SECTION OF LAND

section of land. See SECTION(2).

SECTIS NON FACIENDIS

sectis non faciendis (sek-tis non fay-shee-en-dis). See DE SECTIS NON FACIENDIS .

SECTOR

sector (sek-tor), n. [Latin] Roman law. A successful bidder at a public auction. Pl. sectores.

SECTOR SEARCH

sector search. See zone search under SEARCH.

SECULAR

secular, adj. Worldly, as distinguished from spiritual <secular business>.

SECULAR CLERGY

secular clergy. 1. Clergy who have no particular religious affiliation or do not belong to a particular religious denomination. 2. Clergy who live in their parishes and minister there, as contrasted with regular clergy who live in monasteries.

SECUNDUM

secundum (si-k<<schwa>>n-d<<schwa>>m), adj. [Latin] Roman law. According to; in favor of, as in secundum actorem (“in favor of the plaintiff”).

SECUNDUM AEQUUM ET BONUM

secundum aequum et bonum (si-k<<schwa>>n-d<<schwa>>m ee-kw<<schwa>>m et boh-n<<schwa>>m). [Latin] Hist. According to what is just and good.

SECUNDUM ALLEGATA ET PROBATA

secundum allegata et probata (si-k<<schwa>>n-d<<schwa>>m al-<<schwa>>-gay-t<<schwa>> et pr<<schwa>>-bay-t<<schwa>>). [Latin] Hist. According to what is alleged and proved.

SECUNDUM ARTEM

secundum artem (si-k<<schwa>>n-d<<schwa>>m ahr-t<<schwa>>m). [Latin] Hist. According to the art or trade.

SECUNDUM BONOS MORES

secundum bonos mores (si-k<<schwa>>n-d<<schwa>>m boh-nohs mor-eez). [Latin] Hist.

According to good usages; customary.

SECUNDUM BONUM ET AEQUUM

secundum bonum et aequum (s<<schwa>>-k<<schwa>>n-d<<schwa>>m boh-n<<schwa>>m et ee-kw<<schwa>>m). [Latin] Hist. According to that which is good and equitable.

SECUNDUM CHARTAM CONFICIENDAM

secundum chartam conficiendam (s<<schwa>>-k<<schwa>>n-d<<schwa>>m kahr-t<<schwa>>m k<<schwa>>n-fish-ee-en-d<<schwa>>m). [Law Latin] Hist. According to a charter to be granted. Cf. SECUNDUM TENOREM CHARTAE CONFECTAE.

SECUNDUM CONSUETUDINEM MANERII

secundum consuetudinem manerii (si-k<<schwa>>n-d<<schwa>>m kon-sw<<schwa>>-t[y]oo oo-d<<schwa>>n<<schwa>>m m<<schwa>>-neer-ee-I). [Law Latin] Hist. According to the custom of the manor.

SECUNDUM FORMAM CHARTAE

secundum formam chartae (si-k<<schwa>>n-d<<schwa>>m for-m<<schwa>>m kahr-tee). [Law Latin] Hist. According to the form of the charter.

SECUNDUM FORMAM DONI

secundum formam doni (si-k<<schwa>>n-d<<schwa>>m for-m<<schwa>>m doh-nI). [Latin] Hist. According to the form of the gift or grant.

SECUNDUM FORMAM STATUTI

secundum formam statuti (si-k<<schwa>>n-d<<schwa>>m for-m<<schwa>>m st<<schwa>>-t[y]oo-tI). [Law Latin] Hist. According to the form of the statute.

SECUNDUM LEGEM COMMUNEM

secundum legem communem (si-k<<schwa>>n-d<<schwa>>m lee-j<<schwa>>m k<<schwa>>-myoo-n<<schwa>>m). [Law Latin] Hist. According to the common law.

SECUNDUM LEGEM DOMICILII, VEL LOCI CONTRACTUS

secundum legem domicilii, vel loci contractus (s<<schwa>>-k<<schwa>>n-d<<schwa>>m lee-j<<schwa>>m dom-<<schwa>>-sil-ee-I, vel loh-sI k<<schwa>>n-trak-t<<schwa>>s). [Law Latin] Hist. According to the law of the domicile or of the place where the contract was entered into. See LEX LOCI CONTRACTUS.

SECUNDUM MATERIAM SUBJECTAM

secundum materiam subjectam (s<<schwa>>-k<<schwa>>n-d<<schwa>>m m<<schwa>>-teer-ee-<<schwa>>m s<<schwa>>b-jek-t<<schwa>>m). [Latin] Hist. According to the subject matter.

SECUNDUM NATURAM

secundum naturam (si-k<<schwa>>n-d<<schwa>>m na-chuur-<<schwa>>m). [Latin]
According to nature.

SECUNDUM NORMAM LEGIS

secundum normam legis (si-k<<schwa>>n-d<<schwa>>m nor-m<<schwa>>m lee-jis).
[Latin] Hist. According to the rule of law; by rule of law.

SECUNDUM REGULAM

secundum regulam (si-k<<schwa>>n-d<<schwa>>m reg-y<<schwa>>-l<<schwa>>m).
[Latin] Hist. According to the rule; by rule.

SECUNDUM SUBJECTAM MATERIAM

secundum subjectam materiam (si-k<<schwa>>n-d<<schwa>>m s<<schwa>>b-jek-t<<schwa>>m m<<schwa>>-teer-ee-<<schwa>>m). [Law Latin] Hist. According to the subject matter.

SECUNDUM TENOREM CHARTAE CONFECTAE

secundum tenorem chartae confectae (s<<schwa>>-k<<schwa>>n-d<<schwa>>m t<<schwa>>-nor-<<schwa>>m kahr-tee k<<schwa>>n-fek-tee). [Latin] Hist. According to the tenor of the charter already granted. Cf. SECUNDUM CHARTAM CONFICIENDAM .

SECUNDUM VIRES HEREDITATIS

secundum vires hereditatis (s<<schwa>>-k<<schwa>>n-d<<schwa>>m vI-reez h<<schwa>>-red-i-tay-tis). [Law Latin] Hist. According to the extent of the inheritance.

SECUNDUM VIRES INVENTARII

secundum vires inventarii (s<<schwa>>-k<<schwa>>n-d<<schwa>>m vI-reez in-ven-tair-ee-I). [Law Latin] Hist. According to the extent of the inventory.

SECURED

secured,adj.1. (Of a debt or obligation) supported or backed by security or collateral. [Cases: Secured Transactions 2. C.J.S. Secured Transactions §§ 7, 9–10, 22, 27.] 2. (Of a creditor) protected by a pledge, mortgage, or other encumbrance of property that helps ensure financial soundness and confidence. See SECURITY. [Cases: Mortgages 22. C.J.S. Mortgages §§ 73–75, 77.]

SECURED BOND

secured bond.See BOND(3).

SECURED CLAIM

secured claim.See CLAIM(5).

SECURED CREDITOR

secured creditor. See CREDITOR.

SECURED DEBT

secured debt. See DEBT.

SECURED LOAN

secured loan. See LOAN.

SECURED NOTE

secured note. See NOTE(1).

SECURED PARTY

secured party. See secured creditor under CREDITOR.

SECURED TRANSACTION

secured transaction. A business arrangement by which a buyer or borrower gives collateral to the seller or lender to guarantee payment of an obligation. • Article 9 of the UCC deals with secured transactions. See SECURITY AGREEMENT . [Cases: Secured Transactions 1. C.J.S. Secured Transactions §§ 3, 7–9, 23, 37.]

SECURITAS

securitas (si-kyoor-i-tas), n. [Latin] 1. Roman law. Security; freedom from liability after performance. 2. Civil law. A release.

SECURITATEM INVENIENDI

securitatem inveniendi (si-kyoor-i-tay-t<<schwa>>m in-vee-nee-en-dI), n. [Law Latin] Hist. A writ from the Crown requiring subjects to find security to ensure that they would not leave the kingdom without the Crown's permission. • It was replaced by ne exeat regno. See NE EXEAT.

SECURITATE PACIS

securitate pacis (si-kyoor-i-tay-tee pay-sis), n. [Law Latin “of security of the peace”] Hist. A writ for someone fearing bodily harm from another, as when the person has been threatened with violence. — Also termed securitatis pacis; writ of threats.

SECURITIES ACT

securities act. A federal or state law protecting the public by regulating the registration, offering, and trading of securities. See SECURITIES ACT OF 1933; SECURITIES EXCHANGE ACT OF 1934; BLUE-SKY LAW.

SECURITIES ACT OF 1933

Securities Act of 1933. The federal law regulating the registration and initial public offering

of securities, with an emphasis on full public disclosure of financial and other information. 15 USCA §§ 77a–77aa. — Also termed Securities Act; 1933 Act. [Cases: Securities Regulation 11.10–30.15. C.J.S. Securities Regulation §§ 8, 23, 35–102.]

SECURITIES AND EXCHANGE COMMISSION

Securities and Exchange Commission. The five-member federal agency that regulates the issuance and trading of securities to protect investors against fraudulent or unfair practices. • The Commission was established by the Securities Exchange Act of 1934. — Abbr. SEC. [Cases: Securities Regulation 81–89. C.J.S. Securities Regulation §§ 242–253.]

SECURITIES AND INVESTMENT BOARD

Securities and Investment Board. See FINANCIAL SERVICES AGENCY. — Abbr. SIB.

SECURITIES BROKER

securities broker. See BROKER.

SECURITIES EXCHANGE

securities exchange. 1. A marketplace or facility for the organized purchase and sale of securities, esp. stocks. 2. A group of people who organize themselves to create such a marketplace; EXCHANGE(5). — Often shortened to exchange. — Also termed stock exchange. [Cases: Exchanges 1. C.J.S. Exchanges §§ 2–3.]

regional securities exchange. A securities exchange that focuses on stocks and bonds of local interest, such as the Boston, Philadelphia, and Midwest stock exchanges.

SECURITIES EXCHANGE ACT OF 1934

Securities Exchange Act of 1934. The federal law regulating the public trading of securities. • This law provides for periodic disclosures by issuers of securities and for the registration and supervision of securities exchanges and brokers, and regulates proxy solicitations. The Act also established the SEC. 15 USCA §§ 78a et seq. — Also termed Exchange Act; 1934 Act. [Cases: Securities Regulation 35.10–67.15. C.J.S. Securities Regulation §§ 103–241, 273.]

SECURITIES INVESTOR PROTECTION ACT

Securities Investor Protection Act. A 1970 federal law establishing the Securities Investor Protection Corporation that, although not a governmental agency, is designed to protect investors whose brokers and dealers are in financial trouble. — Abbr. SIPA. 15 USCA §§ 78aaa et seq. [Cases: Securities Regulation 185.10–185.21. C.J.S. Securities Regulation §§ 308–322.]

SECURITIES INVESTOR PROTECTION CORPORATION

Securities Investor Protection Corporation. A federally chartered corporation established under the Securities Investor Protection Act to protect investors and help brokers in financial trouble. — Abbr. SIPC. See SECURITIES INVESTOR PROTECTION ACT. [Cases: Securities Regulation 185.11. C.J.S. Securities Regulation § 308.]

SECURITIES-OFFERING DISTRIBUTION

securities-offering distribution. See DISTRIBUTION.

SECURITIZABLE

securitizable, adj. 1. Of, relating to, or constituting the class of obligations that a creditor (originator) may package and sell to others for corporate purposes. 2. (Of an asset) capable of being rapidly converted to cash, as with commercial-loan receivables and trade accounts receivable.

SECURITIZE

securitize, vb. To convert (assets) into negotiable securities for resale in the financial market, allowing the issuing financial institution to remove assets from its books and thereby improve its capital ratio and liquidity while making new loans with the security proceeds. — securitized, adj. — securitization, n.

SECURITY

security, n. 1. Collateral given or pledged to guarantee the fulfillment of an obligation; esp., the assurance that a creditor will be repaid (usu. with interest) any money or credit extended to a debtor. [Cases: Secured Transactions 11, 115. C.J.S. Secured Transactions §§ 3, 11, 84.] 2. A person who is bound by some type of guaranty; SURETY. 3. The state of being secure, esp. from danger or attack. 4. An instrument that evidences the holder's ownership rights in a firm (e.g., a stock), the holder's creditor relationship with a firm or government (e.g., a bond), or the holder's other rights (e.g., an option). • A security indicates an interest based on an investment in a common enterprise rather than direct participation in the enterprise. Under an important statutory definition, a security is any interest or instrument relating to finances, including a note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in a profit-sharing agreement, collateral trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, or certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of these things. A security also includes any put, call, straddle, option, or privilege on any security, certificate of deposit, group or index of securities, or any such device entered into on a national securities exchange, relating to foreign currency. 15 USCA § 77b(1). — Also termed (in sense 4) evidence of indebtedness; evidence of debt. Cf. SHARE(2); STOCK(4). [Cases: Corporations 63.1, 470; Securities Regulation 5, 249. C.J.S. Corporations §§ 664–665; Securities Regulation §§ 9, 384–387, 389–390, 392.]

“Securities differ from most other commodities in which people deal. They have no intrinsic value in themselves — they represent rights in something else. The value of a bond, note or other promise to pay depends on the financial condition of the promisor. The value of a share of stock depends on the profitability or future prospects of the corporation or other entity which issued it; its market price depends on how much other people are willing to pay for it, based on their evaluation of those prospects.” David L. Ratner, *Securities Regulation in a Nutshell* 1 (4th ed.

1992).

“What do the following have in common: scotch whisky, self-improvement courses, cosmetics, earthworms, beavers, muskrats, rabbits, chinchillas, fishing boats, vacuum cleaners, cemetery lots, cattle embryos, master recording contracts, animal feeding programs, pooled litigation funds, and fruit trees? The answer is that they have all been held to be securities within the meaning of federal or state securities statutes. The vast range of such unconventional investments that have fallen within the ambit of the securities laws' coverage is due to the broad statutory definition of a ‘security’” 1 Thomas Lee Hazen, *Treatise on the Law of Securities Regulation* § 1.5, at 28–29 (3d ed. 1995).

adjustment security.A stock or bond that is issued during a corporate reorganization. • The security holders' relative interests are readjusted during this process.

assessable security.A security on which a charge or assessment covering the obligations of the issuing company is made. • Bank and insurance-company stock may be assessable.

asset-backed security.A debt security (such as a bond) that is secured by assets that have been pooled and secured by the assets from the pool.

bearer security.An unregistered security payable to the holder. Cf. bearer bond under BOND(3).

callable security.See redeemable security.

certificated security.A security that is a recognized investment vehicle, belongs to or is divisible into a class or series of shares, and is represented on an instrument payable to the bearer or a named person. UCC § 8-102(a)(4). [Cases: Corporations 94. C.J.S. Corporations § 172.]

collateral security. 1. A security, subordinate to and given in addition to a primary security, that is intended to guarantee the validity or convertibility of the primary security. 2. COLLATERAL(2).

consolidated security.(usu. pl.) A security issued in large enough numbers to provide the funds to retire two or more outstanding issues of debt securities.

conversion security.The security into which a convertible security may be converted, usu. common stock.

convertible security.A security (usu. a bond or preferred stock) that may be exchanged by the owner for another security, esp. common stock from the same company, and usu. at a fixed price on a specified date. — Also termed (specif.) convertible debt; convertible stock. [Cases: Securities Regulation 53.16(10).]

coupon security.A security with detachable interest coupons that the holder must present for payment as they mature. • Coupon securities are usu. in denominations of \$1,000, and they are negotiable. [Cases: Corporations 472. C.J.S. Corporations § 664.]

debt security.A security representing funds borrowed by the corporation from the holder of

the debt obligation; esp., a bond, note, or debenture. • Generally, a debt security is any security that is not an equity security. See BOND(3). [Cases: Securities Regulation 5.12, 5.13, 250. C.J.S. Securities Regulation §§ 22–23, 388, 394.]

dematerialized security. See uncertificated security.

divisional security. A special type of security issued to finance a particular project.

equity security. A security representing an ownership interest in a corporation, such as a share of stock, rather than a debt interest, such as a bond; any stock or similar security, or any security that is convertible into stock or similar security or carrying a warrant or right to subscribe to or purchase stock or a similar security, and any such warrant or right. [Cases: Corporations 63.1; Securities Regulation 5.25. C.J.S. Securities Regulation § 26.]

exempt security. A security that need not be registered under the provisions of the Securities Act of 1933 and is exempt from the margin requirements of the Securities Exchange Act of 1934. [Cases: Securities Regulation 14.10–14.40. C.J.S. Securities Regulation §§ 23, 51–61, 69.]

fixed-income security. A security that pays a fixed rate of return, such as a bond with a fixed interest rate or a preferred stock with a fixed dividend. [Cases: Corporations 156, 473. C.J.S. Corporations §§ 158, 670.]

government security. A security issued by a government, a government agency, or a government corporation; esp., a security (such as a Treasury bill) issued by a U.S. government agency, with the implied backing of Congress. — Also termed government-agency security; agency security. [Cases: Securities Regulation 5.29; United States 91. C.J.S. Securities Regulation § 25; United States §§ 164, 167.]

heritable security. Scots law. A debt instrument secured by a charge on heritable property. — Also termed inheritable security. See heritable bond under BOND(2).

high-grade security. A security issued by a company of sound financial condition and having the ability to maintain good earnings (e.g., a utility company security).

hybrid security. A security with features of both a debt instrument (such as a bond) and an equity interest (such as a share of stock). • An example of a hybrid security is a convertible bond, which can be exchanged for shares in the issuing corporation and is subject to stock-price fluctuations.

investment security. An instrument issued in bearer or registered form as a type commonly recognized as a medium for investment and evidencing a share or other interest in the property or enterprise of the issuer. [Cases: Securities Regulation 5.10, 252. C.J.S. Securities Regulation §§ 3, 9–10, 33, 381–382, 384–386, 392.]

junior security. A security that is subordinate to a senior security.

landed security. A mortgage or other encumbrance affecting land. [Cases: Mortgages 1. C.J.S. Mortgages §§ 2–6.]

letter security. See restricted security.

listed security. A security accepted for trading on a securities exchange. • The issuing company must have met the SEC's registration requirements and complied with the rules of the particular exchange. — Also termed listed stock. See DELISTING. [Cases: Exchanges 13.10. C.J.S. Exchanges §§ 17–18.]

long-term security. 1. A new securities issue with an initial maturity of ten years or more. 2. On a balance sheet, a security with a remaining maturity of one year or more.

low-grade security. A security with low investment quality. • Low-grade securities usu. offer higher yields to attract capital. See high-yield bond under BOND(3).

marginable security. A security that can be bought on margin. — Also termed margin stock. See MARGIN.

margin'd security. A security that is bought on margin and that serves as collateral in a margin account. See MARGIN.

marketable security. A security that the holder can readily sell on a stock exchange or an over-the-counter market.

mortgage-backed security. A security (esp. a pass-through security) backed by mortgages. See stripped mortgage-backed security. [Cases: Securities Regulation 5.13. C.J.S. Securities Regulation § 23.]

municipal security. See municipal bond under BOND(3).

noncallable security. A security that cannot be redeemed, or bought back, at the issuer's option. — Also termed (specif.) noncallable bond.

nonmarketable security. 1. A security that cannot be sold on the market and can be redeemed only by the holder. 2. A security that is not of investment quality.

outstanding security. A security that is held by an investor and has not been redeemed by the issuing corporation.

pass-through security. A security that passes through payments from debtors to investors. • Pass-through securities are usu. assembled and sold in packages to investors by private lenders who deduct a service fee before passing the principal and interest payments through to the investors.

personal security. 1. An obligation for the repayment of a debt, evidenced by a pledge or note binding a natural person, as distinguished from property. 2. A person's legal right to enjoy life, health, and reputation.

public security. A negotiable or transferable security that is evidence of government debt.

real security. The security of mortgages or other liens or encumbrances upon land. See COLLATERAL(2). [Cases: Mortgages 1. C.J.S. Mortgages §§ 2–6.]

redeemable security. Any security, other than a short-term note, that, when presented to the issuer, entitles the holder to receive a share of the issuer's assets or the cash equivalent. — Also termed callable security.

registered security. 1. A security whose owner is recorded in the issuer's books. • The issuer keeps a record of the current owners for purposes of sending dividends, interest payments, proxies, and the like. 2. A security that is to be offered for sale and for which a registration statement has been submitted. — Also termed (specif.) registered stock. [Cases: Securities Regulation 11.10–11.50. C.J.S. Securities Regulation §§ 8, 35–49, 63, 69–72.]

restricted security. A security that is not registered with the SEC and therefore may not be sold publicly unless specified conditions are met. • A restricted security is usu. acquired in a nonpublic transaction in which the buyer gives the seller a letter stating the buyer's intent to hold the stock as an investment rather than resell it. — Also termed restricted stock; letter security; letter stock; unregistered security.

senior security. A security of a class having priority over another class as to the distribution of assets or the payment of dividends. 15 USCA § 77r(d)(4).

shelf security. A security that is set aside for shelf registration.

short-term security. A bond or note that matures and is payable within a brief period (often one year).

speculative security. A security that, as an investment, involves a risk of loss greater than would usu. be involved; esp., a security whose value depends on proposed or promised future promotion or development, rather than on present tangible assets or conditions.

stripped mortgage-backed security. A derivative security providing distributions to classes that receive different proportions of either the principal or interest payments from a pool of mortgage-backed securities. — Abbr. SMBS. See mortgage-backed security.

structured security. (usu. pl.) A security whose cash-flow characteristics depend on one or more indexes, or that has an embedded forward or option, or a security for which an investor's investment return and the issuer's payment obligations are contingent on, or highly sensitive to, changes in the value of the underlying assets, indices, interest rates, or cash flows. SEC Rule 434(h) (17 CFR § 230.434(h)).

treasury security. See treasury stock under STOCK.

uncertificated security. A share or other interest in property or an enterprise, or an obligation of the issuer that is not represented by an instrument but is registered on the issuer's books. UCC § 8-102(a)(18). • This term was called uncertified security in earlier versions of the UCC. — Also termed (in BrE) dematerialized security.

unlisted security. An over-the-counter security that is not registered with a stock exchange. — Also termed unlisted stock.

unregistered security. See restricted security.

voting security. See voting stock under STOCK.

when-issued security. A security that can be traded even though it has not yet been issued. • Any transaction that takes place does not become final until the security is issued.

worthless security. A security that has lost its value, for which a loss (usu. capital) is allowed for tax purposes. IRC (26 USCA) § 165. [Cases: Internal Revenue 3429.]

zero-coupon security. A security (esp. a bond) that is issued at a large discount but pays no interest. • The face value of the bond is payable at maturity.

SECURITY AGREEMENT

security agreement. An agreement that creates or provides for an interest in specified real or personal property to guarantee the performance of an obligation. • It must provide for a security interest, describe the collateral, and be signed by the debtor. The agreement may include other important covenants and warranties. [Cases: Secured Transactions 41–51. C.J.S. Secured Transactions §§ 37–49.]

SECURITY COUNCIL

Security Council. A principal organ of the United Nations, consisting of five permanent members (China, France, Russia, the United Kingdom, and the United States) and ten additional members elected at stated intervals, charged with the responsibility of maintaining international peace and security, and esp. of preventing or halting wars by diplomatic, economic, or military action. • The nonpermanent members are elected from each of the world's major regions, based on a distribution formula. [Cases: International Law 10.45. C.J.S. International Law §§ 59–65.]

SECURITY DEPOSIT

security deposit. See DEPOSIT(3).

SECURITY FOR COSTS

security for costs. Money, property, or a bond given to a court by a plaintiff or an appellant to secure the payment of court costs if that party loses. [Cases: Costs 105, 302; Federal Civil Procedure 2732. C.J.S. Costs §§ 59, 63; Criminal Law §§ 1742–1743.]

SECURITY GRADE

security grade. See SECURITY RATING.

SECURITY GRADING

security grading. See SECURITY RATING.

SECURITY INTEREST

security interest. A property interest created by agreement or by operation of law to secure performance of an obligation (esp. repayment of a debt). • Although the UCC limits the creation of a security interest to personal property, the Bankruptcy Code defines the term to mean “a lien

created by an agreement.” 11 USCA § 101(51). [Cases: Secured Transactions 2, 11. C.J.S. Secured Transactions §§ 3, 7, 9–11, 22, 27.]

perfected security interest. A security interest that complies with the statutory requirements for achieving priority over a trustee in bankruptcy and unperfected interests. • A perfected interest may also have priority over another interest that was perfected later in time. See PERFECT. [Cases: Secured Transactions 81–96, 138–145. C.J.S. Secured Transactions §§ 3, 50–51, 53–77, 88, 90–102, 105–107, 118.]

purchase-money security interest. A security interest that is created when a buyer uses the lender's money to make the purchase and immediately gives the lender security (UCC § 9-103); a security interest that is either (1) taken or retained by the seller of the collateral to secure all or part of its price or (2) taken by a person who by making advances or incurring an obligation gives value to enable the debtor to acquire rights in or the use of collateral if that value is in fact so used. • If a buyer's purchase of a boat, for example, is financed by a bank that loans the amount of the purchase price, the bank's security interest in the boat that secures the loan is a purchase-money security interest. — Abbr. PMSI. — Also termed purchase-money interest. [Cases: Secured Transactions 83, 146. C.J.S. Secured Transactions §§ 10, 55, 103–105.]

unperfected security interest. A security interest held by a creditor who has not established priority over any other creditor. • The only priority is over the debtor. [Cases: Secured Transactions 139. C.J.S. Secured Transactions § 91.]

SECURITY RATING

security rating. 1. The system for grading or classifying a security by financial strength, stability, or risk. • Firms such as Standard and Poor's and Moody's grade securities. — Also termed security grade; security grading; security rate. 2. The classification that a given security is assigned to under this system.

SECUS

secus (see-k<<schwa>>s). [Latin] Otherwise; to the contrary.

SEDATO ANIMO

sedato animo (si-day-toh an-<<schwa>>-moh). [Latin] With stated or settled purpose.

SE DEFENDENDO

se defendendo (see def-en-den-doh), adv. [Law Latin] In self-defense; in defending oneself <homicide se defendendo>.

“Homicide se defendendo is of two kinds. (1) Such, as tho it excuseth from death, yet it excuseth not the forfeiture of goods, ... (2) Such as wholly acquits from all kinds of forfeiture.” 1 Hale P.C. 478.

SEDENTARY WORK

sedentary work. See WORK(1).

SEDENTE CURIA

sedente curia (si-den-tee kyoor-ee-<<schwa>>). [Latin] The court sitting; during the court sitting.

SEDE PLENA

sede plena (see-dee plee-n<<schwa>>). [Latin] Hist. The see being filled. • This term indicated that a bishop's see was not vacant.

SEDERUNT

sederunt. See ACT OF SEDERUNT.

SEDES

sedes (see-deez), n.[Latin “a seat”] 1.Roman law. A private residence. 2.Roman law. Judicial office; the bench. 3.Hist. A see; a bishop's dignity.

SEDE VACANTE

sede vacante (see-dee v<<schwa>>-kan-tee). [Law Latin] Hist. The benefice being vacant.

SEDEGE FLAT

sedge flat.A tract of land below the high-water mark.

SEDITION

sedition,n.1. An agreement, communication, or other preliminary activity aimed at inciting treason or some lesser commotion against public authority. 2. Advocacy aimed at inciting or producing — and likely to incite or produce — imminent lawless action. • At common law, sedition included defaming a member of the royal family or the government. The difference between sedition and treason is that the former is committed by preliminary steps, while the latter entails some overt act for carrying out the plan. But of course, if the plan is merely for some small commotion, even accomplishing the plan does not amount to treason. Cf. TREASON. [Cases: Insurrection and Sedition 1. C.J.S. Riot; Insurrection § 29.] — seditious,adj.

“Sedition — This, perhaps the very vaguest of all offences known to the Criminal Law, is defined as the speaking or writing of words calculated to excite disaffection against the Constitution as by law established, to procure the alteration of it by other than lawful means, or to incite any person to commit a crime to the disturbance of the peace, or to raise discontent or disaffection, or to promote ill-feeling between different classes of the community. A charge of sedition is, historically, one of the chief means by which Government, especially at the end of the eighteenth and the beginning of the nineteenth century, strove to put down hostile critics. It is evident that the vagueness of the charge is a danger to the liberty of the subject, especially if the Courts of Justice can be induced to take a view favourable to the Government.” Edward Jenks, *The Book of English Law* 136 (P.B. Fairest ed., 6th ed. 1967).

SEDITION ACT

Sedition Act.Hist. A 1798 federal statute that prohibited the malicious publication of defamatory material about the government, Congress, or the President. • The act expired in 1801.

SEDITIONOUS CONSPIRACY

seditionous conspiracy.See CONSPIRACY.

SEDITIONOUS LIBEL

seditionous libel.See LIBEL.

SEDITIONOUS SPEECH

seditionous speech.See SPEECH.

SED NON ALLOCATUR

sed non allocatur (sed non al-*<<schwa>>-kay-t<<schwa>>r*). [Law Latin] Hist. But it is not allowed or upheld. • This phrase was formerly used to indicate the court's disagreement with the arguments of counsel.

SED PER CURIAM

sed per curiam (sed p*<<schwa>>r kyoor-ee<<schwa>>m*). [Latin] But by the court. • This phrase is used to introduce: (1) a statement made by the court disagreeing with counsel's arguments; or (2) the opinion of the whole court when different from the opinion of the single judge immediately before quoted.

SED QUAERE

sed quaere (sed kweer-ee). [Latin] But inquire; examine this further. • This remark indicates that the correctness of a particular statement is challenged.

SEDUCTION

seduction. The offense that occurs when a man entices a woman of previously chaste character to have unlawful intercourse with him by means of persuasion, solicitation, promises, or bribes, or other means not involving force. • Many states have abolished this offense for persons over the age of legal consent. Traditionally, the parent of a young woman had an action to recover damages for the loss of her services. But in measuring damages, the jury could consider not just the loss of services but also the distress and anxiety that the parent had suffered in being deprived of her comfort and companionship. Though seduction was not a crime at common law, many American states made it a statutory crime until the late 20th century. [Cases: Seduction 29–54.]

SED VIDE

sed vide (sed vI-dee). [Latin] But see. • This remark, followed by a citation, directs the reader's attention to an authority or a statement that conflicts with or contradicts the statement or principle just given. — Also termed but see.

SEE

see,n. The area or district of a bishop's jurisdiction <the see of Canterbury>.

SEED MONEY

seed money.Start-up money for a business venture. — Also termed front money; front-end money.

SEEMING DANGER

seeming danger.See DANGER.

SEGREGATION

segregation,n.1. The act or process of separating.

punitive segregation.The act of removing a prisoner from the prison population for placement in separate or solitary confinement, usu. for disciplinary reasons. — Also termed punitive isolation. [Cases: Prisons 13(5). C.J.S. Prisons and Rights of Prisoners §§ 21, 25–27.]

2. The unconstitutional policy of separating people on the basis of color, nationality, religion, or the like. [Cases: Civil Rights 1033; Constitutional Law 214; Schools 13(5). C.J.S. Civil Rights §§ 18, 20, 23–24, 109–110; Constitutional Law § 717.] — segregate,vb. — segregative,adj.

de facto segregation.Segregation that occurs without state authority, usu. on the basis of socioeconomic factors. [Cases: Civil Rights 1033(1); Schools 13(5). C.J.S. Civil Rights §§ 18, 20, 23–24, 109–110.]

de jure segregation.Segregation that is permitted by law. [Cases: Civil Rights 1033(1); Schools 13(5). C.J.S. Civil Rights §§ 18, 20, 23–24, 109–110.]

SEIGNIOR

seignior (seen-y<<schwa>>r), n.[Law French] Hist. An owner of something; a lord of a fee or manor. — Also spelled seigneur (seen- or sayn-y<<schwa>>r); seignor. See SEIGNIORY.

seignior in gross (seen-y<<schwa>>r in grohs), n.[Law French] A lord having no manor but enjoying the other rights of lordship.

SEIGNIORAGE

seigniorage (seen-y<<schwa>>r-ij), n.[Law French] 1.Hist. The tenure existing between lord and vassal. 2.Hist. A prerogative of the Crown; specif., the charge for coining bullion into money; mintage. 3. A royalty. 4. A profit.

SEIGNIORESS

seignioress (seen-y<<schwa>>r-es or -is), n.[Law French] Hist. A female superior; a lady.

SEIGNIORY

seignior (seen-y<<schwa>>r-ee), n.[Law French] Hist. 1.The rights and powers of a lord; esp., a grantor's retained right to have the grantee perform services in exchange for the transfer of

land. 2. A lord's dominions; a feudal or manor lordship; esp., land held subject to such a retained right in the grantor. — Also spelled seignory.

seignory in gross (seen-y<<schwa>>r-ee in grohs). See reputed manor under MANOR.

SEIGNORY

seignory. See SEIGNIORY.

SEISE

seise (seez), vb. To invest with seisin or establish as a holder in fee simple; to put in possession <he became seised of half a section of farmland near Tulia>.

SEISED TO USES

seised to uses. See STANDING SEISED TO USES.

SEISIN

seisin (see-zin), n. 1. Hist. Completion of the ceremony of feudal investiture, by which the tenant was admitted into freehold. 2. Possession of a freehold estate in land; ownership. 3. Louisiana law. The right that the law accords universal successors to own and possess a person's estate directly and immediately upon that person's death. La. Civ. Code arts. 935 et seq. — Also spelled seizin. — Also termed vesture; seisina; (in Scots law) sasine. [Cases: Property 10. C.J.S. Property §§ 27–31, 33.]

“Originally, seisin meant simply possession and the word was applicable to both land and chattels. Prior to the fourteenth century it was proper to speak of a man as being seised of land or seised of a horse. Gradually, seisin and possession became distinct concepts. A man could be said to be in possession of chattels, or of lands wherein he had an estate for years, but he could not be said to be seised of them. Seisin came finally to mean, in relation to land, possession under claim of a freehold estate therein. The tenant for years had possession but not seisin; seisin was in the reversioner who had the fee. And although the word ‘seisin’ appears in modern statutes with a fair degree of frequency, it is usually treated as synonymous with ownership.” Cornelius J. Moynihan, *Introduction to the Law of Real Property* 98–99 (2d ed. 1988).

“It is difficult to define seisin satisfactorily. It has nothing to do with ‘seizing,’ with its implication of violence. To medieval lawyers it suggested the very opposite: peace and quiet. A man who was put in seisin of land was ‘set’ there and continued to ‘sit’ there. Seisin thus denotes quiet possession of land, but quiet possession of a particular kind.... Although it seems impossible to frame a satisfactory definition ..., to call it ‘that feudal possession of land which only the owner of a freehold estate in freehold land could have’ is to express the most important elements.” Robert E. Megarry & M.P. Thompson, *A Manual of the Law of Real Property* 27–28 (6th ed. 1993).

actual seisin. See seisin in deed.

constructive seisin. See seisin in law.

covenant of seisin. See COVENANT(4).

customary seisin. See quasi-seisin.

equitable seisin. 1. Possession or enjoyment of a property interest or right enforceable in equity. 2. See seisin in law.

fictitious seisin. See seisin in law.

legal seisin. See seisin in law.

livery of seisin. See LIVERY OF SEISIN.

primer seisin (prim-*<<schwa>>*r or *pr*I-m*<<schwa>>*r see-zin). Hist. A right of the Crown to receive, from the heir of a tenant who died in possession of a knight's fee, one year's profits of the inherited estate (or half a year's profits if the estate was in reversion); FIRST FRUITS(1).

quasi-seisin. A copyholder's possession of lands, the freehold possession being in the lord. — Also termed customary seisin.

seisin in deed. Actual possession of a freehold estate in land, by oneself or by one's tenant or agent, as distinguished from legal possession. — Also termed seisin in fact; actual seisin. [Cases: Property 10. C.J.S. Property §§ 27–31, 33.]

seisin in fact. See seisin in deed.

seisin in law. The right to immediate possession of a freehold estate in land, as when an heir inherits land but has not yet entered it. — Also termed legal seisin; constructive seisin; equitable seisin; fictitious seisin. [Cases: Property 10. C.J.S. Property §§ 27–31, 33.]

“Seisin in law is, when something is done, which the law accounteth a seisin; as an inrollment.” 2 E. Chambers, *Cyclopedia: Or, an Universal Dictionary of Arts and Sciences* (1743), s.v. SEISIN IN FACT.

SEISINA

seisina (see-zin-*<<schwa>>*), n. [Law Latin] Hist. Seisin.

SEISINA HABENDA

seisina habenda (see-zin-*<<schwa>>* h*<<schwa>>*-ben-d*<<schwa>>*). See DE SEISINA HABENDA.

SEISOR

seisor (see-z*<<schwa>>*r), n. One who takes possession of a freehold.

SEIZE

seize, vb. 1. To forcibly take possession (of a person or property). 2. To place (someone) in possession. 3. To be in possession (of property). 4. To be informed of or aware of (something). See SEISIN; SEIZURE.

SEIZURE

seizure,n. The act or an instance of taking possession of a person or property by legal right or process; esp., in constitutional law, a confiscation or arrest that may interfere with a person's reasonable expectation of privacy. [Cases: Arrest 68(4); Searches and Seizures 13.1. C.J.S. Arrest § 45; Searches and Seizures §§ 8, 13, 20, 23, 70, 72.]

constructive seizure.A manifest intent to seize and take possession of another person's property, usu. either by lawfully acquiring actual custody and control of the property or by posting notice of the property's pending foreclosure.

SELECT COMMITTEE

select committee.See special committee under COMMITTEE.

SELECT COUNCIL

select council.See COUNCIL.

SELECTI JUDICES

selecti judices (si-lek-tjoo-di-seez). [Latin] Roman law. Jurors on the official panel prepared by the praetor, who for a specific trial were drawn by lot subject to challenge and sworn to office in a similar manner to modern juries.

SELECTIVE DISCLOSURE

selective disclosure.The act of divulging part of a privileged communication, or one of several privileged communications, usu. because the divulged portion is helpful to the party giving the information, while harmful portions of the communication are withheld. • Such a disclosure can result in a limited waiver of the privilege for all communications on the same subject matter as the divulged portion. [Cases: Witnesses 219. C.J.S. Witnesses §§ 378–389.]

SELECTIVE-DRAFT LAW

selective-draft law.A statute empowering the federal government to conscript citizens for military duty. • The constitutionality of the first selective-draft law was challenged and upheld in the Selective-Draft-Law Cases. See *Arver v. United States*, 245 U.S. 366, 38 S.Ct. 159 (1918).

SELECTIVE ENFORCEMENT

selective enforcement.The practice of law-enforcement officers who use wide or even unfettered discretion about when and where to carry out certain laws; esp., the practice of singling a person out for prosecution or punishment under a statute or regulation because the person is a member of a protected group or because the person has exercised or is planning to exercise a constitutionally protected right. — Also termed selective prosecution. Cf. vindictive prosecution under PROSECUTION. [Cases: Constitutional Law 223, 250.1(3); Criminal Law 37.10. C.J.S. Constitutional Law §§ 723, 743–744; Criminal Law § 64.]

“The chief of police of a New England town once declared to the press that he believed in a strict curfew law, ‘selectively enforced.’ ‘Selective enforcement’ in this case means that the policeman decides for himself who ought to be sent home from the street; legislative candour

would suggest that if this is the intention it ought to be expressed in the law itself, instead of being concealed behind words that are 'strict' and categorical." Lon L. Fuller, *Anatomy of the Law* 42 (1968).

SELECTIVE INCORPORATION

selective incorporation. See INCORPORATION.

SELECTIVE PROSECUTION

selective prosecution. 1. SELECTIVE ENFORCEMENT. 2. The practice or an instance of a criminal prosecution brought at the discretion of a prosecutor rather than one brought as a matter of course in the normal functioning of the prosecuting authority's office. • Selective prosecution violates the Equal Protection Clause of the 14th Amendment if a defendant is singled out for prosecution when others similarly situated have not been prosecuted and the prosecutor's reasons for doing so are impermissible.

SELECTIVE PROSPECTIVITY

selective prospectivity. A court's decision to apply a new rule of law in the particular case in which the new rule is announced, but to apply the old rule in all other cases pending at the time the new rule is announced or in which the facts predate the new rule's announcement. [Cases: Courts 100(1). C.J.S. Courts §§ 147–148.]

SELECTIVE SERVICE SYSTEM

Selective Service System. The federal agency that registers all persons 18–26 who are eligible for military service and provides personnel to the Armed Forces during emergencies. • It was established in 1940 as a part of the War Manpower Commission and became independent in 1943. — Abbr. SSS. [Cases: Armed Services 20.8. C.J.S. Armed Services §§ 60–65, 67–68.]

SELECTMAN

selectman. A municipal officer elected annually in some New England towns to transact business and perform some executive functions. [Cases: Towns 26. C.J.S. Towns §§ 82–93.]

SELF-APPLYING

self-applying, adj. (Of a statute, ordinance, etc.) requiring no more for interpretation than a familiarity with the ordinary meanings of words.

SELF-AUTHENTICATION

self-authentication. See AUTHENTICATION.

SELF-CANCELING INSTALLMENT NOTE

self-canceling installment note. See NOTE(1).

SELF-CRIMINATION

self-crimination. See SELF-INCRIMINATION.

SELF-CRITICAL-ANALYSIS PRIVILEGE

self-critical-analysis privilege. See PRIVILEGE(3).

SELF-DEALING

self-dealing, n. Participation in a transaction that benefits oneself instead of another who is owed a fiduciary duty. • For example, a corporate director might engage in self-dealing by participating in a competing business to the corporation's detriment. Cf. FAIR DEALING(1), (2). [Cases: Corporations 184, 314(.5). C.J.S. Corporations § 325.] — self-deal, vb.

SELF-DEFENSE

self-defense, n. 1. The use of force to protect oneself, one's family, or one's property from a real or threatened attack. • Generally, a person is justified in using a reasonable amount of force in self-defense if he or she believes that the danger of bodily harm is imminent and that force is necessary to avoid this danger. — Also termed defense of self. Cf. adequate provocation under PROVOCATION. [Cases: Assault and Battery 13, 67; Homicide 766. C.J.S. Assault and Battery §§ 19–21, 87–92.]

“The law of self-defence, as it is applied by the courts, turns on two requirements: the force must have been necessary, and it must have been reasonable.” Andrew Ashworth, *Principles of Criminal Law* 114 (1991).

imperfect self-defense. The use of force by one who makes an honest but unreasonable mistake that force is necessary to repel an attack. • In some jurisdictions, such a self-defender will be charged with a lesser offense than the one committed. [Cases: Homicide 687.]

perfect self-defense. The use of force by one who accurately appraises the necessity and the amount of force to repel an attack.

2. Int'l law. The right of a state to defend itself against a real or threatened attack. See United Nations Charter, art. 51 (59 Stat. 1031). — Also spelled (esp. in BrE) self-defence. — self-defender, n. “Self-defence, properly understood, is a legal right, and as with other legal rights the question whether a specific state of facts warrants its exercise is a legal question. It is not a question on which a state is entitled, in any special sense, to be a judge in its own cause.” J.L. Brierly, *The Law of Nations* 319 (5th ed. 1955).

SELF-DESTRUCT CLAUSE

self-destruct clause. A provision in a trust for a condition that will automatically terminate the trust. • Discretionary trusts, esp. supplemental-needs trusts, often include a self-destruct provision. For example, a trust to provide for the needs of a disabled person may terminate if the beneficiary becomes ineligible for a government-benefits program such as Medicaid.

SELF-DESTRUCTION

self-destruction. See SUICIDE(1).

SELF-DETERMINATION CONTRACT

self-determination contract. See CONTRACT.

SELF-DETERMINATION ELECTION

self-determination election. See GLOBE ELECTION.

SELF-DISSERVING DECLARATION

self-disserving declaration. Hist. See declaration against interest under DECLARATION(6).

SELF-EMPLOYED RETIREMENT PLAN

self-employed retirement plan. See KEOGH PLAN.

SELF-EMPLOYMENT TAX

self-employment tax. See TAX.

SELF-EVALUATION PRIVILEGE

self-evaluation privilege. See self-critical-analysis privilege under PRIVILEGE(3).

SELF-EXECUTING

self-executing, adj. (Of an instrument) effective immediately without the need of any type of implementing action <the wills had self-executing affidavits attached>. • Legal instruments may be self-executing according to various standards. For example, treaties are self-executing under the Supremacy Clause of the U.S. Constitution (art. VI, § 2) if textually capable of judicial enforcement and intended to be enforced in that manner.

SELF-HELP

self-help, n. An attempt to redress a perceived wrong by one's own action rather than through the normal legal process. • The UCC and other statutes provide for particular self-help remedies (such as repossession) if the remedy can be executed without breaching the peace. UCC § 9-609. — Also termed self-redress; extrajudicial enforcement. [Cases: Secured Transactions 228. C.J.S. Secured Transactions §§ 151, 153–160, 180.]

“Notice to the debtor is generally not required prior to self-help repossession of collateral by the creditor upon default, although the provision for self-help repossession has been held to violate due process requirements in some instances, and states under the Uniform Consumer Credit Code require particular notice requirements. Furthermore, while the UCC generally does not require notice to the debtor upon self-help repossession of the collateral upon the debtor's default, the agreement between the parties may require such notice prior to repossession.” 68A Am. Jur. 2d Secured Transactions § 608, at 466 (1993).

SELF-HELP REMEDY

self-help remedy. See extrajudicial remedy under REMEDY.

SELF-INCRIMINATION

self-incrimination. The act of indicating one's own involvement in a crime or exposing oneself to prosecution, esp. by making a statement. — Also termed self-crimination; self-inculpation. See RIGHT AGAINST SELF-INCRIMINATION. [Cases: Criminal Law 393; Witnesses 297. C.J.S. Criminal Law § 645; Witnesses § 522.]

SELF-INCRIMINATION CLAUSE

Self-Incrimination Clause. The clause of the Fifth Amendment to the U.S. Constitution barring the government from compelling criminal defendants to testify against themselves. [Cases: Witnesses 299. C.J.S. Witnesses §§ 532–533.]

SELF-INCULPATION

self-inculpation. See SELF-INCRIMINATION.

SELF-INDUCED FRUSTRATION

self-induced frustration. See FRUSTRATION.

SELF-INDUCED INTOXICATION

self-induced intoxication. See voluntary intoxication under INTOXICATION.

SELF-INSURANCE

self-insurance. See INSURANCE.

SELF-INSURED RETENTION

self-insured retention. Insurance. The amount of an otherwise-covered loss that is not covered by an insurance policy and that usu. must be paid before the insurer will pay benefits <the defendant had a \$1 million CGL policy to cover the loss, but had to pay a self-insured retention of \$100,000, which it had agreed to so that the policy premium would be lower>. — Abbr. SIR. Cf. DEDUCTIBLE. [Cases: Insurance 2283.]

SELF-KILLING

self-killing. See SUICIDE(1).

SELF-LIQUIDATING MORTGAGE

self-liquidating mortgage. See amortized mortgage under MORTGAGE.

SELF-MURDER

self-murder. See SUICIDE(1).

SELF-POLICING PRIVILEGE

self-policing privilege. See self-critical-analysis privilege under PRIVILEGE (3).

SELF-PROVED WILL

self-proved will. See WILL.

SELF-PROVING AFFIDAVIT

self-proving affidavit. See AFFIDAVIT.

SELF-REDRESS

self-redress. See SELF-HELP.

SELF-REGULATION

self-regulation. An organization's or industry's control, oversight, or direction of itself according to rules and standards that it establishes. • Self-regulation is often subject to the oversight of various governmental agencies, such as the Securities Exchange Commission and the Commodities Futures Trading Commission.

SELF-SERVING DECLARATION

self-serving declaration. See DECLARATION(6).

SELF-SETTLED TRUST

self-settled trust. See TRUST.

SELF-SLAUGHTER

self-slaughter. See SUICIDE(1).

SELF-STULTIFICATION

self-stultification. The act or an instance of testifying about one's own deficiencies. See STULTIFY.

SELL

sell, vb. To transfer (property) by sale.

SELLER

seller. 1. A person who sells or contracts to sell goods; a vendor. UCC § 2-103(1)(d). [Cases: Sales 15. C.J.S. Sales § 10.] 2. Generally, a person who sells anything; the transferor of property in a contract of sale.

SELLER'S MARKET

seller's market. See MARKET.

SELLER'S OPTION

seller's option. See OPTION.

SELLING AGENT

selling agent. See AGENT(2).

SELLING PRICE

selling price. See sales price under PRICE.

SELL-OFF

sell-off, n. A period when heavy pressure to sell causes falling stock-market prices.

SELL ORDER

sell order. See ORDER(8).

SEMBLE

semble (sem-b<<schwa>>l). [Law French] It seems; it would appear <semble that the parties' intention was to create a binding agreement>. • This term is used chiefly to indicate an obiter dictum in a court opinion or to introduce an uncertain thought or interpretation. — Abbr. sem.; semb.

SEMESTRIA

semestria (si-mes-tree-<<schwa>>), n. [Latin "half-yearly matters"] Roman law. The collected decisions of Roman emperors, issued every six months.

SEMICONDUCTOR CHIP PROTECTION ACT

Semiconductor Chip Protection Act. Intellectual property. A 1984 statute protecting manufacturers against the unauthorized copying or use of semiconductor chips and the mask works used to manufacture them. • Semiconductor chips do not qualify for patent protection since technological advancements are small and usu. obvious. Mask works are multilayered, three-dimensional templates used to produce semiconductor chips. Mask-work design is more functional than expressive, and so traditional copyright protection was inapplicable until 1984. The Act provides copyright protection to the mask works for ten years. 17 USCA §§ 901–914. — Abbr. SCPA. [Cases: Copyrights and Intellectual Property 10.4. C.J.S. Copyrights and Intellectual Property §§ 11–12, 16, 92, 101.]

SEMI-FREE SOFTWARE

semi-free software. Software that does not include source code but comes with permission for individuals to use, copy, modify, and distribute the software for nonprofit purposes. Cf. FREeware; PROPRIETARY SOFTWARE; SHAREWARE.

SEMI-MATRIMONIUM

semi-matrimonium (sem-I ma-tr<<schwa>>-moh-nee-<<schwa>>m), n. [Latin] A half-marriage.

SEMINARY

seminary. 1. An educational institution, such as a college, academy, or other school. [Cases: Colleges and Universities 1. C.J.S. Colleges and Universities §§ 2–3, 9.] 2. The building in which the institution performs its functions.

SEMINAUFRAGIUM

seminaufragium (sem-I-naw-fray-jee-<<schwa>>m), n.[Latin] Hist. A half-shipwreck, as when goods are cast overboard in a storm or when a damaged ship's repair costs are more than the ship's worth.

SEMIPLENA PROBATIO

semplena probatio (sem-I-plee-n<<schwa>> proh-bay-shee-oh), n.[Latin] Half-proof.

“In actions of filiation, a pursuer was formerly entitled, on adducing a *semplena probatio*, to her oath in supplement to prove that the defender was the father of her child. A *semplena probatio* was such a proof as induced, not merely a suspicion, but a reasonable belief that the pursuer's case was well-founded, and consisted generally of a proof of opportunity for connection, acts of familiarity on the part of the defender towards the pursuer, &c” John Trayner, *Trayner's Latin Maxims* 569 (4th ed. 1894).

SEMI-SECRET TRUST

semi-secret trust.See **TRUST**.

SEMI-SKILLED WORK

semi-skilled work.See **WORK(1)**.

SEMPER

semper (sem-p<<schwa>>r). [Latin] Always. • This term introduces several Latin maxims, such as *semper in dubiis benigniora praeferenda sunt* (“in doubtful cases, the more favorable constructions are always to be preferred”).

SEMPER PARATUS

semper paratus.A defendant's pleading that he or she has always been ready to perform as the plaintiff demanded.

SENAGE

senage (see-nij). [French] Money paid for synodals; tribute-money. See **SYNODAL**.

SENATE

senate. 1. The upper chamber of a bicameral legislature. [Cases: States 26. C.J.S. States § 40.] 2. (cap.) The upper house of the U.S. Congress, composed of 100 members — two from each state — who are elected to six-year terms. — Abbr. S. [Cases: United States 7.1. C.J.S. United States § 16.]

SENATE BILL

senate bill.See **BILL(3)**.

SENATOR

senator. A person who is a member of a senate.

SENATORES

senatores (sen-<<schwa>>-tor-eez), n. pl.[Latin] Roman law. 1. Members of the Roman senate. 2. Members of municipal councils.

SENATORIAL COURTESY

senatorial courtesy. 1. The tradition that the President should take care in filling a high-level federal post (such as a judgeship) with a person agreeable to the senators from the nominee's home state, lest the senators defeat confirmation. [Cases: Judges 3. C.J.S. Judges §§ 12–14.]

“The risk of a deadlock is minimized by [the President's] consulting informally with the Senators from the State in which the office lies, if they are members of his own political party. Actually this amounts in most instances to his taking the advice of these two Senators as to a selection. A nomination approved by them is practically certain of final confirmation by the Senate as a whole. The arrangement is a ‘log-rolling’ one, which has been dignified by the name of ‘Senatorial courtesy.’ ‘If you will help me to get the appointments I want in my State, I will help you get the appointments you want in your State.’ ” Herbert W. Horwill, *The Usages of the American Constitution* 129 (1925).

2. Loosely, civility among senators <a decline of senatorial courtesy>.

SENATOR OF THE COLLEGE OF JUSTICE

Senator of the College of Justice.Scots law. See LORD OF SESSION.

SENATUS

senatus (si-nay-t<<schwa>>s), n.[Latin] Roman law. 1. The Roman senate. 2. The meeting place for the Roman senate.

SENATUS CONSULTO

senatus consulto (si-nay-t<<schwa>>s k<<schwa>>n-s<<schwa>>l-toh). [Latin] Roman law. By the decree of the Senate.

SENATUS CONSULTUM

senatus consultum (si-nay-t<<schwa>>s k<<schwa>>n-s<<schwa>>l-t<<schwa>>m). [Latin] Roman law. In the Republic, a resolution of the Roman Senate, which did not have the force of law (though usu. followed). • In the first century A.D., these resolutions replaced the legislation of the comitia, but by the end of the second century, they were merely the Senate's official expression of the imperial will. The senate often adopted the text of a speech (oratio) by the emperor. — Abbr. S.C. — Sometimes written senatusconsultum. — Also termed senatus consult. Pl. senatus consulta.

“Senatus consulta. — In the regal and republican periods the Senate enjoyed no legislative power. It was an advisory body, nominated by the King, and at first purely patrician. Later it ...

included patricians and plebeians ... its chief duty still being to tender advice to the magistrates The theory still was, till the time of Hadrian, that senatus consulta were directions to the magistrates, who were now in fact, if not in name, bound to give effect to them, till by a process of gradual usurpation senatus consulta came to be direct legislation." R.W. Leage, *Roman Private Law* 12–13 (C.H. Ziegler ed., 2d ed. 1930).

SENATUS CONSULTUM MACEDONIANUM

senatus consultum Macedonianum (si-nay-t<<schwa>>s k<<schwa>>n-s<<schwa>>l-t<<schwa>>m mas-<<schwa>>-doh-nee-ay-n<<schwa>>m). [Latin "Macedo's Resolution"] Roman law. A senate decree under Vespasian to protect fathers from children in their power who had borrowed excessive sums in expectation of their father's death, by making actions to recover such loans unlawful. — Also termed Macedonian Decree.

"The senatus consultum Macedonianum reads as follows: 'Whereas Macedo's borrowings gave him an added incentive to commit a crime to which he was naturally predisposed and whereas those who lend money on terms which are dubious, to say the least, often provide evil men with the means of wrongdoing, it has been decided, in order to teach pernicious moneylenders that a son's debt cannot be made good by waiting for his father's death, that a person who has lent money to a son-in-power is to have no claim or action even after the death of the person in whose power he was.' " Digest of Justinian 14.6.1 (Ulpian, Ad Sabinum 49).

"In the principate of Vespasian, 69–79 A.D., a senatus consultum was passed which forbade loans to a filius-familias. It was called the senatus consultum — Macedonianum, after one Macedo, a usurer who had made such a loan and thereby instigated a hard-pressed debtor to kill his father in order to enter into his inheritance. To prevent tragic possibilities like these, the senatus consultum declared that no action would lie to recover money lent to a filius-familias." Max Radin, *Handbook of Roman Law* 188–89 (1927).

SENATUS CONSULTUM ULTIMUM NECESSITATIS

senatus consultum ultimum necessitatis (si-nay-t<<schwa>>s k<<schwa>>n-s<<schwa>>l-t<<schwa>>m <<schwa>>l-t<<schwa>>-m<<schwa>>m n<<schwa>>-ses-i-tay-tis). [Latin] Roman law. A decree of the senate of the last necessity. • This decree usu. preceded the nomination of a leader with absolute power in a time of emergency. — Also termed senatus consultum ultimae necessitatis.

SENATUS CONSULTUM VELLEIANUM

senatus consultum Velleianum (si-nay-t<<schwa>>s k<<schwa>>n-s<<schwa>>l-t<<schwa>>m vel-ee-ay-n<<schwa>>m). [Latin "Velleian Decree"] Roman law. A senate decree, probably of A.D. 46, to protect women from making unconscionable guarantees, suretyship undertakings, or debt assumptions for their husbands and for others generally, by making actions to enforce such undertakings unlawful.

SENATUS DECRETA

senatus decreta (si-nay-t<<schwa>>s di-kree-t<<schwa>>). [Latin] Roman law. The senate's

decisions.

SENDING STATE

sending state. See STATE.

SENESCALLUS

senescallus (sen-<<schwa>>s-kal-<<schwa>>s), n. [Law Latin] See SENESCHAL.

SENESCHAL

seneschal (sen-<<schwa>>-sh-<<schwa>>l), n. [Law French] Hist. 1. A French title of office, equivalent to a steward in England. • A seneschal was originally a duke's lieutenant or a lieutenant to other dignities of the kingdom. 2. The steward of a manor. 3. Hist. An administrative or judicial officer, such as the governor of a city or province. — Also termed senescallus.

SENILITY

senility. Mental feebleness or impairment caused by old age. • A senile person (in the legal, as opposed to the popular, sense) is incompetent to enter into a binding contract or to execute a will. — Also termed senile dementia (see-nll di-men-shee-<<schwa>>). [Cases: Mental Health 3. C.J.S. Insane Persons §§ 2, 6.] — senile, adj.

SENIOR

senior, adj. 1. (Of a debt, etc.) first; preferred, as over junior obligations. 2. (Of a person) older than someone else. 3. (Of a person) higher in rank or service. 4. (Of a man) elder, as distinguished from the man's son who has the same name.

SENIOR ADMINISTRATIVE PATENT JUDGE

senior administrative patent judge. See JUDGE.

SENIOR COUNSEL

senior counsel. 1. See lead counsel under COUNSEL. 2. See KING'S COUNSEL; QUEEN'S COUNSEL.

SENIOR INTEREST

senior interest. See INTEREST(2).

SENIORITY

seniority. 1. The preferential status, privileges, or rights given an employee based on the employee's length of service with an employer. • Employees with seniority may receive additional or enhanced benefit packages and obtain competitive advantages over fellow employees in layoff and promotional decisions. 2. The status of being older or senior.

SENIORITY SYSTEM

seniority system. Employment law. Any arrangement that recognizes length of service in

making decisions about job layoffs and promotions or other advancements.

SENIOR JUDGE

senior judge. See JUDGE.

SENIOR LIEN

senior lien. See LIEN.

SENIOR MORTGAGE

senior mortgage. See MORTGAGE.

SENIOR PARTNER

senior partner. See PARTNER.

SENIOR PARTY

senior party. Intellectual property. In an interference proceeding, the first person to file an application for a property's legal protection, e.g., an invention patent or a trademark registration. • In the United States, merely being the first to file does not entitle the party to the protection. The proceeding's administrator also takes other factors into account. For instance, in a patent-interference proceeding the invention's conception date and the inventor's diligence in reducing the invention to practice are relevant factors. Priority in the filing date is prima facie evidence that the senior party is the first inventor, so the challenger has the burden of proof. Cf. JUNIOR PARTY. [Cases: Patents 106(1). C.J.S. Patents §§ 159–162, 165.]

SENIOR SECURITY

senior security. See SECURITY.

SENIOR STATUS

senior status. The employment condition of a semiretired judge who continues to perform certain judicial duties that the judge is willing and able to undertake. [Cases: Judges 7. C.J.S. Judges §§ 21–24, 27–29.]

SENIOR USER

senior user. Trademarks. The first person to use a mark. • That person is usu. found to be the mark's owner. — Also termed first user. Cf. JUNIOR USER. [Cases: Trade Regulation 66.1. C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 29–30.]

SENSITIVITY TRAINING

sensitivity training. One or more instructional session for management and employees designed to counteract the callous treatment of others, esp. women and minorities, in the workplace.

SENSUS

sensus (sen-s<<schwa>>s). [Latin] Hist. Sense; meaning; signification. • The word appears in its inflected form in phrases such as malo sensu (“an evil sense”), mitiori sensu (“in a milder sense”), and sensu honesto (“in an honest sense”).

SENTENCE

sentence,n. The judgment that a court formally pronounces after finding a criminal defendant guilty; the punishment imposed on a criminal wrongdoer <a sentence of 20 years in prison>. See Fed. R. Crim. P. 32. — Also termed judgment of conviction. [Cases: Sentencing and Punishment 1001.C.J.S. Criminal Law §§ 1420–1422, 1458, 1471, 1480, 1504–1505, 1511.] — sentence,vb.

accumulative sentences.See consecutive sentences.

aggregate sentence.A sentence that arises from a conviction on multiple counts in an indictment. [Cases: Sentencing and Punishment 642–643. C.J.S. Criminal Law §§ 1459–1460, 1463, 1465, 1472, 1517–1523, 1525.]

alternative sentence.A sentence other than incarceration. • Examples include community service and victim restitution. — Also termed creative sentence.

blended sentence.In a juvenile-delinquency disposition, a sanction that combines delinquency sanctions and criminal punishment.

concurrent sentences.Two or more sentences of jail time to be served simultaneously. • For example, if a defendant receives concurrent sentences of 5 years and 15 years, the total amount of jail time is 15 years. [Cases: Sentencing and Punishment 547. C.J.S. Criminal Law §§ 1582–1586.]

conditional sentence.A sentence of confinement if the defendant fails to perform the conditions of probation. [Cases: Sentencing and Punishment 1960–1988. C.J.S. Criminal Law §§ 1458, 1471, 1504–1505, 1511, 1547–1550, 1552–1562, 1566–1567, 1771–1786.]

consecutive sentences.Two or more sentences of jail time to be served in sequence. • For example, if a defendant receives consecutive sentences of 20 years and 5 years, the total amount of jail time is 25 years. — Also termed cumulative sentences; accumulative sentences. [Cases: Sentencing and Punishment 545. C.J.S. Criminal Law §§ 1522–1523.]

consolidated sentence.See general sentence.

creative sentence.See alternative sentence.

death sentence.A sentence that imposes the death penalty. See Model Penal Code § 210.6. — Also termed judgment of blood. See DEATH PENALTY. [Cases: Sentencing and Punishment 1610, 1787. C.J.S. Criminal Law §§ 1529–1532, 1534–1538, 1541–1543, 1606–1608.]

deferred sentence.A sentence that will not be carried out if the defendant meets certain requirements, such as complying with conditions of probation. [Cases: Sentencing and Punishment 2051–2054. C.J.S. Criminal Law §§ 425–444, 449–450.]

delayed sentence.A sentence that is not imposed immediately after conviction, thereby

allowing the defendant to satisfy the court (usu. by complying with certain restrictions or conditions during the delay period) that probation is preferable to a prison sentence.

determinate sentence. A sentence for a fixed length of time rather than for an unspecified duration. — Also termed definite sentence; definitive sentence; fixed sentence; flat sentence; straight sentence. [Cases: Sentencing and Punishment 1053–1054. C.J.S. Criminal Law §§ 1458, 1468, 1471, 1504–1505, 1511, 1570.]

excessive sentence. A sentence that gives more punishment than is allowed by law.

fixed sentence. 1. See determinate sentence. 2. See mandatory sentence.

flat sentence. See determinate sentence.

general sentence. An undivided, aggregate sentence in a multicount case; a sentence that does not specify the punishment imposed for each count. • General sentences are prohibited. — Also termed consolidated sentence. [Cases: Sentencing and Punishment 1060. C.J.S. Criminal Law §§ 1458, 1471, 1504–1505, 1511.]

indeterminate sentence. 1. A sentence of an unspecified duration, such as one for a term of 10 to 20 years. [Cases: Sentencing and Punishment 1057–1059, 1125–1127. C.J.S. Criminal Law §§ 1468, 1585.] 2. A maximum prison term that the parole board can reduce, through statutory authorization, after the inmate has served the minimum time required by law. — Also termed indefinite sentence. See INDETERMINATE SENTENCING.

intermittent sentence. A sentence consisting of periods of confinement interrupted by periods of freedom. — Also termed (when served on weekends) weekend sentence.

life sentence. A sentence that imprisons the convicted criminal for life — though in some jurisdictions the prisoner may become eligible for release on good behavior, rehabilitation, or the like. [Cases: Sentencing and Punishment 1020, 1055. C.J.S. Criminal Law § 1468.]

mandatory sentence. A sentence set by law with no discretion for the judge to individualize punishment. — Also termed mandatory penalty; mandatory punishment; fixed sentence. [Cases: Sentencing and Punishment 1053–1054. C.J.S. Criminal Law §§ 1458, 1468, 1471, 1504–1505, 1511, 1570.]

maximum sentence. The highest level of punishment provided by law for a particular crime. [Cases: Sentencing and Punishment 1059, 1127. C.J.S. Criminal Law §§ 1468, 1585.]

minimum sentence. The least amount of time that a defendant must serve in prison before becoming eligible for parole. [Cases: Sentencing and Punishment 1057, 1126. C.J.S. Criminal Law §§ 1468, 1585.]

multiple sentences. Concurrent or consecutive sentences, if a defendant is found guilty of more than one offense. [Cases: Sentencing and Punishment 500. C.J.S. Criminal Law §§ 1464, 1517–1521.]

nominal sentence. A criminal sentence in name only; an exceedingly light sentence.

noncustodial sentence. A criminal sentence (such as probation) not requiring prison time.

presumptive sentence. An average sentence for a particular crime (esp. provided under sentencing guidelines) that can be raised or lowered based on the presence of mitigating or aggravating circumstances. [Cases: Sentencing and Punishment 34, 654. C.J.S. Criminal Law §§ 1459, 1461, 1463, 1472, 1479.]

prior sentence. A sentence previously imposed on a criminal defendant for a different offense, whether by a guilty verdict, a guilty plea, or a nolo contendere.

split sentence. A sentence in which part of the time is served in confinement — to expose the offender to the unpleasantness of prison — and the rest on probation. See shock probation under PROBATION. [Cases: Sentencing and Punishment 1934, 1936. C.J.S. Criminal Law §§ 1549–1550, 1552, 1555.]

straight sentence. See determinate sentence.

suspended sentence. A sentence postponed so that the defendant is not required to serve time unless he or she commits another crime or violates some other court-imposed condition. • A suspended sentence, in effect, is a form of probation. — Also termed withheld sentence. [Cases: Sentencing and Punishment 1804–1810. C.J.S. Criminal Law §§ 1547–1550, 1552, 1555, 1557–1558.]

weekend sentence. See intermittent sentence.

SENTENCE BARGAIN

sentence bargain. See PLEA BARGAIN.

SENTENCE CAP

sentence cap. Military law. A pretrial plea agreement in a court-martial proceeding by which a ceiling is placed on the maximum penalty that can be imposed. [Cases: Military Justice 990, 1326. C.J.S. Military Justice §§ 201, 393, 449.]

SENTENCED TO TIME SERVED

sentenced to time served. A sentencing disposition in which a criminal defendant is sentenced to jail but is credited with time served in an amount equal to the sentence handed down, resulting in the defendant's release from custody. Cf. BALANCE OF SENTENCE SUSPENDED.

SENTENCE-FACTOR MANIPULATION

sentence-factor manipulation. See sentencing entrapment under ENTRAPMENT.

SENTENCE-PACKAGE RULE

sentence-package rule. Criminal procedure. The principle that a defendant can be resentenced on an aggregate sentence — that is, one arising from a conviction on multiple counts in an indictment — when the defendant successfully challenges part of the conviction, as by successfully challenging some but not all of the counts.

SENTENCING COUNCIL

sentencing council.A panel of three or more judges who confer to determine a criminal sentence. • Sentencing by a council occurs less frequently than sentencing by a single trial judge.

SENTENCING ENTRAPMENT

sentencing entrapment.See ENTRAPMENT.

SENTENCING GUIDELINES

sentencing guidelines.A set of standards for determining the punishment that a convicted criminal should receive, based on the nature of the crime and the offender's criminal history. • The federal government and several states have adopted sentencing guidelines in an effort to make judicial sentencing more consistent. [Cases: Sentencing and Punishment 650. C.J.S. Criminal Law § 1479.]

SENTENCING HEARING

sentencing hearing.See PRESENTENCE HEARING.

SENTENCING PHASE

sentencing phase.See PENALTY PHASE.

SENTENCING REFORM ACT OF 1984

Sentencing Reform Act of 1984.A federal statute enacted to bring greater uniformity to punishments assessed for federal crimes by creating a committee of federal judges and other officials (the United States Sentencing Commission) responsible for producing sentencing guidelines to be used by the federal courts. 28 USCA § 994(a)(1).

SENTENCING TABLE

Sentencing Table.A reference guide used by federal courts to calculate the appropriate punishment under the sentencing guidelines by taking into account the gravity of the offense and the convicted person's criminal history.

SENTENTIA

sententia (sen-ten-shee-*<<schwa>>*), n.[Latin] Roman & civil law. 1. Sense; meaning. 2. An opinion, esp. a legal opinion. 3. A judicial decision.

SENTENTIA VOLUNTATIS

sententia voluntatis (sen-ten-shee-*<<schwa>>* vol-*<<schwa>>*n-tay-tis). [Law Latin] Hist. The determination of the will.

SEP

SEP.abbr.See simplified employee pension plan under EMPLOYEE BENEFIT PLAN.

SEPARABILITY

separability.Copyright. An element of various judicial tests used to determine whether a design in a functional article is a copyrightable work of applied art, or an uncopyrightable industrial design, the test being based on whether the beholder separates the work's artistic appearance from its useful function. • Some courts use a strict physical separability test, but most look at whether the work's two roles are conceptually separate. [Cases: Copyrights and Intellectual Property 4. C.J.S. Copyrights and Intellectual Property §§ 9–10, 16.]

SEPARABILITY CLAUSE

separability clause.See SEVERABILITY CLAUSE.

SEPARABLE

separable,adj. Capable of being separated or divided <a separable controversy>.

SEPARABLE CONTROVERSY

separable controversy.See CONTROVERSY.

SEPARALITER

separaliter (sep-<<schwa>>-ray-l<<schwa>>-t<<schwa>>r). [Latin] Hist. Separately. • This term was formerly used in an indictment to emphasize that multiple defendants were being charged with separate offenses, when it appeared from the general language of the indictment that the defendants were jointly charged.

SEPARATE

separate,adj. (Of liability, cause of action, etc.) individual; distinct; particular; disconnected.

SEPARATE ACTION

separate action.See ACTION(4).

SEPARATE AND APART

separate and apart.See LIVING SEPARATE AND APART.

SEPARATE-BUT-EQUAL DOCTRINE

separate-but-equal doctrine.The now-defunct doctrine that African-Americans could be segregated if they were provided with equal opportunities and facilities in education, public transportation, and jobs. • This rule was established in Plessy v. Ferguson, 163 U.S. 537, 16 S.Ct. 1138 (1896), and overturned in Brown v. Board of Education, 347 U.S. 483, 74 S.Ct. 686 (1954). [Cases: Schools 13(2). C.J.S. Civil Rights §§ 111, 121.]

SEPARATE CAUCUS

separate caucus.See CAUCUS.

SEPARATE COUNT

separate count.See COUNT.

SEPARATE COVENANT

separate covenant. See several covenant under COVENANT(1).

SEPARATE DEMISE

separate demise. See DEMISE.

SEPARATE ESTATE

separate estate. See ESTATE(1).

SEPARATE EXAMINATION

separate examination. 1. The private interrogation of a witness, apart from the other witnesses in the same case. 2. The interrogation of a wife outside the presence of her husband by a court clerk or notary for the purpose of acknowledging a deed or other instrument. • This was done to ensure that the wife signed without being coerced to do so by her husband.

SEPARATE MAINTENANCE

separate maintenance. See MAINTENANCE.

SEPARATE OFFENSE

separate offense. See OFFENSE(1).

SEPARATE PROPERTY

separate property. 1. Property that a spouse owned before marriage or acquired during marriage by inheritance or by gift from a third party, and in some states property acquired during marriage but after the spouses have entered into a separation agreement and have begun living apart or after one spouse has commenced a divorce action. — Also termed individual property. Cf. COMMUNITY PROPERTY; marital property under PROPERTY. [Cases: Husband and Wife 248.5–264(7).] 2. In some common-law states, property titled to one spouse or acquired by one spouse individually during marriage. 3. Property acquired during the marriage in exchange for separate property (in sense 1 or sense 2). [Cases: Divorce 252.3(3). C.J.S. Divorce §§ 521–525.]

SEPARATE-PROPERTY STATE

separate-property state. See COMMON-LAW STATE(2).

SEPARATE RETURN

separate return. See TAX RETURN.

SEPARATE-SOVEREIGNS RULE

separate-sovereigns rule. Criminal procedure. The principle that a person may be tried twice for the same offense — despite the Double Jeopardy Clause — if the prosecutions are conducted by separate sovereigns, as by the federal government and a state government or by two different states. See DOUBLE JEOPARDY . [Cases: Double Jeopardy 183. C.J.S. Criminal Law § 254.]

SEPARATE-SPHERES DOCTRINE

separate-spheres doctrine.Hist. Family law. The common-law doctrine that wives were limited to control of the home — the personal or domestic sphere — and that husbands had control of the public sphere. • Under this early-19th-century doctrine, the wife was to tend to the home and family and the husband was to be the breadwinner. — Also termed doctrine of separate spheres.

SEPARATE SUPPORT

separate support.See separate maintenance under MAINTENANCE.

SEPARATE TRADING OF REGISTERED INTEREST AND PRINCIPAL OF SECURITIES

separate trading of registered interest and principal of securities.A treasury security by which the owner receives either principal or interest, but usu. not both. — Abbr. STRIP.

SEPARATE TRIAL

separate trial.See TRIAL.

SEPARATIM

separatim (sep-<<schwa>>-ray-tim). [Latin] Hist. Severally. • This term referred to the formation of several covenants in a deed.

SEPARATIO

separatio (sep-<<schwa>>-ray-shee-oh), n. See FRUCTUS(1).

SEPARATIO BONORUM

separatio bonorum.See BENEFICIUM SEPARATIONIS.

SEPARATION

separation. 1. An arrangement whereby a husband and wife live apart from each other while remaining married, either by mutual consent (often in a written agreement) or by judicial decree; the act of carrying out such an arrangement. — Also termed separation from bed and board. See divorce a mensa et thoro under DIVORCE. [Cases: Divorce 155; Husband and Wife 277. C.J.S. Divorce §§ 223–225.] 2. The status of a husband and wife's having begun such an arrangement, or the judgment or contract that brought about the arrangement. — Also termed (in both senses) legal separation; judicial separation. 3. Cessation of a contractual relationship, esp. in an employment situation. — separate,vb.

SEPARATION AGREEMENT

separation agreement. 1. An agreement between spouses in the process of a divorce or legal separation concerning alimony, maintenance, property division, child custody and support, and the like. — Also termed separation order (if approved or sanctioned judicially). See temporary order under ORDER. 2.DIVORCE AGREEMENT. [Cases: Husband and Wife 277.]

SEPARATION A MENSA ET THORO

separation a mensa et thoro. See divorce a mensa et thoro under **DIVORCE**.

SEPARATION FROM BED AND BOARD

separation from bed and board. 1. **SEPARATION**(1). 2. See divorce a mensa et thoro under **DIVORCE**.

SEPARATION OF PATRIMONY

separation of patrimony. Civil law. The act of providing creditors of a succession the right to collect against the class of estate property from which the creditors should be paid, by separating certain succession property from property rights belonging to the heirs. [Cases: Descent and Distribution 137. C.J.S. Descent and Distribution § 123.]

SEPARATION OF POWERS

separation of powers. The division of governmental authority into three branches of government — legislative, executive, and judicial — each with specified duties on which neither of the other branches can encroach; the constitutional doctrine of checks and balances by which the people are protected against tyranny. Cf. **DIVISION OF POWERS**. [Cases: Constitutional Law 50–80(4). C.J.S. Constitutional Law §§ 54, 58–59, 111–227, 441.]

“[T]he doctrine of the separation of powers was adopted by the convention of 1787 not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction, but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy.” Justice Louis Brandeis (as quoted in Roscoe Pound, *The Development of Constitutional Guarantees of Liberty* 94 (1957)).

“Although in political theory much has been made of the vital importance of the separation of powers, it is extraordinarily difficult to define precisely each particular power. In an ideal state we might imagine a legislature which had supreme and exclusive power to lay down general rules for the future without reference to particular cases; courts whose sole function was to make binding orders to settle disputes between individuals which were brought before them by applying these rules to the facts which were found to exist; an administrative body which carried on the business of government by issuing particular orders or making decisions of policy within the narrow confines of rules of law that it could not change. The legislature makes, the executive executes, and the judiciary construes the law.” George Whitecross Paton, *A Textbook of Jurisprudence* 330 (G.W. Paton & David P. Derham eds., 4th ed. 1972).

“Separation of powers means something quite different in the European context from what it has come to mean in the United States.... Separation of powers to an American evokes the familiar system of checks and balances among the three coordinate branches of government — legislative, executive, and judiciary — each with its independent constitutional basis. To a European, it is a more rigid doctrine and inseparable from the notion of legislative supremacy.” Mary Ann Glendon et al., *Comparative Legal Traditions* 67 (1994).

SEPARATION OF WITNESSES

separation of witnesses. The exclusion of witnesses (other than the plaintiff and defendant) from the courtroom to prevent them from hearing the testimony of others. [Cases: Criminal Law 665; Federal Civil Procedure 2012; Trial 41. C.J.S. Criminal Law § 1195; Trial § 155.]

SEPARATION ORDER

separation order. 1. SEPARATION AGREEMENT. 2. ORDER(2).

SEPARATION PAY

separation pay. See SEVERANCE PAY.

SEPARATIO TORI

separatio tori (sep-*<<schwa>>*-ray-shee-oh tor-I). [Law Latin] Hist. A separation of the marriage bed. See A MENSA ET THORO.

SEPARATOR

separator, n. Oil & gas. Equipment used at a well site to separate oil, water, and gas produced in solution with oil. • Basic separators simply heat oil to speed the natural separation process. More complex separators may use chemicals.

SEPARATUM TENEMENTUM

separatum tenementum (sep-*<<schwa>>*-ray-t*<<schwa>>*m ten-*<<schwa>>*-men-t*<<schwa>>*m). [Law Latin] Hist. A separate tenement.

SEP-IRA

SEP-IRA. See simplified employee pension plan under EMPLOYEE BENEFIT PLAN.

SEQUATUR SUB SUO PERICULO

sequatur sub suo periculo (si-kway-t*<<schwa>>*r s*<<schwa>>*b s[y]oo-oh p*<<schwa>>*-rik-[y]*<<schwa>>*-loh), n. [Law Latin “let him follow at his peril”] Hist. A writ available when a sheriff returned nihil to several summonses; specif., a writ issued after the sheriff returned nihil to a warrant ad warrantizandum and following an alias and a pluries writ. See SICUT ALIAS.

SEQUELA

sequela (si-kwee-l*<<schwa>>*), n. [Latin “that which follows”] Hist. Suit; process, as in sequela curiae (“a suit of court”) and sequela causae (“the process of a cause”). Pl. sequelae (si-kwee-lee).

SEQUELA VILLANORUM

sequela villanorum (si-kwee-l*<<schwa>>* vil-*<<schwa>>*-nor-*<<schwa>>*m). [Law Latin] Hist. The family and appurtenances to a villein's goods, which were at the lord's disposal.

SEQUENCE LISTING

sequence listing. Patents. A description of the nucleotide or amino-acid chain in a biotechnological invention.

SEQUENTIAL JOURNAL

sequential journal. See JOURNAL OF NOTARIAL ACTS.

SEQUENTIAL MARRIAGE

sequential marriage. See BIGAMY(2).

SEQUESTER

sequester (si-kwes-t<<schwa>>r), n. 1. An across-the-board cut in government spending. [Cases: States 121. C.J.S. States §§ 203, 223.] 2. A person with whom litigants deposit property being contested until the case has concluded; a sequestrator.

sequester, vb. 1. To seize (property) by a writ of sequestration. [Cases: Sequestration 15. C.J.S. Sequestration §§ 15–30.] 2. To segregate or isolate (a jury or witness) during trial. 3. Eccles. law. To excommunicate. — Also (erroneously) termed sequestrate. See (in sense 3) EXCOMMUNICATION. [Cases: Criminal Law 665, 854; Trial 41, 303. C.J.S. Criminal Law §§ 1195, 1363; Trial §§ 155, 774.]

SEQUESTERED ACCOUNT

sequestered account. See ACCOUNT.

SEQUESTERER

sequesterer. See SEQUESTRATOR.

SEQUESTRARI FACIAS

sequestrari facias (see-kwes-trair-Ifay-shee-<<schwa>>s), n. [Law Latin “you are to cause to be sequestered”] Hist. Eccles. law. A process to enforce a judgment against a clergyman in a benefice, by which the bishop was ordered to sequester a church's rents, tithes, or other profits until the debt was paid.

SEQUESTRATE

sequestrate, vb. See SEQUESTER.

SEQUESTRATIO

sequestratio (see-kwes-tray-shee-oh), n. [Latin] Roman law. The depositing of an object in dispute with a holder, the sequester, either voluntarily or by court order. Pl. sequestrationes (see-kwes-tray-shee-oh-nee-z).

SEQUESTRATION

sequestration (see-kwes-tray-sh<<schwa>>n), n. 1. The process by which property is removed

from the possessor pending the outcome of a dispute in which two or more parties contend for it. Cf. ATTACHMENT(1); GARNISHMENT. [Cases: Sequestration 1. C.J.S. Sequestration §§ 2–3, 5.]

conventional sequestration. The parties' voluntary deposit of the property at issue in a lawsuit.

judicial sequestration. The court-ordered deposit of the property at issue in a lawsuit. [Cases: Sequestration 1. C.J.S. Sequestration §§ 2–3, 5.]

2. The setting apart of a decedent's personal property when no one has been willing to act as a personal representative for the estate. 3. The process by which a renounced interest is subjected to judicial management and is distributed as the testator would have wished if he or she had known about the renunciation. 4. A judicial writ commanding the sheriff or other officer to seize the goods of a person named in the writ. • This writ is sometimes issued against a civil defendant who has defaulted or has acted in contempt of court. [Cases: Sequestration 13. C.J.S. Sequestration § 14.] 5. The court-ordered seizure of a bankrupt's estate for the benefit of creditors. 6. Int'l law. The seizure by a belligerent power of enemy assets. [Cases: War and National Emergency 12. C.J.S. War and National Defense §§ 8, 13, 16–22, 84–85.] 7. The freezing of a government agency's funds; SEQUESTER(1). [Cases: States 121. C.J.S. States §§ 203, 223.] 8. Custodial isolation of a trial jury to prevent tampering and exposure to publicity, or of witnesses to prevent them from hearing the testimony of others. — Also termed (in sense 8) jury sequestration. [Cases: Criminal Law 665, 854; Trial 303. C.J.S. Criminal Law §§ 1195, 1363; Trial § 774.]

SEQUESTRATION FOR RENT

sequestration for rent. Scots law. A landlord's remedy to recover up to one year's unpaid rent by seizing and selling, under court order, the tenant's personal property. Cf. DISTRESS.

SEQUESTRATOR

sequestrator (see-kwes-tray-t<<schwa>>r). 1. An officer appointed to execute a writ of sequestration.

“[A] sequestrator was an officer of the Court of Chancery acting under the order of that court in seizing property. The law courts appear, however, to have held that the holder of the property could resist seizure by the officer of the Court of Chancery, and indeed kill that officer if necessary to prevent the seizure. And if he killed the officer, he would not be held guilty of murder because the Court of Chancery was an illegal tribunal or its decrees were illegal, and could not justify an officer in seizing the property mentioned in the order.” Charles Herman Kinnane, *A First Book on Anglo-American Law* 306 (2d ed. 1952).

2. A person who holds property in sequestration. — Also termed sequesterer. [Cases: Sequestration 14. C.J.S. Sequestration § 17.]

SEQUESTRO HABENDO

sequestro habendo (si-kwes-troh h<<schwa>>-ben-doh), n. [Law Latin] Hist. Eccles. law. A writ from the sovereign to the bishop ordering the discharge of the sequestration of a benefice's

profits.

SERENDIPITY DOCTRINE

serendipity doctrine.Criminal procedure. The principle that all evidence discovered during a lawful search is eligible to be admitted into evidence at trial. [Cases: Criminal Law 394.1(1). C.J.S. Criminal Law §§ 770–771.]

SERF

serf.Hist. A person in a condition of feudal servitude, bound to labor at the will of a lord; a villein. • Serfs differed from slaves in that they were bound to the native soil rather than being the absolute property of a master.

“As the categories became indistinct, the more abject varieties of slavery disappeared and in the twelfth century the word ‘villein’ became the general term for unfree peasants. ‘Serf’ did not become a legal term of art, and in so far as it remained in use it did not connote a status lower than that of villein. The merger was to the detriment of the villani, but it ensured that full slavery was not received as part of the common law.” J.H. Baker, *An Introduction to English Legal History* 532 (3d ed. 1990).

SERGEANT

sergeant. 1.Hist. A person who is not a knight but holds lands by tenure of military service. 2.Hist. A municipal officer performing duties for the Crown. 3.Hist. A bailiff. 4.SERGEANT-AT-ARMS. 5. A noncommissioned officer in the armed forces ranking a grade above a corporal. 6. An officer in the police force ranking below a captain or lieutenant. — Also spelled serjeant. [Cases: Municipal Corporations 180(2). C.J.S. Municipal Corporations §§ 476–477.]

SERGEANT-AT-ARMS

sergeant-at-arms. 1.Hist. An armed officer attending a sovereign. 2. An officer the Crown assigns to attend a session of Parliament. 3. A legislative officer charged with maintaining order and serving notices and process on behalf of the legislative body and its committees. [Cases: States 32.C.J.S. States §§ 48–50.] 4.Parliamentary law. An officer charged with helping keep order in a meeting under the chair's direction. — Also spelled (in senses 1, 2 & 4) serjeant-at-arms. — Also termed (in sense 4) warden; warrant officer.

SERGEANTRY

sergeantry. See SERJEANTY.

SERGEANT SCHULTZ DEFENSE

Sergeant Schultz defense.Slang. An assertion by a criminal or civil defendant who claims that he or she was not an active participant in an alleged scheme or conspiracy, and that he or she knew nothing, saw nothing, and heard nothing. • This defense is named after a character from the television series *Hogan's Heroes*, in which Sergeant Schultz, a German guard in charge of

prisoners of war during World War II, would avoid responsibility for the prisoners' schemes by proclaiming that he saw nothing and knew nothing. [Cases: Criminal Law 31.5. C.J.S. Criminal Law § 87.]

SERIAL BOND

serial bond. See BOND(3).

SERIAL CONSIDERATION

serial consideration. See consideration *seriatim* under CONSIDERATION(2).

SERIAL MURDER

serial murder. See MURDER.

SERIAL NOTE

serial note. See installment note under NOTE(1).

SERIAL NUMBER

serial number. 1. A number assigned to a specific thing, esp. a product, to identify it from other things of the same kind. • While serial numbers are usu. assigned in numerical order, they may also be random. 2. Patents. An identifying number assigned to a completed patent application. • The serial number is assigned when the application is received or completed. See APPLICATION NUMBER.

SERIAL POLYGAMY

serial polygamy. See POLYGAMY(2).

SERIAL RIGHT

serial right. The right of publication; esp., a right reserved in a publishing contract giving the author or publisher the right to publish the manuscript in installments (as in a magazine) before or after the publication of the book. [Cases: Copyrights and Intellectual Property 38. C.J.S. Copyrights and Intellectual Property §§ 20, 40, 59.]

SERIAL VIOLATION

serial violation. Civil-rights law. The practice by an employer of committing a series of discriminatory acts against an employee, all of which arise out of the same discriminatory intent or animus. • Such a series of discriminatory acts will usu. be considered a continuing violation. For a claim on the violation to be timely, at least one of the discriminatory acts must fall within the time permitted to assert the claim (e.g., 300 days for a Title VII claim). Cf. SYSTEMATIC VIOLATION. [Cases: Civil Rights 1505(7). C.J.S. Civil Rights §§ 159, 165.]

SERIATIM

seriatim (seer-ee-ay-tim), adj. Occurring in a series.

seriatim,adv.[Latin] One after another; in a series; successively <the court disposed of the issues seriatim>. — Also termed seriatly (seer-ee-<<schwa>>t-lee). See consideration seriatim under CONSIDERATION.

SERIATIM OPINIONS

seriatim opinions.See OPINION(1).

SERIES BONDS

series bonds.See BOND(3).

SERIES CODE

series code.Patents & trademarks. A numerical designation assigned to any of a group of applications for patent or trademark registration filed in the U.S. Patent and Trademark Office. • The series code is part of an application number and is followed by a slash. For example, if the application number is 09/445,323, then 09 is the series code, and the application is the 445,323d application in that batch. For ordinary patent applications, series codes are assigned for a group of applications filed during a particular period. Nonprovisional patent applications are assigned series codes from 01 to 10, depending on the period during which an application was filed. The series code for design applications is 29, for provisional applications 60, and for reexamination proceedings 90. For trademark applications, the series code usu. begins with numbers from 70 to 75. — Also termed batch number.

SERIES RERUM JUDICATARUM

series rerum judicatarum (seer-<<schwa>>-eez orseer-eez reer-<<schwa>>m joo-di-k<<schwa>>-tor-<<schwa>>m). [Law Latin] Scots law. A succession of decisions deciding a particular principle, as a result of which a precedent has been established.

SERIOUS

serious,adj.1. (Of conduct, opinions, etc.) weighty; important <serious violation of rules>.2. (Of an injury, illness, accident, etc.) dangerous; potentially resulting in death or other severe consequences <serious bodily harm>.

SERIOUS AND WILLFUL MISCONDUCT

serious and willful misconduct.Workers' compensation. An intentional act performed with the knowledge that it is likely to result in serious injury or with a wanton and reckless disregard of its probable consequences. [Cases: Workers' Compensation 774. C.J.S. Workmen's Compensation §§ 473–474.]

SERIOUS BODILY HARM

serious bodily harm.See serious bodily injury under INJURY.

SERIOUS BODILY INJURY

serious bodily injury.See INJURY.

SERIOUS CRIME

serious crime. 1. See serious offense under OFFENSE(1).2.FELONY(1).

SERIOUS FELONY

serious felony.See FELONY.

SERIOUS HEALTH CONDITION

serious health condition.Under the Family and Medical Leave Act, an illness, injury, or physical or mental state that involves inpatient care or continuing treatment by a healthcare provider for several days. • Excluded from the definition are cosmetic treatments and minor illnesses that are not accompanied by medical complications.

SERIOUS ILLNESS

serious illness.Insurance. A disorder that permanently or materially impairs, or is likely to permanently or materially impair, the health of the insured or an insurance applicant. [Cases: Insurance 3003(9).]

SERIOUSLY HARMFUL BEHAVIOR

seriously harmful behavior.See HARMFUL BEHAVIOR.

SERIOUS MISDEMEANOR

serious misdemeanor.See MISDEMEANOR.

SERIOUS OFFENSE

serious offense.See OFFENSE(1).

SERJEANT

serjeant. 1.SERGEANT. 2.SERJEANT-AT-LAW.

SERJEANT-AT-ARMS

serjeant-at-arms. See SERGEANT-AT-ARMS.

SERJEANT-AT-LAW

serjeant-at-law.Hist. English law. A barrister of superior grade; one who had achieved the highest degree of the legal profession, having (until 1846) the exclusive privilege of practicing in the Court of Common Pleas. • Every judge of the common-law courts was required to be a serjeant-at-law until the Judicature Act of 1873. The rank was gradually superseded by that of Queen's Counsel. — Often shortened to serjeant. — Also termed serjeant at the law; serjeant of the law; serjeant of the coif; serviens narrator.

premier serjeant.The serjeant given the primary right of preaudience by royal letters patent. — Also termed prime serjeant. See PREAUDIENCE.

SERJEANTS' INN

Serjeants' Inn.Hist. A building on Chancery Lane, London, that housed the Order of Serjeants-at-Law. • The building was sold and demolished in 1877.

SERJEANTY

serjeanty (sahr-j<<schwa>>n-tee).Hist. A feudal lay tenure requiring some form of personal service to the king. • The required service was not necessarily military. Many household officers of the Crown, even those as humble as bakers and cooks, held lands in serjeanty. — Also spelled sergeanty. — Also termed sergeantry.

grand serjeanty.Hist. Serjeanty requiring the tenant to perform a service relating to the country's defense. • The required service could be as great as fielding an army or as small as providing a fully equipped knight. Sometimes the service was ceremonial or honorary, such as carrying the king's banner or serving as an officer at the coronation.

petit serjeanty (pet-ee).Hist. Serjeanty requiring only a minor service of small value, usu. with military symbolism. • Examples include presenting an arrow or an unstrung bow to the king.

SERMENT

serment (s<<schwa>>r-m<<schwa>>nt).Hist. An oath.

SEROLOGICAL TEST

serological test (seer-<<schwa>>-loj-<<schwa>>-k<<schwa>>l). A blood examination to detect the presence of antibodies and antigens, as well as other characteristics, esp. as indicators of disease. • Many states require serological tests to determine the presence of venereal disease in a couple applying for a marriage license. See BLOOD TEST.

SERPENTINE VOTE

serpentine vote.See VOTE(4).

SERVA ALIENA

serva aliena.See SERVUS.

SERVAGE

servage (s<<schwa>>r-vij).Hist. A feudal service that a serf was required to perform for the lord or else pay the equivalent value in kind or money.

SERVANT

servant. A person who is employed by another to do work under the control and direction of the employer. • A servant, such as a full-time employee, provides personal services that are integral to an employer's business, so a servant must submit to the employer's control of the servant's time and behavior. See EMPLOYEE. Cf. MASTER(1). [Cases: Master and Servant 1.C.J.S. Apprentices §§ 2, 11; Employer–Employee Relationship §§ 2–3, 6–12.]

“A servant, strictly speaking, is a person who, by contract or operation of law, is for a limited period subject to the authority or control of another person in a particular trade, business or occupation The word servant, in our legal nomenclature, has a broad significance, and embraces all persons of whatever rank or position who are in the employ, and subject to the direction or control of another in any department of labor or business. Indeed it may, in most cases, be said to be synonymous with employee.” H.G. Wood, *A Treatise on the Law of Master and Servant* § 1, at 2 (2d ed. 1886).

fellow servant. See FELLOW SERVANT.

indentured servant. Hist. A servant who contracted to work without wages for a fixed period in exchange for some benefit, such as learning a trade or cancellation of a debt or paid passage to another country, and the promise of freedom when the contract period expired. • Indentured servitude could be voluntary or involuntary. A contract usu. lasted from four to ten years, but the servant could terminate the contract sooner by paying for the unexpired time. Convicts transported to the colonies were often required to serve as indentured servants as part of their sentences.

SERVE

serve, vb. 1. To make legal delivery of (a notice or process) <a copy of the pleading was served on all interested parties>. 2. To present (a person) with a notice or process as required by law <the defendant was served with process>. [Cases: Federal Civil Procedure 411; Process 48. C.J.S. Process §§ 26, 33, 49.]

SERVICE

service, n. 1. The formal delivery of a writ, summons, or other legal process < after three attempts, service still had not been accomplished>. — Also termed service of process. [Cases: Federal Civil Procedure 411–518; Process 48–150. C.J.S. Process §§ 26–91.] 2. The formal delivery of some other legal notice, such as a pleading <be sure that a certificate of service is attached to the motion>. [Cases: Federal Civil Procedure 665.]

actual service. See PERSONAL SERVICE(1).

constructive service. 1. See substituted service. 2. Service accomplished by a method or circumstance that does not give actual notice.

personal service. See PERSONAL SERVICE(1).

service by publication. The service of process on an absent or nonresident defendant by publishing a notice in a newspaper or other public medium. [Cases: Federal Civil Procedure 414; Process 84–111. C.J.S. Process §§ 58–73, 76.]

sewer service. The fraudulent service of process on a debtor by a creditor seeking to obtain a default judgment.

substituted service. Any method of service allowed by law in place of personal service, such as service by mail. — Also termed constructive service. [Cases: Federal Civil Procedure 414; Process 69–83. C.J.S. Process §§ 50–57, 73–75.]

3. The act of doing something useful for a person or company for a fee <your services were no longer required>.

personal service. See PERSONAL SERVICE(2).

4. A person or company whose business is to do useful things for others <a linen service>.

civil service. See CIVIL SERVICE.

salvage service. See SALVAGE SERVICE.

5. An intangible commodity in the form of human effort, such as labor, skill, or advice <contract for services>. [Cases: Contracts 190. C.J.S. Contracts § 341.]

service, vb. To provide service for; specif., to make interest payments on (a debt) <service the deficit>.

SERVICE BY PUBLICATION

service by publication. See SERVICE(2).

SERVICE CHARGE

service charge. 1. A charge assessed for the performing of a service, such as the charge assessed by a bank against the expenses of maintaining or servicing a customer's checking account. 2. The sum of (1) all charges payable by the buyer and imposed by the seller as an incident to the extension of credit and (2) charges incurred for investigating the collateral or creditworthiness of the buyer or for commissions for obtaining the credit. UCCC § 2.109. — Also termed (in sense 2) credit service charge. [Cases: Consumer Credit 13. C.J.S. Interest and Usury; Consumer Credit §§ 298–299.]

SERVICE CONTRACT

service contract. See CONTRACT.

SERVICE ESTABLISHMENT

service establishment. Under the Fair Labor Standards Act, an establishment that, although having the characteristics of a retail store, primarily furnishes services to the public, such as a barber shop, laundry, or automobile-repair shop.

SERVICE LIFE

service life. The period of the expected usefulness of an asset. • It may or may not coincide with the asset's depreciable life for income-tax purposes.

SERVICEMARK

servicemark. Trademarks. A name, phrase, or other device used to identify and distinguish the services of a certain provider. • Servicemarks identify and afford protection to intangible things such as services, as distinguished from the protection already provided for marks affixed to tangible things such as goods and products. — Abbr. SM. — Often shortened to mark. — Also

spelled service mark; service-mark. Cf. TRADEMARK(1); registered trademark under TRADEMARK. [Cases: Trade Regulation 1–4. C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 2, 4–5, 14–15, 17, 19–23.]

SERVICEMARK APPLICATION

servicemark application. See TRADEMARK APPLICATION.

SERVICE-OCCUPATION TAX

service-occupation tax. See TAX.

SERVICE OF PROCESS

service of process. See SERVICE(1).

SERVIENS NARRATOR

serviens narrator (s<<schwa>>r-vee-enz n<<schwa>>-ray-t<<schwa>>r). See SERJEANT-AT-LAW.

SERVIENT

servient (s<<schwa>>r-vee-<<schwa>>nt), adj. (Of an estate) subject to a servitude or easement. See servient estate under ESTATE(4). [Cases: Easements 1. C.J.S. Easements §§ 2–8, 13–14, 21–22, 24, 53–55, 57–58, 89.]

SERVIENT ESTATE

servient estate. See ESTATE(4).

SERVIENT PROPERTY

servient property. See servient estate under ESTATE(4).

SERVIENT TENANT

servient tenant. See TENANT.

SERVIENT TENEMENT

servient tenement. See servient estate under ESTATE(4).

SERVITIA SOLITA ET CONSUETA

servitia solita et consueta (s<<schwa>>r-vish-ee-<<schwa>> sol-<<schwa>>-t<<schwa>> et k<<schwa>>n-swee-t<<schwa>>). [Law Latin “services used and wont”] Scots law. A common return required by certain charters, usu. implying military service, from a vassal to a lord.

SERVITII PRAESTATIO

servitii praestatio (s<<schwa>>r-vish-ee-I pri-stay-shee-oh). [Law Latin] Hist. The performance of services.

SERVITIIS ACQUIETANDIS

servitiis acquietandis (s<<schwa>>r-vish-ee-is <<schwa>>-kwI-<<schwa>>-tan-dis), n.[Law Latin “for being quit of service”] Hist. A writ exempting a person from performing certain services, either because they are not due or because they are due someone other than the distrainer.

SERVITIUM

servitium (s<<schwa>>r-vish-ee-<<schwa>>m), n.[Latin “service”] Hist. The duty of service; esp., a duty of performance and obedience of a tenant to the lord.

SERVITIUM FEODALE ET PRAEDIALE

servitium feudale et praediale (s<<schwa>>r-vish-ee-<<schwa>>m fee-<<schwa>>-day-lee [or fyoo-day-lee] et pree-dee-ay-lee), n.[Law Latin] Hist. A personal service due only by reason of lands held in fee.

SERVITIUM FORINSECUM

servitium forinsecum (s<<schwa>>r-vish-ee-<<schwa>>m f<<schwa>>-rin-si-k<<schwa>>m), n.[Law Latin] Hist. A service due the king rather than a lord.

SERVITIUM INTRINSECUM

servitium intrinsecum (s<<schwa>>r-vish-ee-<<schwa>>m in-trin-si-k<<schwa>>m), n.[Law Latin] Hist. The ordinary service due from a tenant to the chief lord.

SERVITIUM LIBERUM

servitium liberum (s<<schwa>>r-vish-ee-<<schwa>>m lib-<<schwa>>r-<<schwa>>m), n.[Law Latin] Hist. The service by a free tenant (not a vassal) to the lord, as by attending the lord's court or accompanying the lord into military service. — Also termed liberum servitium; servitium liberum armorum.

SERVITIUM REGALE

servitium regale (s<<schwa>>r-vish-ee-<<schwa>>m ri-gay-lee). [Latin “royal service”] Hist. The right of a lord of a royal manor to settle disputes, make assessments, mint money, and the like.

SERVITIUM SCUTI

servitium scuti (s<<schwa>>r-vish-ee-<<schwa>>m sk[y]oo-tI). [Latin “service of the shield”] Hist. Knight-service.

SERVITIUM SOCAE

servitium socae (s<<schwa>>r-vish-ee-<<schwa>>m soh-see). [Latin “service of the plow”] Hist. Socage.

SERVITOR OF BILLS

servitor of bills (s<<schwa>>r-vi-t<<schwa>>r).Hist. A messenger of the marshal of the

King's Bench, sent out to summon people to court. — Also termed tip-stave.

SERVITUDE

servitude. 1. An encumbrance consisting in a right to the limited use of a piece of land or other immovable property without the possession of it; a charge or burden on an estate for another's benefit <the easement by necessity is an equitable servitude>. • Servitudes include easements, irrevocable licenses, profits, and real covenants. See EASEMENT; LICENSE; PROFIT(2); covenant running with the land under COVENANT(4). [Cases: Easements 1. C.J.S. Easements §§ 2–8, 13–14, 21–22, 24, 53–55, 57–58, 89.] 2. Roman & civil law. The right exercised by a dominant tenement over a servient tenement, either adjoining or neighboring. • This right was perpetual except for personal servitudes; the land, rather than its owner, enjoyed the right. Although a servitude could not be possessed because it was incorporeal, it could be protected by interdict. Generally, a servitude had to be exercised civiliter, with as little inconvenience as possible. There was never a closed list of what constituted a servitude; for example, Justinian classed personal rights in re aliena as personal servitude. See SERVITUS(2).

acquired servitude. A servitude that requires a special mode of acquisition before it comes into existence.

additional servitude. A servitude imposed on land taken under an eminent-domain proceeding for a different type of servitude, as when a highway is constructed on land condemned for a public sidewalk. • A landowner whose land is burdened by an additional servitude is entitled to further compensation.

affirmative servitude. Civil law. See positive servitude.

apparent servitude. Civil law. A servitude appurtenant that is manifested by exterior signs or constructions, such as a roadway. Cf. nonapparent servitude.

continuous servitude. Louisiana law. See continuous easement under EASEMENT. La. Civ. Code art. 646.

conventional servitude. Civil law. A servitude established by agreement or through acquisitive prescription.

discontinuous servitude. See discontinuous easement under EASEMENT.

equitable servitude. See restrictive covenant under COVENANT(4).

landed servitude. See servitude appurtenant.

legal servitude. Civil law. A limitation that the law imposes on the use of an estate for the benefit of the general public or of a particular person or persons. • Examples of legal servitudes are restrictions on certain uses of the shores of navigable rivers, and the obligation of an owner to provide a passage to an enclosed estate.

mineral servitude. Louisiana law. A servitude granting the right to enter another's property to explore for and extract minerals; specif., under the Louisiana Mineral Code, a charge on land in

favor of a person or another tract of land, creating a limited right to use the land to explore for and produce minerals. • The servitude is generally equivalent to the severed mineral interest in a common-law state. [Cases: Mines and Minerals 55. C.J.S. Mines and Minerals §§ 158–160, 169.]

natural servitude. 1. A servitude naturally appurtenant to land, requiring no special mode of acquisition. • An example is the right of land, unencumbered by buildings, to the support of the adjoining land. 2. Civil law. A servitude imposed by law because of the natural situation of the estates. • An example of a natural servitude is a lower estate that is bound to receive waters flowing naturally from a higher estate.

navigation servitude. 1. An easement allowing the federal government to regulate commerce on navigable water without having to pay compensation for interference with private ownership rights. See NAVIGABLE WATER. [Cases: Navigable Waters 2. C.J.S. Navigable Waters §§ 20–21, 23–30, 33.]

“The navigation servitude, because of its link to navigable waters and the protection of navigation, is often confused with the public trust doctrine. The navigation servitude, however, is a paramount federal servitude on navigable waters based on the commerce power rather than on ownership or trust responsibilities.” Donna R. Christie, *Coastal and Ocean Management Law in a Nutshell* 34 (1994).

2. An easement, based on the state police power or public-trust doctrine, that allows a state to regulate commerce on navigable water and provide limited compensation for interference with private ownership rights. • The state servitude is inferior to the federal servitude. [Cases: Navigable Waters 2. C.J.S. Navigable Waters §§ 20–21, 23–30, 33.]

negative servitude. Civil law. A real servitude allowing a person to prohibit the servient landowner from exercising a right. • For example, a negative servitude, such as *jus ne luminibus officiat*, prevents an owner of land from building in a way that blocks light from reaching another person's house.

nonapparent servitude. Civil law. A servitude appurtenant that is not obvious because there are no exterior signs of its existence. • An example is a prohibition against building above a certain height. Cf. apparent servitude.

personal servitude. 1. A servitude granting a specific person certain rights in property. 2. Roman law. A specific person's right over the property of another, regardless of who the owner might be. • A personal servitude lasted for the person's lifetime. 3. Louisiana law. A servitude that benefits a person or an immovable. La. Civ. Code art. 534.

positive servitude. Civil law. A real servitude allowing a person to lawfully do something on the servient landowner's property, such as entering the property. — Also termed affirmative servitude.

predial servitude. See servitude appurtenant.

private servitude. A servitude vested in a particular person. • Examples include a landowner's

personal right-of-way over an adjoining piece of land or a right granted to one person to fish in another's lake.

public servitude. A servitude vested in the public at large or in some class of indeterminate individuals. • Examples include the right of the public to a highway over privately owned land and the right to navigate a river the bed of which belongs to some private person.

real servitude. See servitude appurtenant.

rural servitude. Roman law. A servitude chiefly affecting agricultural land or land in the country. • The four oldest types, iter, actus, via, and aqueductus, were all res mancipi despite being incorporeal. Most rural servitudes were easements, but some were profits. — Also termed rustic servitude; praedium rusticum; jus rusticorum praediorum.

servitude appurtenant. Civil law. A servitude that is not merely an encumbrance of one piece of land but also accessory to another piece; the right of using one piece of land for the benefit of another, such as the right of support for a building. — Also termed real servitude; predial (or praedial) servitude; landed servitude. La. Civ. Code art. 646. [Cases: Easements 3. C.J.S. Easements §§ 4, 10–11, 20.]

servitude in gross. A servitude that is not accessory to any dominant tenement for whose benefit it exists but is merely an encumbrance on a given piece of land. [Cases: Easements 3. C.J.S. Easements §§ 4, 10–11, 20.]

servitude of drip. Louisiana law. A servitude appurtenant that binds the servient estate's owner to maintain a roof so that rainwater does not drip or drain onto the dominant estate. La. Civ. Code art. 664. — Also termed servitude of drip and drain.

servitude of view. Louisiana law. The dominant estate owner's right to enjoy a view through the servient estate and to prevent its obstruction. La. Civ. Code art. 701.

urban servitude. 1. A servitude appertaining to the building and construction of houses in a city, such as the right to light and air. 2. Roman law. A servitude that primarily affects buildings or urban land. • With the exception of oneris ferendi, urban servitudes were passive. They could be affected by planning legislation. — Also termed (in sense 2) praedium urbanum; jus urbanorum praediorum.

3. The condition of being a servant or slave <under the 15th Amendment, an American citizen's right to vote cannot be denied on account of race, color, or previous condition of servitude>. 4. The condition of a prisoner who has been sentenced to forced labor <penal servitude>.

involuntary servitude. The condition of one forced to labor — for pay or not — for another by coercion or imprisonment. [Cases: Constitutional Law 83(2). C.J.S. Constitutional Law §§ 482–486.]

SERVITUDE OF DRIP AND DRAIN

servitude of drip and drain. See servitude of drip under SERVITUDE(2).

SERVITUS

servitus (s<<schwa>>r-vi-t<<schwa>>s), n.[Latin fr. *servire* “to serve”] Roman law. 1. Slavery; bondage. 2. A servitude, usu. a servitude appurtenant as opposed to a personal servitude such as usufruct; an easement. See rural servitude and urban servitude under SERVITUDE(2). Pl. servitutes.

servitus actus (s<<schwa>>r-vi-t<<schwa>>s ak-t<<schwa>>s). [Latin “the servitude of driving cattle”] Roman law. A type of right-of-way; a rural servitude entitling one to walk, ride, or drive animals over another's property.

servitus altius non tollendi (s<<schwa>>r-vi-t<<schwa>>s al-shee-<<schwa>>s non t<<schwa>>-len-dI). [Latin “the servitude of not building higher”] Roman law. An urban servitude allowing a person to prevent a neighbor from building a higher house.

servitus aquae ducendae (s<<schwa>>r-vi-t<<schwa>>s ak-wee d[y]oo-sen-dee). [Latin “the servitude of leading water”] Roman law. A rural servitude allowing one to bring water to property through another's land, as by a canal. — Also termed aquaeductus.

servitus aquae educendae (s<<schwa>>r-vi-t<<schwa>>s ak-wee ee-d[y]oo-sen-dee). [Latin “the servitude of leading off water”] Roman law. An urban servitude entitling a person to discharge water onto another's land.

servitus aquae hauriendae (s<<schwa>>r-vi-t<<schwa>>s ak-wee haw-ree-en-dee). [Latin “the servitude of drawing water”] Roman law. See AQUAEHAUSTUS.

servitus aquaehaustus (s<<schwa>>r-vi-t<<schwa>>s ak-wee-haws-t<<schwa>>s). [Latin “the servitude of drawing water”] Roman law. See AQUAEHAUSTUS.

servitus fluminis (s<<schwa>>r-vi-t<<schwa>>s floo-m<<schwa>>-n<<schwa>>s). [Latin “the servitude of a stream of rainwater”] Roman law. An urban servitude consisting in the right to divert rainwater as opposed to drip (*stillicidium*) onto another's land.

servitus fumi immittendi (s<<schwa>>r-vi-t<<schwa>>s fyoo-mI im-<<schwa>>-ten-dI). [Latin “the servitude of discharging smoke”] Roman law. An urban servitude allowing a person's chimney smoke to be directed over a neighbor's property.

servitus itineris (s<<schwa>>r-vi-t<<schwa>>s I-tin-<<schwa>>-r-is). [Latin “the servitude of way”] See ITER.

servitus luminum (s<<schwa>>r-vi-t<<schwa>>s loo-m<<schwa>>-n<<schwa>>m). [Latin “the servitude of lights”] Roman law. An urban servitude entitling one to receive light from a neighbor's land, as by building windows in a common wall to light a room.

servitus ne luminibus officiatur (s<<schwa>>r-vi-t<<schwa>>s nee loo-min-<<schwa>>-b<<schwa>>s <<schwa>>-fish-ee-ay-t<<schwa>>r). [Latin “the servitude not to hinder light”] Roman law. An urban servitude preventing someone's light from being obstructed by a neighbor's building.

servitus ne prospectui officiator (s<<schwa>>r-vi-t<<schwa>>s nee pr<<schwa>>-spek-too-I <<schwa>>-fish-ee-ay-t<<schwa>>r). [Latin “the servitude not to intercept one's prospect”] Roman law. An urban servitude entitling someone to an unobstructed view.

servitus oneris ferendi (s<<schwa>>r-vi-t<<schwa>>s on-<<schwa>>-ris f<<schwa>>-ren-dI). [Latin “the servitude of bearing weight”] Roman law. The urban servitude allowing a person's building to rest on a neighbor's building, wall, or pillar. See *ONERIS FERENDI*; *JUS ONERIS FERENDI*.

servitus pascendi (s<<schwa>>r-vi-t<<schwa>>s pa-sen-dI). [Latin “the servitude of pasturing”] Roman law. A rural servitude allowing one to pasture cattle on another's land. — Also termed *jus pascendi*.

servitus pecoris ad aquam adpulsum (s<<schwa>>r-vi-t<<schwa>>s pek-<<schwa>>-ris ad ak-w<<schwa>>m ad-p<<schwa>>l-s<<schwa>>m). [Latin “the servitude to drive cattle to water”] Roman law. A rural servitude allowing one to drive cattle to water across another's land.

servitus praedii rustici (s<<schwa>>r-vi-t<<schwa>>s pree-dee-Ir<<schwa>>s-ti-sI). [Latin “the servitude of a country estate”] Roman law. A rural servitude; a servitude attached to land, as in *servitus pecoris ad aquam adpulsum*. Cf. rural servitude under *SERVITUDE(2)*.

servitus praedii urbani (s<<schwa>>r-vi-t<<schwa>>s pree-dee-I <<schwa>>r-bay-nI). [Latin “the servitude of an urban estate”] Roman law. An urban servitude; a servitude attached to a building, as in *servitus oneris ferendi*. See urban servitude under *SERVITUDE(2)*.

servitus praediorum (s<<schwa>>r-vi-t<<schwa>>s pree-dee-or-<<schwa>>m). [Latin “praedial servitude”] Roman law. A burden on one estate for the benefit of another. See servitude appurtenant under *SERVITUDE(2)*.

servitus projiciendi (s<<schwa>>r-vi-t<<schwa>>s pr<<schwa>>-jish-ee-en-dI). [Latin “the servitude of projecting”] Roman law. An urban servitude allowing a projection from one's building into the open space over a neighbor's property.

servitus stillicidii (s<<schwa>>r-vi-t<<schwa>>s stil-<<schwa>>-sid-ee-I). [Latin “the servitude of drip”] Roman law. An urban servitude allowing water to drip from one's house onto the house or ground of a neighbor. Cf. *AQUAE IMMITTENDAE*; *DRIP RIGHTS*.

servitus tigni immittendi (s<<schwa>>r-vi-t<<schwa>>s tig-nI im-<<schwa>>-ten-dI). [Latin “the servitude of letting in a beam”] Roman law. An urban servitude allowing one to insert beams into a neighbor's wall.

servitus viae (s<<schwa>>r-vi-t<<schwa>>s vI-ee). [Latin “the servitude of road way”] Roman law. A rural servitude allowing a right-of-way over another's land. See *VIA(2)*.

SERVUS

servus (s<<schwa>>r-v<<schwa>>s), n.[Latin] 1.Roman law. A slave; a human being who was property, and could be bought, sold, pledged, and testated. • A Roman slave who was formally freed became a Roman citizen. Cf. *INGENUUS*; *LATINI JUNIANI*; *LIBERTINII*. 2.Hist. A

bondman; a servant.

SESS

sess,n. See CESS.

SESSIO

sessio (sesh-ee-oh), n.[Latin “a sitting”] Hist. A session; a sitting, as in sessio parliamenti (“the sitting of Parliament”).

SESSION

session. 1.Parliamentary law. A meeting or series of related meetings throughout which a court, legislature, or other deliberative assembly conducts business in a continuing sequence <the court's spring session>. — Also termed (for a court) sitting. See TERM(5).

“Parliament have three modes of separation, to wit, by adjournment, by prorogation, or dissolution by the king, or by the efflux of the term for which they were elected. Prorogation or dissolution constitutes there what is called a session, provided some act has passed. In this case all matters depending before them are discontinued, and at their next meeting are to be taken up de novo, if taken up at all. Adjournment, which is by themselves, is no more than a continuance of the session from one day to another, or for a fortnight, a month, &c. ad libitum. All matters depending remain in statu quo, and when they meet again, be the term ever so distant, are resumed without any fresh commencement, at the point at which they were left. Their whole session is considered in law but as one day, and has relation to the first day thereof.” Thomas Jefferson, *A Manual of Parliamentary Practice* 127–28 (1801) (citations omitted).

biennial session.A legislative session held every two years. • Most state legislatures have biennial sessions, usu. held in odd-numbered years. [Cases: States 32. C.J.S. States §§ 48–50.]

closed session. 1. See executive session. 2. A session to which parties not directly involved are not admitted. 3.Military law. A period during a court-martial when the members (or the judge, if trial is before a military judge) deliberate alone. — Also termed closed court. [Cases: Military Justice 1222, 1270. C.J.S. Military Justice §§ 360, 379.]

executive session.A meeting, usu. held in secret, that only the members and invited nonmembers may attend. • The term originated in the United States Senate, which until 1929 sat behind closed doors when it advised the President about executive business such as appointments and treaties. — Also termed closed session; secret session. [Cases: Administrative Law and Procedure 124. C.J.S. Public Administrative Law and Procedure § 19.]

“Virtually all open meeting statutes expressly authorize the use of executive sessions, typically specifying the particular circumstances in which executive sessions are permitted. When the specific circumstances are specified, generally no other exceptions are permitted Use of the executive session to discuss matters not properly hidden from the public is a clear violation of the open meeting law. Many states expressly or implicitly forbid use of the executive session as a subterfuge to defeat the purposes of the open meeting law.” Ann Taylor Schwing, *Open Meeting*

Laws§ 7.1, at 357, 359 (2d ed. 2000).

extraordinary session.See special session.

extra session.See special session.

joint session.The combined meeting of two legislative bodies (such as the House of Representatives and the Senate) to pursue a common agenda. [Cases: United States 18. C.J.S. United States §§ 29, 31.]

“When the two houses meet in a joint session, they, in effect, merge into one house where the quorum is a majority of the members of both houses, where the votes of members of each house have equal weight, and where special rules can be adopted to govern joint sessions or they can be governed by the parliamentary common law.” National Conference of State Legislatures, *Mason's Manual of Legislative Procedure* § 782, at 573 (2000).

lame-duck session.A post-election legislative session in which some of the participants are voting during their last days as elected officials. See LAME DUCK. [Cases: States 32. C.J.S. States §§ 48–50.]

open session. 1. A session to which parties not directly involved are admitted. — Also termed public session. 2.Military law. The period during a court-martial in which all participants are in the courtroom. • Generally, the public may attend a court-martial's open session. [Cases: Military Justice 1210.1, 1222. C.J.S. Military Justice § 360.]

plenary session.A meeting of all the members of a deliberative assembly, not just a committee.

pro forma session.A legislative session held not to conduct business but only to satisfy a constitutional provision that neither house may adjourn for longer than a certain time (usu. three days) without the other house's consent.

public session.See open session (1).

quarter session. 1.English law. The meetings held four times a year by a county's justices of the peace to transact business, including trying certain criminal and civil matters as specified by statute. • The quarter sessions were abolished in 1971 and replaced by the Crown Court system. 2.Scots law. A meeting formerly held four times a year by the justices to review criminal sentences. — Abbr. Q.S.

regular session.A session that takes place at fixed intervals or specified times.

secret session.See executive session.

special session.A legislative session, usu. called by the executive, that meets outside its regular term to consider a specific issue or to reduce backlog. — Also termed extra session; extraordinary session. [Cases: States 32. C.J.S. States §§ 48–50.]

2. The period within any given day during which such a body is assembled and performing its duties <court is in session>. • The terms “meeting” and “session” have opposite but sometimes

interchangeable meanings. An organization's annual convention may consist of several consecutive meetings that it calls "sessions," such as a morning session and an afternoon session, or a Friday session and a Saturday session, which are technically meetings rather than sessions. Likewise, the organization may call its convention an "annual meeting," which technically comprises several meetings that constitute a single session. Cf. MEETING. 3. A trading day in a stock market.

triple witching session. A stock-market session on the third Friday in March, June, September, and December during which stock options, index options and futures contracts all expire. • Stock-market volatility and share volume are often high on these days.

SESSION LAWS

session laws. 1. A body of statutes enacted by a legislature during a particular annual or biennial session. 2. The softbound booklets containing these statutes. — Also termed acts of assembly; blue books; sheet acts.

SESSIONS

sessions. See COURT OF GENERAL QUARTER SESSIONS OF THE PEACE.

SET-ASIDE

set-aside, n. Something (such as a percentage of funds) that is reserved or put aside for a specific purpose.

SET ASIDE

set aside, vb. (Of a court) to annul or vacate (a judgment, order, etc.) <the judge refused to set aside the default judgment>. [Cases: Federal Civil Procedure 2441, 2641; Judgment 135, 336. C.J.S. Judgments §§ 305, 331, 333, 350, 376, 408.]

SETBACK

setback, n. Real estate. The minimum amount of space required between a lot line and a building line <a 12-foot setback>. • Typically contained in zoning ordinances or deed restrictions, setbacks are designed to ensure that enough light and ventilation reach the property and to keep buildings from being erected too close to property lines. [Cases: Zoning and Planning 64, 252. C.J.S. Zoning and Land Planning §§ 50, 117.]

SET DOWN

set down, vb. To schedule (a case) for trial or hearing, usu. by making a docket entry.

SE TE FECERIT SECURUM

se te fecerit securum (see tee fes-<<schwa>>r-it si-kyoor-<<schwa>>m). [Latin] See SI FECERIT TE SECURUM.

SET FORTH

set forth. See SET OUT.

SETI

seti (set-ee). Mining law. A lease.

SET OF EXCHANGE

set of exchange. Commercial law. A single bill of lading drawn in a set of parts, each of which is valid only if the goods have not been delivered against any other part. • Bills may be drawn in duplicate or triplicate, the first part being “first of exchange,” the second part being “second of exchange,” and so on. When one part has been paid, the other parts become void.

SETOFF

setoff, n. 1. A defendant's counterdemand against the plaintiff, arising out of a transaction independent of the plaintiff's claim. [Cases: Federal Civil Procedure 772; Set-off and Counterclaim 8. C.J.S. Set-off and Counterclaim §§ 3, 6.] 2. A debtor's right to reduce the amount of a debt by any sum the creditor owes the debtor; the counterbalancing sum owed by the creditor. — Also written set-off. — Also termed (in civil law) compensation; stoppage. See COUNTERCLAIM; OFFSET. Cf. RECOUPMENT(3). [Cases: Banks and Banking 134; Set-off and Counterclaim 8. C.J.S. Banks and Banking §§ 301–305, 312–313, 316; Set-off and Counterclaim §§ 3, 6.] 3. The balancing of mutual liabilities with respect to a pledge relationship. — set off, vb.

“Set-off signifies the subtraction or taking away of one demand from another opposite or cross demand, so as to distinguish the smaller demand and reduce the greater by the amount of the less; or, if the opposite demands are equal, to extinguish both. It was also, formerly, sometimes called stoppage, because the amount to be set-off was stopped or deducted from the cross demand.” Thomas W. Waterman, *A Treatise on the Law of Set-Off, Recoupment, and Counter Claim* § 1, at 1 (2d ed. 1872).

“Before considering the counter-claim, a brief reference to ‘the set-off’ as known in former practice is necessary. By the common law, the setting off of one demand against another in the same action was unknown. If A had a cause of action in debt against B, and B had another cause of action in debt in equal amount against A, each must bring his action. One could not be set off against the other. This was changed by statute in England in 1729, by a provision which, somewhat enlarged and modified, has been generally adopted in this country.” Edwin E. Bryant, *The Law of Pleading Under the Codes of Civil Procedure* 250–51 (2d ed. 1899).

“Set-off is defined to be a counter-demand, generally of a liquidated debt growing out of an independent transaction for which an action might be maintained by the defendant against the plaintiff.” Eugene A. Jones, *Manual of Equity Pleading and Practice* 65 n.42 (1916).

SET OUT

set out, vb. To recite, explain, narrate, or incorporate (facts or circumstances) <set out the terms of the contract>. — Also termed set forth.

SET OVER

set over,vb. To transfer or convey (property) <to set over the land to the purchaser>.

SETTING

setting,n. The date and time established by a court for a trial or hearing < the plaintiff sought a continuance of the imminent setting>. [Cases: Federal Civil Procedure 1991; Trial 6, 9. C.J.S. Trial §§ 31–38, 60.]

special setting.A preferential setting on a court's calendar, usu. reserved for older cases or cases given priority by law, made either on a party's motion or on the court's own motion. • For example, some jurisdictions authorize a special setting for cases involving a party over the age of 70. — Also termed special trial setting; trial-setting preference. [Cases: Trial 13. C.J.S. Trial §§ 77, 81–90.]

SETTLED ESTATE

settled estate.See ESTATE(1).

SETTLED INSANITY

settled insanity.See DELIRIUM TREMENS.

SETTLED LAND

settled land.See LAND.

SETTLEMENT

settlement,n.1. The conveyance of property — or of interests in property — to provide for one or more beneficiaries, usu. members of the settlor's family, in a way that differs from what the beneficiaries would receive as heirs under the statutes of descent and distribution <in marriage settlements, historically, the wife waived her right to claim dower or to succeed to her husband's property>. [Cases: Executors and Administrators 515. C.J.S. Executors and Administrators § 794.]

strict settlement.Hist. A property settlement that aimed to keep the estate within the family by creating successive interests in tail and shielding remainders from destruction by the interposition of a trust. Cf. trader's settlement.

trader's settlement.Hist. A property settlement in which the land is put into a trust for sale, the proceeds to be either paid out to beneficiaries over time or divided among the settlor's heirs. Cf. strict settlement.

voluntary settlement.A property settlement made without valuable consideration — other than love and affection — from the beneficiary.

2. An agreement ending a dispute or lawsuit <the parties reached a settlement the day before trial>. [Cases: Compromise and Settlement 1. C.J.S. Compromise and Settlement § 1.]

derivative settlement. 1. The negotiated outcome of a derivative action. See DERIVATIVE ACTION. 2. A person's legal-residence status that is acquired through another person, as with a child through one or both parents.

final settlement. A court order discharging an executor's duties after an estate's execution. [Cases: Executors and Administrators 512. C.J.S. Executors and Administrators §§ 865, 871.]

full settlement. A settlement and release of all pending claims between the parties. [Cases: Compromise and Settlement 1. C.J.S. Compromise and Settlement § 1.]

judicial settlement. The settlement of a civil case with the help of a judge who is not assigned to adjudicate the dispute. • Parties sometimes find this procedure advantageous because it capitalizes on judicial experience in evaluating the settlement value of a claim.

nuisance settlement. A settlement in which the defendant pays the plaintiff purely for economic reasons — as opposed to any notion of responsibility — because without the settlement the defendant would spend more money in legal fees and expenses caused by protracted litigation than in paying the settlement amount. • The money paid in such a settlement is often termed nuisance money.

out-of-court settlement. The settlement and termination of a pending suit, arrived at without the court's participation. [Cases: Compromise and Settlement 1. C.J.S. Compromise and Settlement § 1.]

structured settlement. A settlement in which the defendant agrees to pay periodic sums to the plaintiff for a specified time. [Cases: Compromise and Settlement 2. C.J.S. Compromise and Settlement §§ 1–7.]

“Especially in personal injury and product liability cases, structured settlements — i.e., those which provide for an initial cash payment followed by deferred payments in future years, normally on some annuity basis — are becoming more frequent.... Such a structured settlement may have advantages over a lump-sum cash payment. Deferred payments or arranged settlements may serve particular purposes that a cash settlement could not reach, and there will be instances when a structured settlement will be in lieu of an all-cash settlement that would not be acceptable to one party or the other.” Alba Conte, *Attorney Fee Awards* § 2.31, at 101 (1993).

3. Payment, satisfaction, or final adjustment <the seller shipped the goods after confirming the buyer's settlement of the account>.

viatical settlement (vI-at-*<<schwa>>-k<<schwa>>l*). [fr. Latin *viaticus* “relating to a road or journey”] A transaction in which a terminally or chronically ill person sells the benefits of a life-insurance policy to a third party in return for a lump-sum cash payment equal to a percentage of the policy's face value. • Viatical settlements are common with AIDS patients, many of whom sell their policies at a 20% to 40% discount, depending on life expectancy. When the insured (called the “viator”) dies, the investor receives the insurance benefit. — Also termed life settlement. [Cases: Insurance 1994.]

4.CLOSING <the settlement on their first home is next Friday>.5.Wills & estates. The

complete execution of an estate by the executor <the settlement of the estate was long and complex>. [Cases: Executors and Administrators 502–516. C.J.S. Executors and Administrators §§ 794, 847–877, 879–899.] 6. The establishment of a legal residence. • This sense was frequently used in poor-relief contexts. — settle, vb.

SETTLEMENT CLASS

settlement class. See CLASS(4).

SETTLEMENT COUNSEL

settlement counsel. See CIRCUIT MEDIATOR.

SETTLEMENT CREDIT

settlement credit. Civil procedure. A court's reduction of the amount of a jury verdict — or the effect of the verdict on nonsettling defendants — to account for settlement funds the plaintiff has received from former defendants or from other responsible parties. [Cases: Compromise and Settlement 15(1); Damages 63. C.J.S. Compromise and Settlement §§ 32–33, 35–37, 40–41; Damages §§ 169–171.]

SETTLEMENT DATE

settlement date. See DATE.

SETTLEMENT-FIRST METHOD

settlement-first method. A means by which to apply a settlement credit to a jury verdict, by first reducing the amount of the verdict by subtracting the amount of all settlements the plaintiff has received on the claim, then reducing the remainder by the percentage of the plaintiff's comparative fault. See SETTLEMENT CREDIT. Cf. FAULT-FIRST METHOD. [Cases: Damages 63. C.J.S. Damages §§ 169–171.]

SETTLEMENT OPTION

settlement option. See OPTION.

SETTLEMENT RIGHT

settlement right. Hist. A government-issued certificate granting land to a settler.

SETTLEMENT SHEET

settlement sheet. See CLOSING STATEMENT(2).

SETTLEMENT STATEMENT

settlement statement. See CLOSING STATEMENT(2).

SETTLEMENT VALUE

settlement value. See VALUE(2).

SETTLER

settler. 1. A person who occupies property with the intent to establish a residence. • The term is usu. applied to an early resident of a country or region. 2.SETTLOR.

SETTLE UP

settle up,vb. To collect, pay, and turn over debts and property (of a decedent, bankrupt, or insolvent business).

SETTLOR

settlor (set-l<<schwa>>r).1. A person who makes a settlement of property; esp., one who sets up a trust. — Also termed creator; donor; trustor; grantor; founder. [Cases: Trusts 8. C.J.S. Trover and Conversion § 19.] 2. A party to an instrument. — Also spelled (in both senses) settler.

SET UP

set up,vb. To raise (a defense) <the defendant set up the insanity defense on the murder charge>.

SEVENTEENTH AMENDMENT

Seventeenth Amendment.The constitutional amendment, ratified in 1913, transferring the power to elect U.S. senators from the state legislatures to the states' voters. [Cases: United States 11. C.J.S. United States §§ 18, 20–23.]

SEVENTH AMENDMENT

Seventh Amendment.The constitutional amendment, ratified with the Bill of Rights in 1791, guaranteeing the right to a jury trial in federal civil cases that are traditionally considered to be suits at common law and that have an amount in controversy exceeding \$20. [Cases: Jury 9–14. C.J.S. Juries §§ 6–23, 26–36, 41–43, 46–51, 53–57, 59, 61–73, 81, 96–97, 99, 103–105, 126–127, 177, 221, 228, 244, 247.]

72 COLREGS

72 COLREGS.See INTERNATIONAL RULES OF THE ROAD.

SEVEN-YEARS'-ABSENCE RULE

seven-years'-absence rule.The principle that a person who has been missing without explanation for at least seven years is legally presumed dead. Cf. ENOCH ARDEN LAW.

“[I]n the United States, it is quite generally held or provided by statute that a presumption of death arises from the continued and unexplained absence of a person from his home or place of residence without any intelligence from or concerning him for the period of 7 years. The presumption has been regarded as a procedural expedient and a rule of evidence.” 22A Am. Jur. 2d Death § 551, at 527 (1988).

SEVERABILITY

severability. See BLUE-PENCIL TEST.

SEVERABILITY CLAUSE

severability clause. A provision that keeps the remaining provisions of a contract or statute in force if any portion of that contract or statute is judicially declared void or unconstitutional. — Also termed saving clause; separability clause. See severable contract under CONTRACT; severable statute under STATUTE. [Cases: Contracts 137; Statutes 64. C.J.S. Contracts § 297; Statutes § 83.]

SEVERABLE CONTRACT

severable contract. See CONTRACT.

SEVERABLE STATUTE

severable statute. See STATUTE.

SEVERAL

several, adj. 1. (Of a person, place, or thing) more than one or two but not a lot <several witnesses>. [Cases: Negligence 484; Torts 22. C.J.S. Negligence §§ 154–156; Torts §§ 39–44.] 2. (Of liability, etc.) separate; particular; distinct, but not necessarily independent <a several obligation>. 3. (Of things, etc.) different; various <several settlement options>.

SEVERAL ACTION

several action. See separate action under ACTION(4).

SEVERAL CONTRACT

several contract. See severable contract under CONTRACT.

SEVERAL COUNT

several count. See COUNT.

SEVERAL COVENANT

several covenant. See COVENANT(1).

SEVERAL DEMISE

several demise. See DEMISE.

SEVERAL FISHERY

several fishery. See FISHERY(1).

SEVERAL INHERITANCE

several inheritance. See INHERITANCE.

SEVERAL LIABILITY

several liability. See LIABILITY.

SEVERALLY

severally, adj. Distinctly; separately <severally liable>.

SEVERAL OBLIGATION

several obligation. See OBLIGATION.

SEVERAL-REMEDIES RULE

several-remedies rule. A procedural rule that tolls a statute of limitations for a plaintiff who has several available forums (such as a workers'-compensation proceeding and the court system) and who timely files in one forum and later proceeds in another forum, as long as the defendant is not prejudiced. [Cases: Limitation of Actions 105. C.J.S. Limitations of Actions § 121.]

SEVERAL TAIL

several tail. See TAIL.

SEVERAL TENANCY

several tenancy. See TENANCY.

SEVERALTY

severalty (sev-[<<schwa>>]-r<<schwa>>-l-tee). The state or condition of being separate or distinct <the individual landowners held the land in severalty, not as joint tenants>.

SEVERANCE

severance, n. 1. The act of cutting off; the state of being cut off. 2. Civil procedure. The separation of claims, by the court, of multiple parties either to permit separate actions on each claim or to allow certain interlocutory orders to become final. — Also termed severance of actions; severance of claims. See bifurcated trial under TRIAL. Cf. CONSOLIDATION(3). [Cases: Action 60; Federal Civil Procedure 81. C.J.S. Actions §§ 220–228.] 3. The termination of a joint tenancy, usu. by converting it into a tenancy in common. [Cases: Joint Tenancy 4. C.J.S. Joint Tenancy §§ 16–20.] 4. The removal of anything (such as crops or minerals) attached or affixed to real property, making it personal property rather than a part of the land. • Mineral rights are frequently severed from surface rights on property that may contain oil and gas or other minerals. — sever, vb. — severable, adj.

SEVERANCE DAMAGES

severance damages. See DAMAGES.

SEVERANCE OF ACTIONS

severance of actions. See SEVERANCE(2).

SEVERANCE OF CLAIMS

severance of claims. See SEVERANCE(2).

SEVERANCE PAY

severance pay. Money (apart from back wages or salary) paid by an employer to a dismissed employee. • Such a payment is often made in exchange for a release of any claims that the employee might have against the employer. — Also termed separation pay; dismissal compensation. [Cases: Master and Servant 72. C.J.S. Employer–Employee Relationship §§ 146–152, 155, 175.]

SEVERANCE TAX

severance tax. See TAX.

SEWARD

seward. See CUSTOS MARIS.

SEWER SERVICE

sewer service. See SERVICE(2).

SEX

sex. 1. The sum of the peculiarities of structure and function that distinguish a male from a female organism. 2. Sexual intercourse. 3. SEXUAL RELATIONS (2).

SEX CHANGE

sex change. See SEX REASSIGNMENT.

SEX DISCRIMINATION

sex discrimination. See DISCRIMINATION.

SEX-OFFENDER REGISTRY

sex-offender registry. A publicly available list of the names and addresses of sex offenders who have been released from prison. • The registries were started by state statutes known as “Megan's laws,” named after a New Jersey girl who was raped and killed in 1994 by a released sex offender who lived across the street from her family. The lists are often posted on the Internet, and some states require publication of the offender's photograph, name, and address in local newspapers. See MEGAN'S LAW.

SEX REASSIGNMENT

sex reassignment. Medical treatment intended to effect a sex change; surgery and hormonal treatments designed to alter a person's gender. — Also termed sex change.

SEXUAL ABUSE

sexual abuse. 1. ABUSE. 2. RAPE.

SEXUAL ACTIVITY

sexual activity. See **SEXUAL RELATIONS**.

SEXUAL ASSAULT

sexual assault. 1. **ASSAULT**. 2. **RAPE**.

SEXUAL BATTERY

sexual battery. 1. **BATTERY**. 2. **RAPE**.

SEXUAL EXPLOITATION

sexual exploitation. The use of a person, esp. a child, in prostitution, pornography, or other sexually manipulative activity that has caused or could cause serious emotional injury. — Sometimes shortened to exploitation.

SEXUAL HARASSMENT

sexual harassment. A type of employment discrimination consisting in verbal or physical abuse of a sexual nature. See **HARASSMENT**. [Cases: Civil Rights 1181. C.J.S. Civil Rights §§ 11, 53–55.]

hostile-environment sexual harassment. Sexual harassment in which a work environment is created where an employee is subject to unwelcome verbal or physical sexual behavior that is either severe or pervasive. • This type of harassment might occur, for example, if a group of coworkers repeatedly e-mailed pornographic pictures to a colleague who found the pictures offensive. [Cases: Civil Rights 1185. C.J.S. Civil Rights §§ 11, 53–55.]

quid pro quo sexual harassment. Sexual harassment in which the satisfaction of a sexual demand is used as the basis of an employment decision. • This type of harassment might occur, for example, if a boss fired or demoted an employee who refused to go on a date with the boss. [Cases: Civil Rights 1184. C.J.S. Civil Rights §§ 11, 53–55.]

SEXUALLY DANGEROUS PERSON

sexually dangerous person. See **SEXUAL PREDATOR**.

SEXUALLY TRANSMITTED DISEASE

sexually transmitted disease. A disease transmitted only or chiefly by engaging in sexual acts with an infected person. • Common examples are syphilis and gonorrhea. — Abbr. **STD**. — Also termed venereal disease.

SEXUALLY VIOLENT PREDATOR

sexually violent predator. See **SEXUAL PREDATOR**.

SEXUAL OFFENSE

sexual offense. See **OFFENSE(1)**.

SEXUAL ORIENTATION

sexual orientation. A person's predisposition or inclination toward a particular type of sexual activity or behavior; heterosexuality, homosexuality, or bisexuality. • There has been a trend in recent years to make sexual orientation a protected class, esp. in employment and hate-crime statutes. [Cases: Civil Rights 1012, 1191. C.J.S. Civil Rights §§ 2, 6–7, 9–10, 19, 21, 56–58.]

SEXUAL PREDATOR

sexual predator. A person who has committed many violent sexual acts or who has a propensity for committing violent sexual acts. — Also termed predator; sexually dangerous person; sexually violent predator.

SEXUAL RELATIONS

sexual relations. 1. Sexual intercourse. — Also termed carnalis copula. 2. Physical sexual activity that does not necessarily culminate in intercourse. • Sexual relations usu. involve the touching of another's breast, vagina, penis, or anus. Both persons (the toucher and the person touched) engage in sexual relations. — Also termed sexual activity.

SF

SF. See sinking fund under FUND(1).

S/F

S/F.abbr.STATUTE OF FRAUDS.

SG

SG.abbr.1.SOLICITOR GENERAL. 2.SURGEON GENERAL.

SHACK

shack.Hist. The straying and escaping of cattle out of their owner's land into other unenclosed land; an intercommoning of cattle.

SHADOW ECONOMY

shadow economy. Collectively, the unregistered economic activities that contribute to a country's gross national product. • A shadow economy may involve the legal and illegal production of goods and services, including gambling, prostitution, and drug-dealing, as well as barter transactions and unreported incomes. — Also termed black economy; black market; underground economy.

SHADOW JURY

shadow jury. See JURY.

SHADOW STOCK PLAN

shadow stock plan. See PHANTOM STOCK PLAN.

SHAKEDOWN

shakedown. 1. An extortion of money using threats of violence or, in the case of a police officer, threats of arrest. 2. See shakedown search under SEARCH.

SHAKEDOWN SEARCH

shakedown search. See SEARCH.

SHAKEN-BABY SYNDROME

shaken-baby syndrome. The medical condition of a child who has suffered forceful shaking, with resulting brain injury. • Common injuries in shaken-baby syndrome include retinal hemorrhage and subdural and subarachnoid hemorrhage, with minimal or no signs of external cranial trauma. Many victims of shaken-baby syndrome are permanently blind or die. Shaken-baby syndrome is one of the leading causes of infant death. It was first identified in the early 1970s.

SHAKEOUT

shakeout, n. An elimination of weak or nonproductive businesses in an industry, esp. during a period of intense competition or declining prices.

SHALL

shall, vb. 1. Has a duty to; more broadly, is required to <the requester shall send notice> <notice shall be sent>. • This is the mandatory sense that drafters typically intend and that courts typically uphold. [Cases: Statutes 227. C.J.S. Statutes §§ 362–369.] 2. Should (as often interpreted by courts) <all claimants shall request mediation>. 3. May <no person shall enter the building without first signing the roster>. • When a negative word such as not or no precedes shall (as in the example in angle brackets), the word shall often means may. What is being negated is permission, not a requirement. 4. Will (as a future-tense verb) <the corporation shall then have a period of 30 days to object>. 5. Is entitled to <the secretary shall be reimbursed for all expenses>. • Only sense 1 is acceptable under strict standards of drafting.

SHAM

sham, n. 1. Something that is not what it seems; a counterfeit. 2. A person who pretends to be something that he or she is not; a faker. — sham, vb. — sham, adj.

SHAM ACTION

sham action. See ACTION(4).

SHAM AFFIDAVIT

sham affidavit. See AFFIDAVIT.

SHAM DEFENSE

sham defense. See DEFENSE(1).

SHAME SANCTION

shame sanction. See SANCTION.

SHAME SENTENCE

shame sentence. See shame sanction under SANCTION.

SHAM EXCEPTION

sham exception. An exception to the Noerr–Pennington doctrine whereby a company that petitions the government will not receive First Amendment protection or an exemption from the antitrust laws if its intent in petitioning the government is really an effort to harm its competitors rather than to obtain favorable governmental action. See NOERR–PENNINGTON DOCTRINE; sham action under ACTION(4). [Cases: Monopolies 12(16.5). C.J.S. Monopolies § 144.]

SHAMING SENTENCE

shaming sentence. See shame sanction under SANCTION.

SHAM LAWSUIT

sham lawsuit. See sham action under ACTION(4).

SHAM LITIGATION

sham litigation. See sham action under ACTION(4).

SHAM MARRIAGE

sham marriage. See MARRIAGE(1).

SHAM PETITIONING

sham petitioning. See sham action under ACTION(4).

SHAM PLEA

sham plea. See sham pleading under PLEADING(1).

SHAM PLEADING

sham pleading. See PLEADING(1).

SHAM PROSECUTION

sham prosecution. See PROSECUTION.

SHAM SUIT

sham suit. See sham action under ACTION(4).

SHAM TRANSACTION

sham transaction. An agreement or exchange that has no independent economic benefit or

business purpose and is entered into solely to create a tax advantage (such as a deduction for a business loss). • The Internal Revenue Service is entitled to ignore the purported tax benefits of a sham transaction. [Cases: Internal Revenue 3071. C.J.S. Internal Revenue §§ 13–14.]

SHANGHAIING

shanghaiing (shang-hI-ing). The act or an instance of coercing or inducing someone to do something by fraudulent or other wrongful means; specif., the practice of drugging, tricking, intoxicating, or otherwise illegally inducing a person to work aboard a vessel, usu. to secure advance money or a premium. — Also termed shanghaiing sailors. 18 USCA § 2194. [Cases: Seamen 34. C.J.S. Seamen §§ 209–215.]

SHARE

share,n.1. An allotted portion owned by, contributed by, or due to someone < each partner's share of the profits>.

intestate share.The share that the renouncer of a will would take in the decedent's assets if the decedent had left no will affecting in any way the distribution of assets.

2. One of the definite number of equal parts into which the capital stock of a corporation or joint-stock company is divided <the broker advised his customer to sell the stock shares when the price reaches \$29>. • A share represents an equity or ownership interest in the corporation or joint-stock company. Cf. STOCK(4); SECURITY(4). [Cases: Corporations 62; Joint Ventures 6. C.J.S. Corporations §§ 126, 128, 148–151; Joint Ventures § 62.]

American share.Securities. A share of stock in a foreign corporation issued directly to U.S. investors through a transfer agent.

qualifying share.A share of common stock purchased by someone in order to become a director of a corporation that requires its directors to be shareholders. [Cases: Corporations 282. C.J.S. Corporations §§ 447–448.]

share,vb.1. To divide (something) into portions. 2. To enjoy or partake of (a power, right, etc.).

SHARE ACCOUNT

share account.See share-draft account under ACCOUNT.

SHARE ACQUISITION

share acquisition.The acquisition of a corporation by purchasing all or most of its outstanding shares directly from the shareholders; TAKEOVER. — Also termed share-acquisition transaction; stock acquisition; stock-acquisition transaction. Cf. ASSET ACQUISITION. [Cases: Corporations 197; Securities Regulation 52.10–52.50. C.J.S. Corporations §§ 373, 375–378; Securities Regulation §§ 121–141.]

SHARE AND SHARE ALIKE

share and share alike.To divide (assets, etc.) in equal shares or proportions; to engage in per capita division. See PER CAPITA.

SHARE CERTIFICATE

share certificate.See STOCK CERTIFICATE.

SHARECROPPING

sharecropping. An agricultural arrangement in which a landowner leases land to a tenant who, in turn, gives the landlord a portion of the crop as rent. • The landlord usu. provides the seed, fertilizer, and equipment. [Cases: Landlord and Tenant 319–333. C.J.S. Landlord and Tenant §§ 793, 795–815, 817–829.] — sharecropper,n.

SHARED-APPRECIATION MORTGAGE

shared-appreciation mortgage.See MORTGAGE.

SHARED CUSTODY

shared custody.See joint custody under CUSTODY(2).

SHARED-EQUITY MORTGAGE

shared-equity mortgage.See MORTGAGE.

SHARED PARENTING

shared parenting.See PARENTING.

SHARE DRAFT

share draft.See DRAFT.

SHARE-DRAFT ACCOUNT

share-draft account.See ACCOUNT.

SHARED RESIDENCY

shared residency.See joint custody under CUSTODY.

SHAREHOLDER

shareholder. One who owns or holds a share or shares in a company, esp. a corporation. — Also termed shareowner; (in a corporation) stockholder. [Cases: Corporations 170. C.J.S. Corporations §§ 305, 308–309, 312, 314, 317.]

controlling shareholder.A shareholder who is in a position to influence the corporation's activities because the shareholder either owns a majority of outstanding shares or owns a smaller percentage but a significant number of the remaining shares are widely distributed among many others. [Cases: Corporations 174. C.J.S. Corporations § 307.]

dummy shareholder.A shareholder who owns stock in name only for the benefit of the true

owner, whose identity is usu. concealed.

majority shareholder.A shareholder who owns or controls more than half the corporation's stock. [Cases: Corporations 182.3. C.J.S. Corporations § 344.]

minority shareholder.A shareholder who owns less than half the total shares outstanding and thus cannot control the corporation's management or singlehandedly elect directors. [Cases: Corporations 182.3. C.J.S. Corporations § 344.]

SHAREHOLDER-CONTROL AGREEMENT

shareholder-control agreement.See POOLING AGREEMENT.

SHAREHOLDER DERIVATIVE SUIT

shareholder derivative suit.See DERIVATIVE ACTION(1).

SHAREHOLDER OPPRESSION

shareholder oppression.See OPPRESSION(4).

SHAREHOLDER PROPOSAL

shareholder proposal.A proposal by one or more corporate stockholders to change company policy or procedure. • Ordinarily, the corporation informs all stockholders about the proposal before the next shareholder meeting.

SHAREHOLDER RESOLUTION

shareholder resolution.See RESOLUTION(2).

SHAREHOLDERS' EQUITY

shareholders' equity.See OWNERS' EQUITY.

SHAREHOLDER'S LIABILITY

shareholder's liability.See LIABILITY.

SHAREHOLDER VOTING AGREEMENT

shareholder voting agreement.See POOLING AGREEMENT.

SHAREOWNER

shareowner. See SHAREHOLDER.

SHARES OUTSTANDING

shares outstanding.See outstanding stock under STOCK.

SHARE SPLIT

share split.See STOCK SPLIT.

SHAREWARE

shareware. Software that can be redistributed but not modified and requires all users to pay a license fee. • The license fee applies to both originals and distributed copies. Cf. **FREEWARE**; **PROPRIETARY SOFTWARE**; **SEMI-FREE SOFTWARE**.

SHARE-WARRANT TO BEARER

share-warrant to bearer. A warrant providing that the bearer is entitled to a certain amount of fully paid stock shares. • Delivery of the warrant operates as a transfer of the shares of stock.

SHARK REPELLENT

shark repellent. 1. **TAKEOVER DEFENSE**. 2. More specifically, a charter or bylaw provision designed to impede hostile bids to acquire a controlling interest in a corporation.

SHARP

sharp, adj. (Of a clause in a mortgage, deed, etc.) empowering the creditor to take immediate and summary action upon the debtor's default.

SHARP PRACTICE

sharp practice. Unethical action and trickery, esp. by a lawyer. — Also termed (archaically) unhandsome dealing. [Cases: Attorney and Client 32(4). C.J.S. Attorney and Client §§ 45–46.] — sharp practitioner, n.

SHAVE

shave, vb. 1. To purchase (a negotiable instrument) at a greater than usual discount rate. 2. To reduce or deduct from (a price).

SHEER

sheer, n. Maritime law. A vessel's sudden deviation from its line of course; a swerve.

SHEET ACTS

sheet acts. See **SESSION LAWS**.

SHELF ISSUE

shelf issue. See **ISSUE(2)**.

SHELF REGISTRATION

shelf registration. See **REGISTRATION(2)**.

SHELF SECURITY

shelf security. See **SECURITY**.

SHELL CORPORATION

shell corporation. See CORPORATION.

SHELLEY'S CASE, RULE IN

Shelley's Case, Rule in. See RULE IN SHELLEY'S CASE.

SHELL GAME

shell game. A sleight-of-hand game that uses three cups or thimble-like objects, one of which has a pea, ball, or other small object underneath. • This is a game of chance in which one player bets that he or she can remember under which cup the object is. The cups are moved around so quickly that the player finds it difficult to remember where the object is. When played casually on public streets the shell game is usu. a swindle because the operator palms the object rather than leaving it under a cup, so the player has no chance of winning. — Also termed thimblorig; thimbles and balls. See GAME OF CHANCE.

SHELTER

shelter, n. 1. A place of refuge providing safety from danger, attack, or observation.

homeless shelter. A privately or publicly operated residential facility providing overnight accommodation free of charge to homeless people. • Most homeless shelters accept occupants on a first-come-first-served basis and are open only from early evening to early morning. Those that serve homeless families may remain open throughout the day to women and children. Some shelters offer occupants help such as advice on finding and applying for public assistance, employment, and medical care.

women's shelter. A privately or publicly operated residential facility providing women (and their children) who are victims of domestic violence with temporary lodging, food, and other services such as employment assistance, counseling, and medical care. — Also termed family shelter.

youth shelter. 1. A privately or publicly operated residential facility offering young runaway or throwaway children and homeless young people a safe place to stay, usu. for a short time. • The residents enter the shelter voluntarily and can leave anytime they wish. Some shelters offer long-term transitional training so that young people can leave street life and eventually lead independent, productive lives. 2. An alternative type of juvenile-detention center that is less physically restrictive than a jail or boot camp. • Delinquent juveniles are usu. brought to these shelters by police or ordered to reside there by a court. Residents attend school or work in the daytime and may be permitted weekend visits at their family homes.

2. TAX SHELTER <the shelter saved the taxpayer over \$2,000 in taxes>. — shelter, vb.

SHELTER-CARE HEARING

shelter-care hearing. See shelter hearing under HEARING.

SHELTER DOCTRINE

shelter doctrine. Commercial law. The principle that a person to whom a holder in due course

has transferred commercial paper, as well as any later transferee, will succeed to the rights of the holder in due course. • As a result, transferees of holders in due course are generally not subject to defenses against the payment of an instrument. This doctrine ensures the free transferability of commercial paper. Its name derives from the idea that the transferees “take shelter” in the rights of the holder in due course. [Cases: Bills and Notes 362. C.J.S. Bills and Notes; Letters of Credit § 189.]

SHELTER HEARING

shelter hearing. See HEARING.

SHELVING

shelving. Patents. The failure to begin or the stopping of commercial use of a patent during a specified period, usu. the term of the license. • A licensor may place an antishelving provision in a license to ensure the licensed product's manufacture and sale. The shelving problem usu. applies to patented inventions, but licenses for trademarked products may also address shelving. See ANTISHELVING CLAUSE.

SHELVING CLAUSE

shelving clause. See ANTISHELVING CLAUSE.

SHEPARDIZE

shepardize, vb. 1. (often cap.) To determine the subsequent history of (a case) by using a printed or computerized version of Shepard's Citators. 2. Loosely, to check the precedential value of (a case) by the same or similar means. — shepardization; shepardizing, n.

SHERIFF

sheriff. [Middle English shire reeve from Anglo-Saxon scirgerefa] 1. A county's chief peace officer, usu. elected, who in most jurisdictions acts as custodian of the county jail, executes civil and criminal process, and carries out judicial mandates within the county. — Also termed high sheriff; vice-comes. [Cases: Sheriffs and Constables 1. C.J.S. Sheriffs and Constables § 1.]

deputy sheriff. An officer who, acting under the direction of a sheriff, may perform most of the duties of the sheriff's office. • Although undersheriff is broadly synonymous with deputy sheriff, writers have sometimes distinguished between the two, suggesting that a deputy is appointed for a special occasion or purpose, while an undersheriff is permanent. — Also termed undersheriff; general deputy; vice-sheriff. [Cases: Sheriffs and Constables 16.]

2. Scots law. The chief judge at the county level, with limited criminal and unlimited civil jurisdiction. • A sheriff may not hear cases of murder or of some minor offenses. In medieval times, the sheriff was the king's representative in the shires, having military, administrative, and judicial functions. The office was hereditary until the Heritable Jurisdictions Act of 1746.

SHERIFF CLERK

sheriff clerk. Scots law. The clerk of a sheriff's court.

SHERIFF-DEPUTE

sheriff-depute.Hist. Scots law. The qualified judge of a district or county, acting for the titular, unqualified sheriff.

SHERIFF PRINCIPAL

sheriff principal.Scots law. The chief judge of a sherrifdom comprising one or more counties.

SHERIFF'S COURT

sheriff's court.See COURT.

SHERIFF'S DEED

sheriff's deed.See DEED.

SHERIFF'S JURY

sheriff's jury.See JURY.

SHERIFF'S SALE

sheriff's sale.See SALE.

SHERMAN ANTITRUST ACT

Sherman Antitrust Act.A federal statute, passed in 1890, that prohibits direct or indirect interference with the freely competitive interstate production and distribution of goods. • This Act was amended by the Clayton Act in 1914. 15 USCA §§ 1–7. — Often shortened to Sherman Act. — Also termed the Antitrust Law. [Cases: Monopolies 10. C.J.S. Monopolies §§ 18, 20–26, 45, 56–62, 71, 137.]

SHERMAN–SORRELLS DOCTRINE

Sherman–Sorrells doctrine.The principle that a defendant may claim as an affirmative defense that he or she was not disposed to commit the offense until a public official (often an undercover police officer) encouraged the defendant to do so. • This entrapment defense, which is recognized in the federal system and a majority of states, was developed in *Sherman v. United States*, 356 U.S. 369, 78 S.Ct. 819 (1958), and *Sorrells v. United States*, 287 U.S. 435, 53 S.Ct. 210 (1932). — Also termed subjective method. See ENTRAPMENT. Cf. HYPOTHETICAL-PERSON DEFENSE.

SHIELD LAW

shield law. 1. A statute that affords journalists the privilege not to reveal confidential sources. See journalist's privilege under PRIVILEGE(3). [Cases: Witnesses 196.1. C.J.S. Witnesses § 358.]

“More than half of the states have ‘shield laws’ creating ‘reporters’ privileges’ that are sometimes broader than the First Amendment version of that privilege.” David A. Anderson, *Freedom of the Press*, 80 *Texas L. Rev.* 429, 432 (2002).

2. A statute that restricts or prohibits the use, in rape or sexual-assault cases, of evidence about the past sexual conduct of the victim. — Also termed (in sense 2) rape shield law; rape shield statute. [Cases: Rape 40(1)–40(5).C.J.S. Rape §§ 86–89.]“The ‘rape shield law.’ At common law the character of the woman as to chastity or unchastity was held to be admissible in evidence on the theory that it had probative value in determining whether she did or did not consent. Defense counsel, in unrestrained zeal for an acquittal, took advantage of this to the point that it often seemed as if it was the victim of the rape, rather than the perpetrator, who was on trial.... A typical ‘rape shield statute’ does not prevent the introduction of any relevant and otherwise admissible evidence, but requires that the relevancy of any evidence of the previous sexual conduct of the complaining witness must be determined in a pretrial hearing before the judge in camera.” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 206 (3d ed. 1982).

SHIFTING

shifting,adj. (Of a position, place, etc.) changing or passing from one to another <a shifting estate>.

SHIFTING CLAUSE

shifting clause.At common law, a clause under the Statute of Uses prescribing a substituted mode of devolution in the settlement of an estate. See STATUTE OF USES .

SHIFTING EXECUTORY INTEREST

shifting executory interest.See EXECUTORY INTEREST.

SHIFTING GROUND

shifting ground.Patents. The broadening of a patent application in an amendment by claiming a feature of the invention that was disclosed but not claimed in the original application. [Cases: Patents 109. C.J.S. Patents §§ 152–155.]

SHIFTING INHERITANCE

shifting inheritance.See INHERITANCE.

SHIFTING RISK

shifting risk.See RISK.

SHIFTING STOCK OF MERCHANDISE

shifting stock of merchandise.Merchandise inventory subject to change by purchases and sales in the course of trade.

SHIFTING THE BURDEN OF PROOF

shifting the burden of proof.In litigation, the transference of the duty to prove a fact from one party to the other; the passing of the duty to produce evidence in a case from one side to another as the case progresses, when one side has made a prima facie showing on a point of evidence, requiring the other side to rebut it by contradictory evidence. See BURDEN OF PROOF. [Cases:

Evidence 94. C.J.S. Evidence §§ 121, 126.]

SHIFTING TRUST

shifting trust. See TRUST.

SHIFTING USE

shifting use. See USE(4).

SHILL

shill. 1. A person who poses as an innocent bystander at a confidence game but actually serves as a decoy for the perpetrators of the scheme. 2. BY-BIDDER R. — shill, vb.

SHILLING

shilling, n. 1. The practice of fraudulently bidding on items at an auction solely to drive up the price. • The seller might collude with another person to bid or might act alone and anonymously. Cf. BIDDING UP; BY-BIDDING. 2. Hist. An English coin equal to 12 pence or 1/20th of a pound. • Shillings were revalued as five pence and phased out when decimalization was adopted in the early 1970s. The modern five-pence coin, like its predecessor equal to 1/20th of a pound, is sometimes nostalgically referred to as a shilling.

SHINGLE

shingle. A small, usu. dignified sign that marks the office door of a professional, esp. a lawyer.

SHINGLE THEORY

shingle theory. Securities. The notion that a broker-dealer must be held to a high standard of conduct because by engaging in the securities business (“hanging out a shingle”), the broker-dealer implicitly represents to the world that the conduct of all its employees will be fair and meet professional norms. [Cases: Securities Regulation 27.21, 60.32(1). C.J.S. Securities Regulation §§ 76, 164, 195, 217.]

“[I]n judging the appropriate standard of care that attaches to a broker-dealer in recommending securities to his or her customers and in dealing with the customers' accounts, the Commission has relied upon the ‘shingle theory.’ The shingle theory is but an extension of the common law doctrine of ‘holding out.’ When brokers hold themselves out as experts either in investments in general or in the securities of a particular issuer, they will be held to a higher standard of care in making recommendations.” Thomas Lee Hazen, *The Law of Securities Regulation* § 10.6, at 423 (2d ed. 1994).

SHIN PLASTER

shin plaster. Hist. Slang. 1. A bank note that has greatly depreciated in value, esp. the paper money of the Republic of Texas in relation to the U.S. dollar. 2. Paper money in denominations less than one dollar.

SHIP

ship,n. A type of vessel used or intended to be used in navigation. See VESSEL. [Cases: Shipping 1. C.J.S. Shipping § 4.]

chartered ship. 1. A ship specially hired to transport the goods of only one person or company. [Cases: Shipping 34–58. C.J.S. Shipping §§ 74–146, 148, 379.] 2. A ship on which a shipper has chartered space for a cargo.

general ship.A ship that is put up for a particular voyage to carry the goods of any persons willing to ship goods on it for that voyage.

ship,vb. To send (goods, documents, etc.) from one place to another, esp. by delivery to a carrier for transportation.

SHIP BROKER

ship broker.Maritime law. 1. The business agent of a shipowner or charterer; an intermediary between an owner or charterer and a shipper. 2. One who negotiates the purchase and sale of a ship.

SHIP CHANNEL

ship channel.Maritime law. The part of a navigable body of water where the water is deep enough for large vessels to travel safely.

SHIPMASTER

shipmaster. See MASTER OF A SHIP.

SHIPMENT

shipment. 1. The transportation of goods; esp., the delivery of goods to a carrier and subsequent issuance of a bill of lading. 2. The goods so shipped; an order of goods.

SHIPMENT CONTRACT

shipment contract.See CONTRACT.

SHIP MORTGAGE ACT

Ship Mortgage Act.A federal law regulating mortgages on ships registered as U.S. vessels by, among other things, providing for enforcement of maritime liens in favor of those who furnish supplies or maintenance to the vessels. 46 USCA §§ 30101, 31301–31343. [Cases: Shipping 32. C.J.S. Shipping §§ 63–67.]

SHIPOWNER-NEGLIGENCE DOCTRINE

shipowner-negligence doctrine.The principle that a shipowner is liable for an assault on a crew member if the crew member was assaulted by a superior, in the context of an activity undertaken for the benefit of the ship's business, and if the ship's officers could reasonably have foreseen the assault. [Cases: Seamen 29(3). C.J.S. Seamen §§ 163, 165–166.]

SHIPPER

shipper. 1. One who ships goods to another. 2. One who contracts with a carrier for the transportation of cargo. • As a legal term of art, the shipper may not be the person who owns the cargo, but an agent or an independent contractor. Cf. CARRIER(1). [Cases: Carriers 3, 41. C.J.S. Aeronautics and Aerospace § 179; Carriers §§ 2, 385.]

SHIPPING ARTICLES

shipping articles. Maritime law. A document (provided by a master of a vessel to the mariners) detailing voyage information, such as the voyage term, the number of crew, and the wage rates. 46 USCA § 10302. [Cases: Seamen 7. C.J.S. Seamen §§ 13, 15.]

SHIPPING COMMISSIONER

shipping commissioner. An officer, appointed by the secretary of the treasury, who is posted at a port of entry, and vested with general supervisory authority over seamen's contracts and welfare. • In 1993, the term was changed to "master or individual in charge." See Pub. L. No. 103-206, § 403.

SHIPPING DOCUMENT

shipping document. Any paper that covers a shipment in trade, such as a bill of lading or letter of credit. [Cases: Carriers 46-68; Shipping 106. C.J.S. Carriers §§ 390-396, 398-402, 438; Shipping §§ 256-257.]

SHIPPING LAW

shipping law. See LAW OF SHIPPING.

SHIPPING ORDER

shipping order. A copy of the shipper's instructions to a carrier regarding the disposition of goods to be transported. [Cases: Carriers 61. C.J.S. Carriers § 393.]

SHIP'S HUSBAND

ship's husband. Maritime law. A person appointed to act as general agent of all the coowners of a ship, as by contracting for all necessary services, equipment, and supplies. Cf. EXERCITOR. [Cases: Maritime Liens 28; Seamen 22; Shipping 74. C.J.S. Maritime Liens §§ 28-30, 32-33; Seamen § 95; Shipping § 174.]

SHIP'S PAPERS

ship's papers. Maritime law. The papers that a vessel is required to carry to provide the primary evidence of the ship's national character, ownership, nature and destination of cargo, and compliance with navigation laws. • This evidence includes certificates of health, charterparty, muster-rolls, licenses, and bills of lading. [Cases: Shipping 5. C.J.S. Shipping § 16.]

SHIPWRECK

shipwreck. Maritime law. 1. A ship's wreckage. [Cases: Shipping 212.C.J.S. Shipping § 520.]
2. The injury or destruction of a vessel because of circumstances beyond the owner's control, rendering the vessel incapable of carrying out its mission.

“There are two kinds of shipwreck: (1.) When the vessel sinks or is dashed to pieces. (2.) When she is stranded, which is, when she grounds and fills with water. The latter may terminate in shipwreck, or may not, and it depends on circumstances whether it will or will not justify an abandonment.” 4 James Kent, Commentaries on American Law *323 n.(b) (George Comstock ed., 11th ed. 1866).

SHIRE

shire. A county in Great Britain (esp. England), originally made up of many hundreds but later consisting of larger divisions set off by metes and bounds.

SHIRE-GEREFA

shire-gerefa. See shire-reeve under REEVE.

SHIRE-REEVE

shire-reeve. See REEVE.

SHIVELY<TT> PRESUMPTION

Shively presumption (shIv-lee). The doctrine that any prestatehood grant of public property does not include tidelands unless the grant specifically indicates otherwise. *Shively v. Bowlby*, 152 U.S. 1, 14 S.Ct. 548 (1894); *United States v. Holt State Bank*, 270 U.S. 49, 46 S.Ct. 197 (1926). See EQUAL-FOOTING DOCTRINE. [Cases: Navigable Waters 36(1). C.J.S. Navigable Waters §§ 104, 108–109, 112.]

SHOCK

shock,n. A profound and sudden disturbance of the physical or mental senses; a sudden and violent physical or mental impression depressing the body's vital forces, as by a sudden injury or medical procedure.

mental shock. Shock caused by agitation of the mental senses and resulting in extreme grief or joy, as by witnessing the horrific death of a family member or winning the lottery. Cf. EMOTIONAL DISTRESS.

physical shock. Shock caused by agitation of the physical senses, as from a sudden violent blow, impact, collision, or concussion.

SHOCK INCARCERATION

shock incarceration. See INCARCERATION.

SHOCK PROBATION

shock probation. See PROBATION.

SHOCK THE CONSCIENCE

shock the conscience. To cause intense ethical or humanitarian discomfort. • This phrase is used as an equitable standard for gauging whether (1) state action amounts to a violation of a person's substantive-due-process rights, (2) a jury's award is excessive, (3) a fine or jail term is disproportionate to the crime, or (4) a contract is unconscionable. See CONSCIENCE OF THE COURT(2).

SHOP

shop, n. A business establishment or place of employment; a factory, office, or other place of business.

agency shop. A shop in which a union acts as an agent for the employees, regardless of their union membership. • Nonunion members must pay union dues because it is presumed that any collective bargaining will benefit nonunion as well as union members.

closed nonunion shop. A shop in which the employer restricts employment to workers who are unaffiliated with any labor union.

closed shop. A shop in which the employer, by agreement with a union, hires and retains in employment only union members in good standing. • Closed shops were made illegal under the federal Labor-Management Relations Act. — Also termed closed union shop. See PREHIRE AGREEMENT. Cf. closed union under UNION. [Cases: Labor Relations 251. C.J.S. Labor Relations §§ 10, 230–231, 233, 235–238.]

open closed shop. A shop in which the employer hires nonunion workers on the understanding that they will become union members within a specified period. — Also termed open shop.

open shop. 1. A shop in which the employer hires workers without regard to union affiliation. See RIGHT-TO-WORK LAW. Cf. open union under UNION. 2. See open closed shop.

preferential nonunion shop. A shop in which nonunion members are given preference over union members in employment matters.

preferential shop. See preferential union shop.

preferential union shop. A shop in which union members are given preference over nonunion members in employment matters. — Also termed preferential shop.

union shop. A shop in which the employer may hire nonunion employees on the condition that they join a union within a specified time (usu. at least 30 days).

SHOP-BOOK RULE

shop-book rule. Evidence. An exception to the hearsay rule permitting the admission into evidence of original bookkeeping records if the books' entries were made in the ordinary course of business and the books are introduced by somebody who maintains them. [Cases: Evidence 354. C.J.S. Evidence §§ 925, 934.]

SHOP BOOKS

shop books. Records of original entry maintained in the usual course of business by a shopkeeper, trader, or other businessperson. — Also termed books of account; account books.

SHOP COMMITTEE

shop committee. A union committee that resolves employee complaints within a union shop. See union shop under SHOP.

SHOPLIFTING

shoplifting, n. Theft of merchandise from a store or business; specif., larceny of goods from a store or other commercial establishment by willfully taking and concealing the merchandise with the intention of converting the goods to one's personal use without paying the purchase price. See LARCENY. [Cases: Larceny 1. C.J.S. Larceny §§ 1(1, 2), 9.] — shoplift, vb.

“Shoplifting is a form of larceny As a practical matter, however, the difficulty of proving the wrongful taking and the felonious intent requisites for a conviction under the general larceny statutes, together with the risk of retributory civil action against the shopkeeper consequent to acquittal of an accused shoplifter, have caused shoplifting to be established as a specific statutory crime in many jurisdictions.” 50 Am. Jur. 2d Larceny § 71, at 79–80 (1995).

SHOP RIGHT

shop right. Patents. An employer's right to an irrevocable, nonassignable, nonexclusive, royalty-free license in an employee's invention, if the employee conceived and developed the invention during the course of employment and used company funds and materials. • The term derives from the idea that the right belongs to the shop, not to the employee. Employment contracts frequently contain patent-assignment clauses, but the employer is entitled to the license even if the employee retains the patent. If the employee or consultant was hired to invent, then the employer owns the resulting inventions. If an employee develops an invention independently, the employee is its sole owner. But if an employee uses the employer's resources to make the invention, courts use the shop-right doctrine to compensate the employer. [Cases: Master and Servant 62. C.J.S. Employer–Employee Relationship §§ 115, 117–122.]

SHOP STEWARD

shop steward. See STEWARD(2).

SHORE

shore. 1. Land lying between the lines of high- and low-water mark; lands bordering on the shores of navigable waters below the line of ordinary high water. [Cases: Navigable Waters 36(3); Waters and Water Courses 90. C.J.S. Waters §§ 170–173.] 2. Land adjacent to a body of water regardless of whether it is below or above the ordinary high- or low-water mark. — Also termed shore land. [Cases: Navigable Waters 18, 33; Waters and Water Courses 90–96. C.J.S. Navigable Waters §§ 45, 81; Waters §§ 170–173, 175–186.]

SHORT

short,adj.1. Not holding at the time of sale the security or commodity that is being sold in anticipation of a fall in price <the trader was short at the market's close>.2. Of or relating to a sale of securities or commodities not in the seller's possession at the time of sale <a short position>. See short sale under SALE. Cf. LONG. [Cases: Securities Regulation 45.17. C.J.S. Securities Regulation § 117.]

short,adv. By a short sale <sold the stock short>. See short sale under SALE.

short,vb. To sell (a security or commodity) by a short sale <shorted 1,000 shares of Pantheon stock>. See short sale under SALE. [Cases: Securities Regulation 45.17. C.J.S. Securities Regulation § 117.]

SHORT CAUSE

short cause.See CAUSE(3).

SHORT-CAUSE CALENDAR

short-cause calendar.See CALENDAR(2).

SHORT-CAUSE TRIAL

short-cause trial.See short cause under CAUSE(3).

SHORTENED STATUTORY PERIOD

shortened statutory period.Patents. An amount of time less than six months, but not less than 30 days, given in certain circumstances to a patent applicant to respond to an office action. • The period for most responses can be extended up to the statutory period of six months. MPEP 710.02.

SHORTER-TERM RULE

shorter-term rule.See RULE OF THE SHORTER TERM.

SHORT-FORM AGREEMENT

short-form agreement.Labor law. A contract usu. entered into by a small independent contractor whereby the contractor agrees to be bound by the terms of a collective-bargaining agreement negotiated between a union and a multiemployer bargaining unit.

SHORT-FORM BILL OF LADING

short-form bill of lading.See BILL OF LADING.

SHORT-FORM MERGER

short-form merger.See MERGER.

SHORT INTEREST

short interest.Securities. In a short sale, the number of shares that have not been purchased

for return to lenders. See short sale under SALE.

SHORT LEASE

short lease.See LEASE.

SHORT NOTICE

short notice.See NOTICE.

SHORT POSITION

short position.The position of an investor who borrowed stock to make a short sale but has not yet purchased the stock to repay the lender. See short sale under SALE.

SHORT SALE

short sale.See SALE.

SHORT SALE AGAINST THE BOX

short sale against the box.See SALE.

SHORT-SHIPPED

short-shipped,adj. Commercial law. Partially filled; containing fewer units than requested or paid for.

SHORT SUMMONS

short summons.See SUMMONS.

SHORT-SWING PROFITS

short-swing profits.Profits made by a corporate insider on the purchase and sale (or sale and purchase) of company stock within a six-month period. • These profits are subject to being returned to the company. [Cases: Securities Regulation 53.10–53.22. C.J.S. Securities Regulation §§ 142–153.]

SHORT-TERM ALIMONY

short-term alimony.See rehabilitative alimony under ALIMONY.

SHORT-TERM CAPITAL GAIN

short-term capital gain.See CAPITAL GAIN.

SHORT-TERM DEBT

short-term debt.1.DEBT. 2. See current liability under LIABILITY.

SHORT-TERM LOAN

short-term loan.See LOAN.

SHORT-TERM SECURITY

short-term security. See SECURITY.

SHORT-TERM TRADING

short-term trading. See TRADING.

SHORT-TERM TRUST

short-term trust. See Clifford trust under TRUST.

SHORT TITLE

short title. See TITLE(3).

SHORT TON

short ton. See TON.

SHOTGUN INSTRUCTION

shotgun instruction. See ALLEN CHARGE.

SHOTGUN PLEADING

shotgun pleading. See PLEADING(1).

SHOTGUN REJECTION

shotgun rejection. See REJECTION.

SHOW

show, vb. To make (facts, etc.) apparent or clear by evidence; to prove.

SHOW CAUSE

show cause. To produce a satisfactory explanation or excuse, usu. in connection with a motion or application to a court.

SHOW-CAUSE ORDER

show-cause order. See ORDER(2).

SHOW-CAUSE PROCEEDING

show-cause proceeding. A usu. expedited proceeding on a show-cause order. — Also termed rule to show cause; summary process; summary procedure; expedited proceeding.

SHOW-CAUSE RULE

show-cause rule. See show-cause order under ORDER(2).

SHOWER

shower (shoh-<<schwa>>r), n. A person commissioned by a court to take jurors to a place so that they may observe it as they consider a case on which they are sitting. See VIEW(3). [Cases: Criminal Law 651; Trial 28.C.J.S. Criminal Law §§ 1156; Trial § 117–119.]

SHOWING

showing,n. The act or an instance of establishing through evidence and argument; proof <a prima facie showing>.

SHOW OF HANDS

show of hands.See vote by show of hands under VOTE(4).

SHOW-STOPPER

show-stopper.Corporations. An antitakeover tactic by which the target company seeks an injunction barring the takeover offer, usu. because the proposed merger violates antitrust laws.

SHOW TRIAL

show trial.A trial, usu. in a nondemocratic country, that is staged primarily for propagandistic purposes, with the outcome predetermined.

SHOWUP

showup,n. A pretrial identification procedure in which a suspect is confronted with a witness to or the victim of a crime. • Unlike a lineup, a showup is a one-on-one confrontation. Cf. LINEUP. [Cases: Criminal Law 339.8(5, 6).C.J.S. Criminal Law § 803.]

SHRINKAGE

shrinkage. The reduction in inventory caused by theft, breakage, or waste.

SHRINK-WRAP LICENSE

shrink-wrap license.See LICENSE.

SHU

SHU.abbr.SPECIAL HOUSING UNIT.

SHUTDOWN

shutdown. A cessation of work production, esp. in a factory.

SHUT-IN ROYALTY

shut-in royalty.See ROYALTY(2).

SHUT-IN ROYALTY CLAUSE

shut-in royalty clause.Oil & gas. A provision in an oil-and-gas lease allowing the lessee to maintain the lease while there is no production from the property because wells capable of

production are shut in. • The lessee pays the lessor a shut-in royalty in lieu of production.

SHUTTLE DIPLOMACY

shuttle diplomacy. See DIPLOMACY.

SHYSTER

shyster (shIs-t<<schwa>>r). A person (esp. a lawyer) whose business affairs are unscrupulous, deceitful, or unethical.

SI ACTIO

si actio (sIak-shee-oh), n. [Latin] Hist. The closing statement in a defendant's plea demanding judgment.

SI ALIQUID SAPIT

si aliquid sapit (sIal-i-kwid say-pit). [Law Latin] Hist. If he knows anything.

SI ANTECEDIT ICTUM LICET NON CONGRESSUM

si antecedit ictum licet non congressum (sI an-ti-see-dit ik-t<<schwa>>m II-set non k<<schwa>>n-gres-<<schwa>>m). [Law Latin] Hist. If it precedes the blow, although not actually connected with it. • The phrase appeared in reference to the malice sufficient to warrant a capital murder conviction.

SIB

SIB.abbr.Securities and Investment Board. See FINANCIAL SERVICES AGENCY.

SIBI IMPUTET

sibi imputet (sib-Iim-py<<schwa>>-tet). [Latin] Hist. Let it be imputed to himself.

SIBI INVIGILARE

sibi invigilare (sib-I in-vij-<<schwa>>-lair-ee). [Latin] Hist. To watch for themselves.

SIBLING

sibling. A brother or sister.

SIC

sic (sik). [Latin “so, thus”] Spelled or used as written. • Sic, invariably bracketed and usu. set in italics, is used to indicate that a preceding word or phrase in a quoted passage is reproduced as it appeared in the original document <“that case peeked [sic] the young lawyer's interest”>.

SICK LEAVE

sick leave. 1. An employment benefit allowing a worker time off for sickness, either with or without pay, but without loss of seniority or other benefits. [Cases: Master and Servant 72. C.J.S. Employer–Employee Relationship §§ 146–152, 155, 175.] 2. The time so taken by an employee.

SICKNESS AND ACCIDENT INSURANCE

sickness and accident insurance. See health insurance under INSURANCE.

SI CONSTET DE PERSONA

si constet de persona (sIkon-stet dee p<<schwa>>r-soh-n<<schwa>>). [Latin] If it is certain who is the person meant.

SI CONTINGAT

si contingat (sI kon-ting-at). [Law Latin] If it happens. • This term was formerly used to describe conditions in a conveyance.

SICUT ALIAS

sicut alias (sI-k<<schwa>>t ay-lee-<<schwa>>s), n. [Latin "as at another time"] Hist. A second writ issued when the first one was not executed.

"But where a defendant absconds, and the plaintiff would proceed to an outlawry against him, an original writ must then be sued out regularly, and after that a *capias*. And if the sheriff cannot find the defendant upon the first writ ... there issues out an alias writ, and after that a pluries, to the same effect as the former: only after these words 'we command you,' this clause is inserted, 'as we have formerly,' or, 'as we have often commanded you;' 'sicut alias'" 3 William Blackstone, *Commentaries on the Laws of England* 283 (1768).

SICUT ME DEUS ADJUVET

sicut me Deus adjuvet (sik-<<schwa>>t mee dee-<<schwa>>s aj-<<schwa>>-vet). [Latin] So help me God.

SIDE

side, n. 1. The position of a person or group opposing another <the law is on our side>. 2. Either of two parties in a transaction or dispute <each side put on a strong case>. 3. Archaic. The field of a court's jurisdiction <equity side> <law side>. 4. Property. In a description of more or less rectangularly shaped land, either of the two long boundary lines.

SIDE AGREEMENT

side agreement. See AGREEMENT.

SIDEBAR

sidebar. 1. A position at the side of a judge's bench where counsel can confer with the judge beyond the jury's earshot <the judge called the attorneys to sidebar>. 2. SIDEBAR CONFERENCE <during the sidebar, the prosecutor accused the defense attorney of misconduct>. 3. A short, secondary article within or accompanying a main story in a publication <the sidebar contained information on related topics>.

SIDEBAR COMMENT

sidebar comment. An unnecessary, often argumentative remark made by an attorney or witness, esp. during a trial or deposition. — Often shortened to sidebar. — Also termed sidebar remark. [Cases: Trial 113. C.J.S. Trial § 318.]

SIDEBAR CONFERENCE

sidebar conference. 1. A discussion among the judge and counsel, usu. over an evidentiary objection, outside the jury's hearing. — Also termed bench conference. [Cases: Trial 18, 50. C.J.S. Trial §§ 91–92, 176.] 2. A discussion, esp. during voir dire, between the judge and a juror or prospective juror. — Often shortened to sidebar.

SIDEBAR REMARK

sidebar remark. See SIDEBAR COMMENT.

SIDEBAR RULE

sidebar rule. English law. An order or rule allowed by the court without formal application, such as an order to plead within a particular time. • Formerly, the rules or orders were made on the motion of the attorneys at the sidebar in court.

SIDE JUDGE

side judge. See JUDGE.

SIDE LINES

side lines. 1. The margins of something, such as property. 2. A different type of business or goods than one principally engages in or sells. 3. Mining law. The boundary lines of a mining claim not crossing the vein running on each side of it. — Also written sidelines. Cf. END LINES. [Cases: Mines and Minerals 18. C.J.S. Mines and Minerals §§ 48–49.]

SIDENOTE

sidenote. See MARGINAL NOTE.

SI DEPREHENDATUR

si deprehendatur (sI dep-ri-hen-day-t<<schwa>>r). [Latin] Hist. If captured.

SIDE REPORTS

side reports. 1. Unofficial volumes of case reports. 2. Collections of cases omitted from the official reports.

SIDESMAN

sidesman. Eccles. law. A church officer who originally reported to the bishop on clerical and congregational misdeeds, including heretical acts, and later became a standing officer whose duties gradually devolved by custom on the churchwarden. — Also termed synodsmen; questman.

SI DEVENTUM SIT AD ACTUM MALEFICIO PROXIMUM

si deventum sit ad actum maleficio proximum (sI di-ven-t<<schwa>>m sit ad ak-t<<schwa>>m mal-<<schwa>>-fish-ee-oh prok-s<<schwa>>-m<<schwa>>m). [Law Latin] Hist. If it approaches an act bordering on crime. • The phrase described the determination of a criminal attempt.

SIERRA–MOBILE DOCTRINE

Sierra–Mobile doctrine. See MOBILE–SIERRA DOCTRINE.

SI FECERIT TE SECURUM

si fecerit te securum (sIfes-<<schwa>>r-it tee si-kyoor-<<schwa>>m). [Law Latin] Hist. If he has made you secure. • These were the initial words of a writ ordering the sheriff, upon receipt of security from the plaintiff, to compel the defendant's appearance in court. — Also spelled (erroneously) se te fecerit securum.

SIGHT

sight. A drawee's acceptance of a draft <payable after sight>. • The term after sight means “after acceptance.”

SIGHT DRAFT

sight draft. See DRAFT.

SIGIL

sigil (sij-<<schwa>>l), n. A seal or an abbreviated signature used as a seal; esp., a seal formerly used by civil-law notaries.

SIGILLUM

sigillum (si-jil-<<schwa>>m), n. [Latin] A seal, esp. one impressed on wax.

SIGLA

sigla (sig-l<<schwa>>), n. pl. [Latin] Abbreviations and signs used in writing, esp. by the Glossators.

SIGN

sign, vb. 1. To identify (a record) by means of a signature, mark, or other symbol with the intent to authenticate it as an act or agreement of the person identifying it <both parties signed the contract>. 2. To agree with or join <the commissioner signed on for a four-year term>.

SIGNAL

signal. 1. A means of communication, esp. between vessels at sea or between a vessel and the shore. • The international code of signals assigns arbitrary meanings to different arrangements of flags or light displays. [Cases: Collision 75–79, 81, 98, 100(2). C.J.S. Collision §§ 102–137, 143–147, 159, 210, 224.] 2. In the citation of legal authority, an abbreviation or notation supplied to indicate some basic fact about the authority. • For example, according to the Bluebook, the

signal See means that the cited authority directly states or supports the proposition, while Cf. means that the cited authority supports a proposition analogous to (but in some way different from) the main proposition. For these and other signals, see *The Bluebook: A Uniform System of Citation* § 1.2, at 22–24 (17th ed. 2000). — Also termed (in sense 2) citation signal.

SIGNATORIUS ANULUS

signatorius anulus (sig-n<<schwa>>-tor-ee-<<schwa>>s an-y<<schwa>>-l<<schwa>>s). [Latin] Roman law. A signet ring.

SIGNATORY

signatory (sig-n<<schwa>>-tor-ee), n. A party that signs a document, personally or through an agent, and thereby becomes a party to an agreement <eight countries are signatories to the treaty>. — signatory,adj.

SIGNATORY AUTHORITY

signatory authority. 1. License to make a decision, esp. to withdraw money from an account or to transfer a negotiable instrument. 2.Patents. In the U.S. Patent and Trademark Office, the power of an examiner to approve an office action.

SIGNATURE

signature. 1. A person's name or mark written by that person or at the person's direction. — Also termed sign manual. [Cases: Signatures 1–5.C.J.S. Signatures §§ 1–16.] 2.Commercial law. Any name, mark, or writing used with the intention of authenticating a document. UCC §§ 1-201(b)(37), 3-401(b). — Also termed legal signature. [Cases: Sales 29. C.J.S. Sales § 76.]

“The signature to a memorandum may be any symbol made or adopted with an intention, actual or apparent, to authenticate the writing as that of the signer.” Restatement (Second) of Contracts § 134 (1979).

digital signature.A secure, digital code attached to an electronically transmitted message that uniquely identifies and authenticates the sender. • A digital signature consists of a “hashed” number combined with a number assigned to a document (a private-encryption key). Generating a signature requires the use of private- and public-key-encryption software, and is often activated by a simple command or act, such as clicking on a “place order” icon on a retailer's website. Digital signatures are esp. important for electronic commerce and are a key component of many electronic message-authentication schemes. Several states have passed legislation recognizing the legality of digital signatures. See E-COMMERCE; KEY ENCRYPTION. [Cases: Signatures 2. C.J.S. Signatures § 14.]

electronic signature.An electronic symbol, sound, or process that is either attached to or logically associated with a document (such as a contract or other record) and executed or adopted by a person with the intent to sign the document. • Types of electronic signatures include a typed name at the end of an e-mail, a digital image of a handwritten signature, and the click of an “I accept” button on an e-commerce site. The term electronic signature does not suggest or require

the use of encryption, authentication, or identification measures. A document's integrity (unaltered content), authenticity (sender's identity), and confidentiality (of the signer's identity or document's contents) are not ensured merely because an electronic signature is provided for. [Cases: Signatures 3. C.J.S. Signatures § 12.]

facsimile signature. 1. A signature that has been prepared and reproduced by mechanical or photographic means. 2. A signature on a document that has been transmitted by a facsimile machine. See FAX.

private signature. Civil law. A signature made on a document (such as a will) that has not been witnessed or notarized. [Cases: Wills 149. C.J.S. Wills § 338.]

unauthorized signature. A signature made without actual, implied, or apparent authority. • It includes a forgery. UCC § 1-201(b)(41). [Cases: Banks and Banking 147; Bills and Notes 54, 279. Banks and Banking §§ 415–416; Bills and Notes; Letters of Credit §§ 26–30, 150–151.]

SIGNATURE CARD

signature card. A financial-institution record consisting of a customer's signature and other information that assists the institution in monitoring financial transactions, as by comparing the signature on the record with signatures on checks, withdrawal slips, and other documents. [Cases: Banks and Banking 133, 151. C.J.S. Banks and Banking §§ 266–268, 277–278, 326, 328–329, 331–335, 342, 347–348, 399.]

SIGNATURE CRIME

signature crime. See CRIME.

SIGNATURE EVIDENCE

signature evidence. See EVIDENCE.

SIGNATURE LOAN

signature loan. See LOAN.

SIGNED, SEALED, AND DELIVERED

signed, sealed, and delivered. In a certificate of acknowledgment, a statement that the instrument was executed by the person acknowledging it. — Often shortened to sealed and delivered. [Cases: Acknowledgment 29. C.J.S. Acknowledgments §§ 60–61, 69.]

SIGNET

signet. 1. Civil law. An elaborate hand-drawn symbol (usu. incorporating a cross and the notary's initials) formerly placed at the base of notarial instruments, later replaced by a seal. 2. Scots law. A seal used to authenticate summonses in civil matters before the Court of Session. • Originally, this was the monarch's personal seal. See WRITER TO THE SIGNET.

SIGNIFICANT-CONNECTION JURISDICTION

significant-connection jurisdiction. See JURISDICTION.

SIGNIFICANT-CONNECTION/ SUBSTANTIAL-EVIDENCE JURISDICTION

significant-connection/substantial-evidence jurisdiction. See significant-connection jurisdiction under JURISDICTION.

SIGNIFICANT-RELATIONSHIP THEORY

significant-relationship theory. See CENTER-OF-GRAVITY DOCTRINE.

SIGNIFICAVIT

significavit (sig-ni-fi-kay-vit), n. [Latin "he has signified"] Eccles. law. 1. A bishop's certificate that a person has been in a state of excommunication for more than 40 days. 2. A notice to the Crown in chancery, based on the bishop's certificate, whereby a writ de contumace capiendo (or, earlier, a writ de excommunicato capiendo) would issue for the disobedient person's arrest and imprisonment. See DE CONTUMACE CAPIENDO.

SIGN MANUAL

sign manual. 1. SIGNATURE(1). 2. A symbol or emblem, such as a trademark, representing words or an idea.

SIGNUM

signum (sig-n<<schwa>>m), n. [Latin] Roman law. 1. A sign; a seal.

"Signum. (On written documents.) A seal (a stamp) put on to close a document in order to make its contents inaccessible to unauthorized persons and protect against forgery, or at the end of it after the written text. In the latter case the seal (without or with a signature) indicated that the sealer recognized the written declaration as his.... Signum is also the seal of a witness who was present at the making of a document." Adolf Berger, *Encyclopedic Dictionary of Roman Law* 707 (1953).

2. An indication of something seen or otherwise perceived by the senses, such as a bloodstain on a murder suspect. Pl. signa.

SI INSTITUTUS SINE LIBERIS DECESSERIT

si institutus sine liberis decesserit (sI in-sti-t[y]oo-t<<schwa>>s sI-nee lib-<<schwa>>r-is di-ses-<<schwa>>r-it). [Latin] Hist. If the instituted heir should die without issue. See SUBSTITUTION.

SI ITA EST

si ita est (sI I-t<<schwa>> est). [Latin] If it be so. • This phrase was formerly used in a mandamus writ to order a judge to affix a seal to a bill of exceptions, if the facts were accurately stated.

SILENCE

silence, n.1. A restraint from speaking. • In criminal law, silence includes an arrestee's statements expressing the desire not to speak and requesting an attorney. 2. A failure to reveal something required by law to be revealed. See estoppel by silence under ESTOPPEL. — silent, adj.

SILENT CONFIRMATION

silent confirmation. See CONFIRMATION.

SILENTIARY

silentiary (sI-len-shee-air-ee), n.1. Roman law. An official who maintains order in the imperial palace and on the imperial council; a chamberlain. 2. Hist. An officer who is sworn to silence about state secrets; esp., a privy councillor so sworn. 3. Hist. A court usher who maintains order and esp. silence in the court. — Also termed silentarius.

SILENT PARTNER

silent partner. See PARTNER.

SILENT RECORD

silent record. See RECORD.

SILENT-WITNESS THEORY

silent-witness theory. Evidence. A method of authenticating and admitting evidence (such as a photograph), without the need for a witness to verify its authenticity, upon a sufficient showing of the reliability of the process of producing the evidence, including proof that the evidence has not been altered. [Cases: Criminal Law 438, 444; Evidence 359, 380. C.J.S. Criminal Law §§ 1025, 1028, 1030, 1032, 1040–1041, 1046; Evidence §§ 987, 991–994, 998, 1000, 1002.]

SILK GOWN

silk gown. 1. The professional robe worn by a Queen's Counsel. 2. One who is a Queen's Counsel. — Often shortened (in sense 2) to silk. Cf. STUFF GOWN.

SILVER CERTIFICATES

silver certificates. U.S. paper money formerly in circulation and redeemable in silver. • Silver certificates have been replaced by Federal Reserve notes, which are not so redeemable.

SILVER PARACHUTE

silver parachute. See TIN PARACHUTE.

SILVER-PLATTER DOCTRINE

silver-platter doctrine. Criminal procedure. The principle that a federal court could allow the admission of evidence obtained illegally by a state police officer as long as a federal officer did not participate in or request the search. • The Supreme Court rejected this doctrine in *Elkins v. United States*, 364 U.S. 206, 80 S.Ct. 1437 (1960). [Cases: Criminal Law 394.2. C.J.S. Criminal

Law § 776.]

SIMILITIA SUPPLEAT AETATEM

si malitia suppleat aetatem (sI m<<schwa>>-lish-ee-<<schwa>> s<<schwa>>p-lee-at-ee-tay-t<<schwa>>m). [Latin] Hist. If malice should supply the want of age.

SIMILAR HAPPENINGS

similar happenings.Evidence. Events that occur at a time different from the time in dispute and are therefore usu. inadmissible except to the extent that they provide relevant information on issues that would be fairly constant, such as the control of and conditions on land on the day in question. [Cases: Criminal Law 369–374; Evidence 129–142. C.J.S. Criminal Law §§ 454, 825–830, 832; Evidence §§ 760–775, 780–781, 783–788.]

SIMILARITY

similarity.Intellectual property. The resemblance of one trademark or copyrighted work to another. • How closely a trademark must resemble another to amount to infringement depends on the nature of the product and how much care the typical buyer would be expected to take in making the selection in that particular market. It is a question of overall impression rather than an element-by-element comparison of the two marks. — Also termed imitation; colorable imitation. [Cases: Trade Regulation 340. C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 86, 89.]

“It is the buyer who uses ordinary caution in making his purchase, who is buying with the care usually exercised in such transactions, who must be deceived by this similarity. He who buys a box of candy does not use as much care as he who buys a watch. He who buys a handkerchief does not usually examine the goods offered him as carefully as he who buys a suit of clothes.” Harry D. Nims, *The Law of Unfair Competition and Trade-Marks* 836 (1929).

comprehensive nonliteral similarity.Copyright. Similarity evidenced by the copying of the protected work's general ideas or structure (such as a movie's plot) without using the precise words or phrases of the work. — Also termed pattern similarity.

fragmented literal similarity.Copyright. Similarity evidenced by the copying of verbatim portions of the protected work.

pattern similarity.See comprehensive nonlinear similarity.

substantial similarity.Copyright. A strong resemblance between a copyrighted work and an alleged infringement, thereby creating an inference of unauthorized copying. • The standard for substantial similarity is whether an ordinary person would conclude that the alleged infringement has appropriated nontrivial amounts of the copyrighted work's expressions. See derivative work under WORK (2). [Cases: Copyrights and Intellectual Property 53(1).]

SIMILAR SALES

similar sales.See SALE.

SIMILITER

similiter (si-mil-i-t<<schwa>>r). [Latin “similarly”] Common-law pleading. A party's written acceptance of an opponent's issue or argument; a set form of words by which a party accepts or joins in an issue of fact tendered by the other side. See joinder of issue (2) under JOINDER. [Cases: Pleading 100, 186. C.J.S. Pleading §§ 225, 764, 769.]

SI MINOR SE MAJOREM DIXERIT

si minor se majorem dixerit (sImI-n<<schwa>>r see m<<schwa>>-jor-<<schwa>>m dik-s<<schwa>>r-it). [Latin] Hist. If the minor has said that he is major. • The phrase refers to a defense that might be raised in a suit for a minor's claim for restitution for minority.

SIMONY

simony (sim-<<schwa>>-nee orsI-m<<schwa>>-nee), n.[fr. Latin simonia “payment for things spiritual,” fr. the proper name Simon Magus (see below)] Hist. Eccles. law. The unlawful practice of giving or receiving money or gifts in exchange for spiritual promotion; esp., the unlawful buying or selling of a benefice or the right to present clergy to a vacant benefice.

“By simony, the right of presentation to a living is forfeited, and vested pro hac vice in the crown. Simony is the corrupt presentation of any one to an ecclesiastical benefice for money, gift, or reward. It is so called from the resemblance it is said to bear to the sin of Simon Magus, though the purchasing of holy orders seems to approach nearer to his offence. It was by the canon law a very grievous crime: and is so much the more odious, because, as sir Edward Coke observes, it is ever accompanied with perjury; for the presentee is sworn to have committed no simony.” 2 William Blackstone, Commentaries on the Laws of England 278 (1766).

“Simony is an offence which consists in the buying and selling of holy orders, and any bond or contract involving simony is illegal and void.” John Indermaur, Principles of the Common Law 195 (Edmund H. Bennett ed., 1st Am. ed. 1878).

SIMPLE

simple,adj.1. (Of a crime) not accompanied by aggravating circumstances. Cf. AGGRAVATED(1).2. (Of an estate or fee) heritable by the owner's heirs with no conditions concerning tail. 3. (Of a contract) not made under seal. [Cases: Contracts 36. C.J.S. Contracts § 76.]

SIMPLE AGREEMENT

simple agreement.See AGREEMENT.

SIMPLE ASSAULT

simple assault.1.ASSAULT(1).2.ASSAULT(1)(2).

SIMPLE AVERAGE

simple average.See particular average under AVERAGE.

SIMPLE BATTERY

simple battery. See BATTERY.

SIMPLE BLOCKADE

simple blockade. See BLOCKADE.

SIMPLE BOND

simple bond. See BOND(2).

SIMPLE CONTRACT

simple contract. 1. See informal contract (1) under CONTRACT. 2. See parol contract (2) under CONTRACT.

SIMPLE-CONTRACT DEBT

simple-contract debt. See DEBT.

SIMPLE INTEREST

simple interest. See INTEREST(3).

SIMPLE KIDNAPPING

simple kidnapping. See KIDNAPPING.

SIMPLE LARCENY

simple larceny. See LARCENY.

SIMPLE LISTING

simple listing. See open listing under LISTING(1).

SIMPLE MAJORITY

simple majority. See MAJORITY.

SIMPLE MORTGAGE CLAUSE

simple mortgage clause. See open mortgage clause under MORTGAGE CLAUSE.

SIMPLE NEGLIGENCE

simple negligence. See inadvertent negligence under NEGLIGENCE.

SIMPLE OBLIGATION

simple obligation. See OBLIGATION.

SIMPLE PLAN

SIMPLE plan. See EMPLOYEE BENEFIT PLAN.

SIMPLE REDUCTION

simple reduction.Scots law. A court's temporary ruling that a document is of no effect until it is produced in court.

SIMPLE RESOLUTION

simple resolution.See RESOLUTION(1).

SIMPLE ROBBERY

simple robbery.See ROBBERY.

SIMPLE STATE

simple state.See unitary state under STATE.

SIMPLE-TOOL RULE

simple-tool rule.The principle that an employer has no duty to warn its employees of dangers that are obvious to everyone involved, and has no duty to inspect a tool that is within the exclusive control of an employee when that employee is fully acquainted with the tool's condition.

SIMPLE TRUST

simple trust.1. See mandatory trust under TRUST. 2. See passive trust under TRUST.

SIMPLEX

simplex (sim-pleks), adj.[Latin] Simple; pure; unconditional.

SIMPLEX DICTUM

simplex dictum.See DICTUM.

SIMPLEX PASSAGIUM

simplex passagium (sim-pleks p<<schwa>>-say-jee-<<schwa>>m). [Law Latin] Hist. Simple passage (to the holy land alone). • This type of pilgrimage served as an excuse for absence from court during the Crusades. — Also termed simplex peregrinatio. Cf. IN GENERALI PASSAGIO.

SIMPLICITER

simpliciter (sim-plis-i-t<<schwa>>r), adv.[Latin] 1. In a simple or summary manner; simply. 2. Absolutely; unconditionally; per se.

SIMPLIFIED EMPLOYEE PENSION PLAN

simplified employee pension plan.See EMPLOYEE BENEFIT PLAN.

SIMPLUM

simplum (sim-pl<<schwa>>m), n. [Latin] Roman law. The single value of something. Cf. DUPLUM.

SIMULATED CONTRACT

simulated contract. See CONTRACT.

SIMULATED FACT

simulated fact. See FACT.

SIMULATED JUDGMENT

simulated judgment. See JUDGMENT.

SIMULATED SALE

simulated sale. See SALE.

SIMULATED TRANSACTION

simulated transaction. See simulated sale under SALE.

SIMULATIO LATENS

simulatio latens (sim-y<<schwa>>-lay-shee-oh lay-tenz). [Latin "hidden pretence"] Hist. Feigned enhancement of illness, as when symptoms are present but not nearly as severe as is pretended.

SIMULATION

simulation. 1. An assumption of an appearance that is feigned, false, or deceptive. 2. Civil law. A feigned, pretended act, usu. to mislead or deceive. 3. See simulated contract under CONTRACT.

SIMUL CUM

simul cum (sI-m<<schwa>>l k<<schwa>>m). [Latin] Together with. • This phrase was formerly used in an indictment or other instrument to indicate that a defendant had committed an injury jointly with others unknown.

SIMUL ET SEMEL

simul et semel (sI-m<<schwa>>l et sem-<<schwa>>l). [Latin] Together at one time.

SIMULTANEOUS DEATH

simultaneous death. See DEATH.

SIMULTANEOUS-DEATH ACT

simultaneous-death act. See UNIFORM SIMULTANEOUS DEATH ACT.

SIMULTANEOUS-DEATH CLAUSE

simultaneous-death clause. A testamentary provision mandating that if the testator and beneficiary die in a common disaster, or the order of their deaths is otherwise unascertainable, the

testator is presumed to have survived the beneficiary. • If the beneficiary is the testator's spouse, an express exception is often made so that the spouse with the smaller estate is presumed to have survived. See simultaneous death under DEATH. Cf. SURVIVAL CLAUSE .

SIMULTANEOUS POLYGAMY

simultaneous polygamy. See POLYGAMY(1).

SINE

sine (sI-nee or sin-ay), prep. [Latin] Without.

SINE ANIMO REMANENDI

sine animo remanendi (sI-nee an-⟨schwa⟩-moh rem-⟨schwa⟩-nen-dI). [Law Latin] Hist. Without the intention of remaining.

SINE ANIMO REVERTENDI

sine animo revertendi (sI-nee an-⟨schwa⟩-moh ree-v⟨schwa⟩-ten-dI). [Latin] Without the intention of returning. See animus revertendi under ANIMUS.

SINE ASSENSU CAPITULI

sine assensu capituli (sI-nee ⟨schwa⟩-sen-s[y]oo k⟨schwa⟩-pich-[y]⟨schwa⟩-II), n. [Law Latin “without the consent of the chapter”] Hist. A writ for a successor to recover land that the former bishop, abbot, or prior had alienated without the chapter's permission.

SINE CONSIDERATIONE CURIAE

sine consideratione curiae (sI-nee k⟨schwa⟩-n-sid-⟨schwa⟩-ray-shee-oh-nee kyoor-ee-I). [Law Latin] Without the judgment of the court.

SINE CURA ET CULTURA

sine cura et cultura (sI-nee kyoor-⟨schwa⟩ et k⟨schwa⟩-l-t[y]oor-⟨schwa⟩). [Latin] Hist. Without care and culture. • Natural fruits fitting this description automatically passed to the purchaser of property. But industrial fruits that had to be cultivated required a special conveyance.

SINECURE

sinecure (sI-n⟨schwa⟩-kyoor orsin-⟨schwa⟩-kyoor). [fr. Latin sine cura “without duties”] Hist. A post without any duties attached; an office for which the holder receives a salary but has no responsibilities. — sinecural (sI-n⟨schwa⟩-kyoor-⟨schwa⟩-l or sI-n⟨schwa⟩-kyoor-⟨schwa⟩-l), adj.

SINE DECRETO

sine decreto (sI-nee di-kree-toh). [Latin] Without a judge's authority.

SINE DIE

sine die (sI-nee dI-ee ordI- orsin-ay dee-ay). [Latin “without day”] With no day being

assigned (as for resumption of a meeting or hearing). See adjourn sine die under ADJOURN; GO HENCE WITHOUT DAY. [Cases: Courts 76; States 32. C.J.S. Courts § 120; States §§ 48–50.]

SINE FRAUDE

sine fraude (sI-nee fraw-dee). [Latin] Hist. Without fraud.

SINE HOC QUOD

sine hoc quod (sI-nee hok kwod). [Law Latin] Without this, that. See ABSQUE HOC .

SINE NUMERO

sine numero (sI-nee n[y]oo-m<<schwa>>r-oh). [Law Latin “without number”] Countless; without limit.

SINE PACTO

sine pacto (sI-nee pak-toh). [Latin] Hist. Without an agreement.

SINE PROLE

sine prole (sI-nee proh-lee). [Latin] Without issue. • This phrase was used primarily in genealogical tables. — Abbr. s.p.

SINE QUA NON

sine qua non (sI-nee kway nonorsin-ay kwah nohn), n.[Latin “without which not”] An indispensable condition or thing; something on which something else necessarily depends. — Also termed *conditio sine qua non*. [Cases: Negligence 379.]

SINE QUIBUS FUNUS HONESTE DUCI NON POTEST

sine quibus funus honeste duci non potest (sI-nee kwib-<<schwa>>s fyoo-n<< schwa>>s [h]<<schwa>>-nes-tee d[y]oo-sI non poh-test). [Latin] Scots law. Without which the funeral cannot be decently conducted. • The phrase appeared in reference to funeral expenses that could be deducted against the decedent's estate.

SINE VI AUT DOLO

sine vi aut dolo (sI-nee vI awt doh-loh). [Latin] Hist. Without force or fraud.

SINGLE

single,adj.1. Unmarried <single tax status>.2. Consisting of one alone; individual <single condition> <single beneficiary>.

SINGLE-ACT STATUTE

single-act statute.See LONG-ARM STATUTE.

SINGLE ADULTERY

single adultery.See ADULTERY.

SINGLE-ASSET REAL ESTATE

single-asset real estate.Bankruptcy. A single piece of real property (apart from residential property with fewer than four residential units) that a debtor operates for business purposes, that provides the debtor with substantially all his or her gross income, and that carries aggregate, liquidated, noncontingent secured debts of \$4 million or less. 11 USCA § 101(51B).

SINGLE BILL

single bill.See bill single under BILL(7).

SINGLE BOND

single bond.See bill obligatory under BILL(7).

SINGLE COMBAT

single combat.See DUEL(2).

SINGLE CONDITION

single condition.See CONDITION(2).

SINGLE-CONTROVERSY DOCTRINE

single-controversy doctrine.See ENTIRE-CONTROVERSY DOCTRINE.

SINGLE-COUNTRY FUND

single-country fund.See MUTUAL FUND.

SINGLE CREDITOR

single creditor.See CREDITOR.

SINGLE-CRIMINAL-INTENT DOCTRINE

single-criminal-intent doctrine.See SINGLE-LARCENY DOCTRINE.

SINGLE-DATE-OF-REMOVAL DOCTRINE

single-date-of-removal doctrine.Civil procedure. The principle that the deadline for removing a case from state court to federal court is 30 days from the day that any defendant receives a copy of the state-court pleading on which the removal is based. • If a later-served defendant seeks to remove a case to federal court more than 30 days after the day any other defendant received the pleading, the removal is untimely even if effectuated within 30 days after the removing defendant received the pleading. One theory underlying this doctrine is that all defendants must consent to remove a case to federal court, and a defendant who has waited longer than 30 days to remove does not have the capacity to consent to removal. 28 USCA § 1446(b). See NOTICE OF REMOVAL. [Cases: Removal of Cases 79(1).C.J.S. Removal of Causes §§ 153–158, 160–161, 182.]

SINGLE DEMISE

single demise. See DEMISE.

SINGLE-ELEMENT MEANS CLAIM

single-element means claim. See single-means claim under PATENT CLAIM.

SINGLE-ENTRY BOOKKEEPING

single-entry bookkeeping. See BOOKKEEPING.

SINGLE-FILING RULE

single-filing rule. Civil-rights law. The principle that an administrative charge filed by one plaintiff in a civil-rights suit (esp. a Title VII suit) will satisfy the administrative-filing requirements for all coplaintiffs who are making claims for the same act of discrimination. • But this rule will not usu. protect a coplaintiff's claims if the coplaintiff also filed an administrative charge, against the same employer, in which different discriminatory acts were complained of, because the administrative agency (usu. the EEOC) and the employer are entitled to rely on the allegations someone makes in an administrative charge. [Cases: Civil Rights 1517.C.J.S. Civil Rights § 153.]

SINGLE-IMPULSE PLAN

single-impulse plan. See SINGLE-LARCENY DOCTRINE.

SINGLE-JUROR INSTRUCTION

single-juror instruction. See JURY INSTRUCTION.

SINGLE-LARCENY DOCTRINE

single-larceny doctrine. Criminal law. The principle that the taking of different items of property belonging to either the same or different owners at the same time and place constitutes one act of larceny if the theft is part of one larcenous plan, as when it involves essentially one continuous act or if control over the property is exercised simultaneously. • The intent of the thief determines the number of occurrences. — Also termed single-impulse plan; single-larceny rule; single-criminal-intent doctrine. [Cases: Larceny 1. C.J.S. Larceny §§ 1(1, 2), 9.]

SINGLE-MEANS CLAIM

single-means claim. See PATENT CLAIM.

SINGLE-NAME PAPER

single-name paper. A negotiable instrument signed by only one maker and not backed by a surety.

SINGLE OBLIGATION

single obligation. See OBLIGATION.

SINGLE ORDEAL

single ordeal. See ORDEAL.

SINGLE ORIGINAL

single original. An instrument executed singly, not in duplicate.

SINGLE-PARAGRAPH FORM

single-paragraph form. Patents. A style of writing patent claims that uses a colon after the introductory phrase and a semicolon after each element. Cf. COLON-COLON FORM; OUTLINE FORM; SUBPARAGRAPH FORM.

SINGLE-PREMIUM DEFERRED ANNUITY

single-premium deferred annuity. See ANNUITY.

SINGLE-PREMIUM INSURANCE

single-premium insurance. See single-premium life insurance under LIFE INSURANCE .

SINGLE-PUBLICATION RULE

single-publication rule. The doctrine that a plaintiff in a libel suit against a publisher has only one claim for each mass publication, not a claim for every book or issue in that run. [Cases: Libel and Slander 26. C.J.S. Libel and Slander; Injurious Falsehood §§ 53-55, 98.]

SINGLE-PURPOSE PROJECT

single-purpose project. A facility that is designed, built, and used for one reason only, such as to generate electricity. • This term most often refers to large, complex, expensive projects such as power plants, chemical-processing plants, mines, and toll roads. Projects of this type are often funded through project financing, in which a special-purpose entity is established to perform no function other than to develop, own, and operate the facility, the idea being to limit the number of the entity's creditors and thus provide protection for the project's lenders. See project financing under FINANCING; SPECIAL-PURPOSE ENTITY; BANKRUPTCY-REMOTE ENTITY.

SINGLE-RECOVERY RULE

single-recovery rule. See ONE-SATISFACTION RULE.

SINGLE-REGISTRATION RULE

single-registration rule. Copyright. The U.S. Copyright Office doctrine that permits only one registration for each original work. • Exceptions to the rule are routinely made for unpublished works that are later published. Generally, a revised work cannot be registered a second time if the revisions are not substantial, but the creator may be allowed to file a supplemental registration. [Cases: Copyrights and Intellectual Property 50.16.]

SINGLE-SOURCE REQUIREMENT

single-source requirement. Under the common-law tort of false advertising, the necessity to show that the plaintiff is the only supplier of the genuine goods in question and that buyers would

have bought the plaintiff's goods if the true nature of the defendant's goods had been known. *Ely-Norris Safe Co. v. Mosler Safe Co.*, 7 F.2d 603 (2d Cir. 1925). • This is a narrow exception to the common-law rule that the tort of false advertising applies only in instances of passing off, trade defamation, and trade disparagement.

SINGLE-SUBJECT RULE

single-subject rule. See ONE-SUBJECT RULE.

SINGLES' PENALTY

singles' penalty. See MARRIAGE BONUS.

SINGLE TRANSFERABLE VOTE

single transferable vote. See VOTE(1).

SINGLE TRANSFERABLE VOTING

single transferable voting. See PROPORTIONAL REPRESENTATION(2).

SINGULAR

singular, adj. 1. Individual; each <all and singular>. 2. Civil law. Of or relating to separate interests in property, rather than the estate as a whole <singular succession>.

SINGULAR SUCCESSOR

singular successor. See SUCCESSOR.

SINGULAR TITLE

singular title. See TITLE(2).

SINGULI IN SOLIDUM

singuli in solidum (sing-gy<<schwa>>-II in sol-<<schwa>>-d<<schwa>>m). [Latin] Hist. Each for the whole.

“Where there are several co-obligants in one obligation, each bound in full performance, they are said to be liable singuli in solidum; and where each is liable only for his own proportion of the debt, they are said to be liable pro rata.” John Trayner, *Trayner's Latin Maxims* 580 (4th ed. 1894).

SINKING FUND

sinking fund. See FUND(1).

SINKING-FUND BOND

sinking-fund bond. See BOND(3).

SINKING-FUND DEBENTURE

sinking-fund debenture. See DEBENTURE.

SINKING-FUND DEPRECIATION METHOD

sinking-fund depreciation method. See DEPRECIATION METHOD.

SINKING-FUND RESERVE

sinking-fund reserve. See RESERVE.

SINKING-FUND TAX

sinking-fund tax. See TAX.

SI NON JURE SEMINIS, SALTEM JURE SOLI

si non jure seminis, saltem jure soli (sI non joor-ee sem-i-nis, sal-tem joor-ee soh-II). [Law Latin] Hist. If not by right of seed, at least by right of soil.

SI NON OMNES

si non omnes (sI non om-nee-z). [Latin "if not all"] Hist. A writ allowing two or more judges to proceed in a case if the whole commission cannot be present on the assigned day.

SIN TAX

sin tax. See TAX.

SIPA

SIPA (see-p<<schwa>>). abbr. SECURITIES INVESTOR PROTECTION ACT.

SI PARCERE EI SINE SUO PERICULO NON POTEST

si parcere ei sine suo periculo non potest (sIpahr-s<<schwa>>r-ee ee-IsI-nee s[y]oo-oh p<<schwa>>-rik-y<<schwa>>-loh non poh-test). [Latin] Roman law. If he could not spare him except at his own peril. • This phrase defined the circumstances in which a defendant could plead self-defense.

SI PARET

si paret (sIpar-et). [Latin] If it appears. • In Roman law, this phrase was part of the praetor's formula by which judges were appointed and told how they were to decide.

SIPC

SIPC. abbr. SECURITIES INVESTOR PROTECTION CORPORATION.

SI PETATUR TANTUM

si petatur tantum (sI pi-tay-t<<schwa>>r tan-t<<schwa>>m). [Law Latin] Hist. If asked only.

"In blench holdings, where the return for the lands is generally elusory, that return is for the most part due and payable si petatur tantum; and this clause, by universal practice, has been interpreted to mean, if asked only within the year (si petatur intra annum). If the duty is not demanded within the year, the vassal is not liable for it." John Trayner, Trayner's Latin Maxims

575 (4th ed. 1894).

SI PRIUS

si prius (sIprI-<<schwa>>s). [Law Latin] If before. • This phrase is used in a writ summoning a jury.

SI QUIS

si quis (sIkwis). [Latin] Roman law. If any one. • This term was used in praetorian edicts. In England, it was also mentioned in notices posted in parish churches requesting anyone who knows of just cause why a candidate for holy orders should not be ordained to inform the bishop.

SIR

SIR.abbr.1.SELF-INSURED RETENTION. 2.STATUTORY INVENTION REGISTRATION.

SI RECOGNOSCAT

si recognoscat (sI rek-<<schwa>>g-nos-kat). [Latin “if he acknowledges”] Hist. A writ allowing a creditor to obtain money counted — that is, a specific sum that the debtor had acknowledged in county court to be owed.

SI SINE LIBERIS DECESSERIT

si sine liberis decesserit (sIsI-nee lib-<<schwa>>r-is di-ses-<<schwa>>r-it). [Latin] Hist. If he shall have died without children.

SI SIT ADMODUM GRAVE

si sit admodum grave (sI sit ad-moh-d<<schwa>>m gray-vee). [Latin] Hist. If it be very heinous.

SI SIT INCOMPOS MENTIS, FATUUS, ET NATURALITER IDIOTA

si sit incompos mentis, fatuus, et naturaliter idiota (sI sit in-kom-p<<schwa>>s men-tis, fach-oo-<<schwa>>s, et nach-<<schwa>>-ray-li-t<<schwa>>r id-ee-oh-t<<schwa>>). [Law Latin] Scots law. If he is of unsound mind, fatuous, and naturally an idiot. • The phrase appeared in reference to an inquiry that was posed to a jury required to make an idiocy determination.

SI SIT LEGITIMAE AETATIS

si sit legitimae aetatis (sI sit l<<schwa>>-jit-<<schwa>>-mee ee-tay-tis). [Latin] Hist. If he (or she) is of lawful age.

SIST

sist (sist), n. Scots law. 1. Intervention in legal proceedings as an interested third party, e.g., a trustee. 2. An order staying or suspending legal proceedings. — Also termed supersedere.

sist,vb. Scots law. 1. To bring into court; to summon. 2. To stay (a judicial proceeding, etc.),

esp. by court order.

SISTER

sister. A female who has one parent or both parents in common with another person.

consanguine sister (kahn-sang-gwin or k<<schwa>>n-san-gwin).Civil law. A sister who has the same father, but a different mother.

half sister.A sister who has the same father or the same mother, but not both.

sister-german. A full sister; the daughter of both of one's parents. See GERMAN.

stepsister. The daughter of one's stepparent.

uterine sister (yoo-t<<schwa>>r-in).Civil law. A sister who has the same mother, but a different father.

SISTER CORPORATION

sister corporation.See CORPORATION.

SISTERHOOD

sisterhood. See GIFTING CLUB.

SISTER-IN-LAW

sister-in-law. The sister of one's spouse or the wife of one's brother. • The wife of one's spouse's brother is also sometimes considered a sister-in-law. Pl. sisters-in-law.

SISTERSHIP EXCLUSION

sistership exclusion.See EXCLUSION(3).

SISTREN

sistren,n. Sisters, esp. those considered spiritual kin (such as female colleagues on a court). Cf. BRETHREN.

SIT

sit,vb.1. (Of a judge) to occupy a judicial seat <Judge Wilson sits on the trial court for the Eastern District of Arkansas>.2. (Of a judge) to hold court or perform official functions <is the judge sitting this week?>.3. (Of a court or legislative body) to hold proceedings <the U.S. Supreme Court sits from October to June>.

SIT-DOWN STRIKE

sit-down strike.See STRIKE.

SITE

site. 1. A place or location; esp., a piece of property set aside for a specific use. 2.SCITE.

SITE ASSESSMENT

site assessment. See transactional audit under **AUDIT**.

SITE LICENSE

site license. See **LICENSE**.

SITE PLAN

site plan. An illustrated proposal for the development or use of a particular piece of real property. • The illustration is usu. a map or sketch of how the property will appear if the proposal is accepted. Some zoning ordinances require a developer to present a site plan to the city council and to receive council approval before certain projects may be completed. [Cases: Zoning and Planning 245, 372.1. C.J.S. Zoning and Land Planning §§ 101, 191.]

SIT-IN

sit-in, n. An organized, passive demonstration in which participants usu. sit (or lie) down and refuse to leave a place as a means of protesting against policies or activities. • Sit-ins originated as a communal act of protesting racial segregation. People who were discriminated against would sit in places that were prohibited to them and refuse to leave. Later the term came to refer to any group protest, as with anti-Vietnam War protests and some labor strikes. Cf. sit-down strike under **STRIKE**.

SITIO GANADO MAYOR

sitio ganado mayor (sit-yoh gah-nah-doh mI-yor). Spanish & Mexican law. A square unit of land with each side measuring 5,000 varas (about 4,583 yards). • This term is found in old land grants in states that were formerly Spanish provinces or governed by Mexico. See **VARA**.

SITTING

sitting, n. A court session; esp., a session of an appellate court.

en banc sitting. A court session in which all the judges (or a quorum) participate. See **EN BANC**.

in camera sitting. A court session conducted by a judge in chambers or elsewhere outside the courtroom. See **IN CAMERA**.

SITUATION

situation. 1. Condition; position in reference to circumstances <dangerous situation>. 2. The place where someone or something is occupied; a location <situation near the border>.

SITUATIONAL OFFENDER

situational offender. See **OFFENDER**.

SITUATION OF DANGER

situation of danger. See DANGEROUS SITUATION.

SITUS

situs (sI-t<<schwa>>s). [Latin] The location or position (of something) for legal purposes, as in *lex situs*, the law of the place where the thing in issue is situated.

tax situs. See TAX SITUS.

SI VIDUA MANSERIT ET NON NUPSERIT

si vidua manserit et non nupserit (sIvij-yoo-<<schwa>> man-s<<schwa>>r-it et non n<<schwa>>p-s<<schwa>>r-it). [Law Latin] Hist. If she should remain a widow and not marry. • This requirement was a common condition in a widow's provision.

SIX CLERKS

Six Clerks. Hist. A collective name for the clerks of the English Court of Chancery who filed pleadings and other papers. • The office was abolished in 1842, and its duties transferred to the Clerk of Enrollments in Chancery and to the Clerks of Records and Writs.

SIXTEENTH AMENDMENT

Sixteenth Amendment. The constitutional amendment, ratified in 1913, allowing Congress to tax income. [Cases: Internal Revenue 3067. C.J.S. Internal Revenue § 12.]

SIXTH AMENDMENT

Sixth Amendment. The constitutional amendment, ratified with the Bill of Rights in 1791, guaranteeing in criminal cases the right to a speedy and public trial by jury, the right to be informed of the nature of the accusation, the right to confront witnesses, the right to counsel, and the right to compulsory process for obtaining favorable witnesses.

SIXTH-SENTENCE REMAND

sixth-sentence remand. See REMAND.

SIXTY CLERKS

sixty clerks. See SWORN CLERKS IN CHANCERY.

SIXTY-DAY NOTICE

sixty-day notice. Labor law. Under the Taft–Hartley Act, the 60-day advance notice required for either party to a collective-bargaining agreement to reopen or terminate the contract. • During this period, strikes and lockouts are prohibited. 29 USCA § 158(d)(1).

S.J.D.

S.J.D. abbr. DOCTOR OF JURIDICAL SCIENCE.

SJI

SJI.abbr. STATE JUSTICE INSTITUTE.

SKELETON BILL

skeleton bill.See BILL(7).

SKELETON BILL OF EXCEPTIONS

skeleton bill of exceptions.See BILL(2).

SKILL

skill. Special ability and proficiency; esp., the practical and familiar knowledge of the principles and processes of an art, science, or trade, combined with the ability to apply them appropriately, with readiness and dexterity. • Skill is generally considered more than mere competence. It is a special competence that is not a part of the reasonable person's ordinary equipment, but that results from aptitude cultivated through special training and experience.

ordinary skill.The skill of a typical person who performs a given task or job.

reasonable skill.The skill ordinarily possessed and used by persons engaged in a particular business.

SKILLED ARTISAN

skilled artisan.See ARTISAN.

SKILLED WITNESS

skilled witness.See expert witness under WITNESS.

SKILLED WORK

skilled work.See WORK(1).

SKIP BAIL

skip bail.See JUMP BAIL.

SKIP PERSON

skip person.Tax. A beneficiary who is more than one generation removed from the transferor and to whom assets are conveyed in a generation-skipping transfer. IRC (26 USCA) § 2613(a). See GENERATION-SKIPPING TRANSFER. [Cases: Internal Revenue 4224.]

“Since a skip person is necessary to trigger a generation-skipping tax, it is important to have a precise definition of ‘skip person.’ In most cases, it suffices to say that a skip person is a person who is two or more generations younger than the transferor.” John K. McNulty, *Federal Estate and Gift Taxation in a Nutshell* 63 (5th ed. 1994).

SKIPPESON

skippeson. See ESKIPPESON.

SKIPTRACING AGENCY

skiptracing agency. A service that locates persons (such as delinquent debtors, missing heirs, witnesses, stockholders, bondholders, etc.) or missing assets (such as bank accounts).

SKYJACK

skyjack, vb. Slang. To hijack an aircraft. See HIJACK(1). — skyjacking, n.

S.L.

S.L. abbr. 1. Session law. See SESSION LAWS. 2. Statute law.

SLAMMING

slamming. The practice by which a long-distance telephone company wrongfully appropriates a customer's service from another company, usu. through an unauthorized transfer or by way of a transfer authorization that is disguised as something else, such as a form to sign up for a free vacation. [Cases: Telecommunications 323.]

SLANDER

slander, n. 1. A defamatory assertion expressed in a transitory form, esp. speech. • Damages for slander — unlike those for libel — are not presumed and thus must be proved by the plaintiff (unless the defamation is slander per se). [Cases: Libel and Slander 1, 24. C.J.S. Libel and Slander; Injurious Falsehood §§ 2, 5–6, 10, 47.] 2. The act of making such a statement. See DEFAMATION. Cf. LIBEL. — slander, vb. — slanderous, adj.

“Although libel and slander are for the most part governed by the same principles, there are two important differences: (1) Libel is not merely an actionable tort, but also a criminal offence, whereas slander is a civil injury only. (2) Libel is in all cases actionable per se; but slander is, save in special cases, actionable only on proof of actual damage. This distinction has been severely criticised as productive of great injustice.” R.F.V. Heuston, *Salmond on the Law of Torts* 139 (17th ed. 1977).

slander per quod. Slander that does not qualify as slander per se, thus forcing the plaintiff to prove special damages. [Cases: Libel and Slander 11, 33. C.J.S. Libel and Slander; Injurious Falsehood § 198.]

slander per se. Slander for which special damages need not be proved because it imputes to the plaintiff any one of the following: (1) a crime involving moral turpitude, (2) a loathsome disease (such as a sexually transmitted disease), (3) conduct that would adversely affect one's business or profession, or (4) unchastity (esp. of a woman). [Cases: Libel and Slander 33. C.J.S. Libel and Slander; Injurious Falsehood § 198.]

trade slander. Trade defamation that is spoken but not recorded. See trade defamation under DEFAMATION. Cf. trade libel under LIBEL.

SLANDERER

slanderer,n. One who commits slander. [Cases: Libel and Slander 77. C.J.S. Libel and Slander; Injurious Falsehood § 126.]

SLANDER OF GOODS

slander of goods.See DISPARAGEMENT.

SLANDER OF TITLE

slander of title.A false statement, made orally or in writing, that casts doubt on another person's ownership of property. — Also termed jactitation of title. See DISPARAGEMENT. [Cases: Libel and Slander 132. C.J.S. Libel and Slander; Injurious Falsehood § 205.]

SLANDER PER QUOD

slander per quod.See SLANDER.

SLANDER PER SE

slander per se.See SLANDER.

SLAPP

SLAPP (slap).abbr. A strategic lawsuit against public participation — that is, a suit brought by a developer, corporate executive, or elected official to stifle those who protest against some type of high-dollar initiative or who take an adverse position on a public-interest issue (often involving the environment). — Also termed SLAPP suit. [Cases: Pleading 358, 360. C.J.S. Pleading §§ 626–627, 651, 664, 720–722, 730–731, 734–739, 743, 745.]

SLATE

slate. A list of candidates, esp. for political office or a corporation's board of directors, that usu. includes as many candidates for election as there are representatives being elected. [Cases: Corporations 283(2). C.J.S. Corporations §§ 373, 439–442.]

SLAVE

slave.Roman law. See SERVUS(1).

SLAVERY

slavery. 1. A situation in which one person has absolute power over the life, fortune, and liberty of another. 2. The practice of keeping individuals in such a state of bondage or servitude. • Slavery was outlawed by the 13th Amendment to the U.S. Constitution. [Cases: Slaves 1. C.J.S. Peonage § 2.]

“Slavery was a big problem for the Constitution makers. Those who profited by it insisted on protecting it; those who loathed it dreaded even more the prospect that to insist on abolition would mean that the Constitution would die aborning. So the Framers reached a compromise, of sorts. The words ‘slave’ and ‘slavery’ would never be mentioned, but the Constitution would safeguard the ‘peculiar institution’ from the abolitionists.” Jethro K. Lieberman, *The Evolving Constitution*

493 (1992).

SLAVERY, BADGE OF

slavery, badge of. See **BADGE OF SLAVERY**.

SLAY

slay, vb. To kill (a person), esp. in battle.

SLAYER RULE

slayer rule. The doctrine that neither a person who kills another nor the killer's heirs can share in the decedent's estate. — Also termed slayer's rule.

SLAYER STATUTE

slayer statute. Slang. A statute that prohibits a person's killer from taking any part of the decedent's estate through will or intestacy. • The Uniform Probate Code and nearly all jurisdictions have a slayer-statute provision.

SL/C

SL/C. See standby letter of credit under **LETTER OF CREDIT**.

SLC

SLC. abbr. **SPECIAL LITIGATION COMMITTEE**.

SLEEPER

sleeper. A security that has strong market potential but is underpriced and lacks investor interest.

SLEEPING ON RIGHTS

sleeping on rights. See **LACHES(1)**.

SLEEPING PARTNER

sleeping partner. See secret partner under **PARTNER**.

SLEEPWALKING DEFENSE

sleepwalking defense. See **AUTOMATISM**.

SLIDING SCALE

sliding scale. A pricing method in which prices are determined by a person's ability to pay.

SLIGHT CARE

slight care. See **CARE**.

SLIGHT DILIGENCE

slight diligence. See DILIGENCE.

SLIGHT EVIDENCE

slight evidence. See EVIDENCE.

SLIGHT-EVIDENCE RULE

slight-evidence rule. 1. The doctrine providing that, when there is evidence establishing the existence of a conspiracy between at least two other people, the prosecution need only offer slight evidence of a defendant's knowing participation or intentional involvement in the conspiracy to secure a conviction. • This rule was first announced in *Tomplain v. United States*, 42 F.2d 202, 203 (5th Cir. 1930). In the decades after *Tomplain*, other circuits adopted the rule, but not until the 1970s did the rule become widespread. Since then, the rule has been widely criticized and, in most circuits, abolished. See, e.g., *United States v. Durrive*, 902 F.2d 1221 (7th Cir. 1990). But its vitality remains undiminished in some jurisdictions. 2. The doctrine that only slight evidence of a defendant's participation in a conspiracy need be offered in order to admit a coconspirator's out-of-court statement under the coconspirator exception to the hearsay rule. See Fed. R. Evid. 801(d)(2)(E).

SLIGHT NEGLIGENCE

slight negligence. See NEGLIGENCE.

SLIP-AND-FALL CASE

slip-and-fall case. 1. A lawsuit brought by a plaintiff for injuries sustained in slipping and falling, usu. on the defendant's property. [Cases: Negligence 1095, 1104. C.J.S. Negligence §§ 607, 609.] 2. Loosely, any minor case in tort.

SLIP DECISION

slip decision. See slip opinion under OPINION(1).

SLIP LAW

slip law. An individual pamphlet in which a single enactment is printed immediately after its passage but before its inclusion in the general laws (such as the session laws or the U.S. Statutes at Large). — Also termed slip-law print.

SLIP OPINION

slip opinion. See OPINION(1).

SLOT CHARTER

slot charter. See CHARTER(8).

SLOUGH

slough. 1. (sloo) An arm of a river, separate from the main channel. 2. (slow) A bog; a place filled with deep mud.

SLOWDOWN

slowdown. An organized effort by workers to decrease production to pressure the employer to take some desired action.

SLSDC

SLSDC.abbr.SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION.

SLUMP

slump,n. A temporary downturn in the economy and in the stock market in particular, characterized by falling market prices.

SLUSH FUND

slush fund.Money that is set aside for undesignated purposes, often corrupt ones, and that is not subject to financial procedures designed to ensure accountability.

SM

SM.abbr. SERVICEMARK.

SMALL BUSINESS ADMINISTRATION

Small Business Administration.A federal agency that helps small businesses by assuring them a fair share of government contracts, guaranteeing their loans or lending them money directly, and providing disaster relief. • The agency was established by the Small Business Act of 1953. — Abbr. SBA. [Cases: United States 53(8). C.J.S. United States § 91.]

SMALL-BUSINESS CONCERN

small-business concern.A business qualifying for an exemption from freight undercharges because it is independently owned and operated and is not dominant in its field of operation, with limited numbers of employees and business volume. 15 USCA § 632. — Often shortened to small business. [Cases: Carriers 189; Commerce 85.33. C.J.S. Aeronautics and Aerospace § 231; Carriers §§ 138, 140–143, 163–164, 178–180, 182, 184–186, 194, 470–472, 474.]

SMALL-BUSINESS CORPORATION

small-business corporation.See CORPORATION.

SMALL BUSINESS INVESTMENT ACT

Small Business Investment Act.A federal law, originally enacted in 1958, under which investment companies may be formed and licensed to supply long-term equity capital to small businesses. • The statute is implemented by the Small Business Administration.15 USCA §§ 661 et seq. [Cases: United States 53(8). C.J.S. United States § 91.]

SMALL-BUSINESS INVESTMENT COMPANY

small-business investment company.A corporation created under state law to provide

long-term equity capital to small businesses, as provided under the Small Business Investment Act and regulated by the Small Business Administration.15 USCA §§ 661 et seq. — Abbr. SBIC. [Cases: Banks and Banking 310; United States 53(8). C.J.S. Banks and Banking §§ 625–626, 646; United States § 91.]

SMALL CLAIM

small claim. A claim for damages at or below a specified monetary amount. See small-claims court under COURT. [Cases: Courts 174.]

SMALL-CLAIMS COURT

small-claims court. See COURT.

SMALL-DEBTS COURT

small-debts court. See small-claims court under COURT.

SMALL ENTITY

small entity. Patents. An independent inventor, a nonprofit organization, or a company with 500 or fewer employees. • A small entity is usu. charged lower fees for patent applications and related expenses as long as the patent rights are not assigned or licensed to a large entity (a for-profit organization with more than 500 employees). [Cases: Patents 103. C.J.S. Patents § 144.]

SMALL-ESTATE PROBATE

small-estate probate. See PROBATE.

SMALL INVENTION

small invention. See UTILITY MODEL.

SMALL-LOAN ACT

small-loan act. A state law fixing the maximum legal rate of interest and other terms on small, short-term loans by banks and finance companies. [Cases: Banks and Banking 181; Consumer Credit 3; Usury 42. C.J.S. Banks and Banking §§ 470, 680–681; Interest and Usury; Consumer Credit §§ 135–141, 143, 146, 152, 157, 280–293, 306.]

SMALL-LOAN COMPANY

small-loan company. See consumer finance company under FINANCE COMPANY.

SMART CARD

smart card. See STORED-VALUE CARD.

SMART MONEY

smart money. 1. Funds held by sophisticated, usu. large investors who are considered capable of minimizing risks and maximizing profits <the smart money has now left this market>. 2. See

punitive damages under DAMAGES < although the jury awarded only \$7,000 in actual damages, it also awarded \$500,000 in smart money>.

SMBS

SMBS. See stripped mortgage-backed security under SECURITY.

SMITH ACT

Smith Act.A 1948 federal antisediton law that criminalizes advocating the forcible or violent overthrow of the government. 18 USCA § 2385. [Cases: Insurrection and Sedition 1. C.J.S. Riot; Insurrection § 29.]

“The Smith Act is aimed at the advocacy and teaching of concrete action for the forcible overthrow of the government, and not at advocacy of principles divorced from action. The essential distinction is that those to whom the advocacy is addressed must be urged to do something, now or in the future, rather than merely to believe in something.” 70 Am. Jur. 2d Sedition, Etc. § 63, at 59 (1987).

SMITHSONIAN INSTITUTION

Smithsonian Institution.An independent trust of the United States responsible for conducting scientific and scholarly research; publishing its results; maintaining over 140 million artifacts, works of art, and scientific specimens for study, display, and circulation throughout the nation; and engaging in educational programming and international cooperative research. • It was created in 1846 to give effect to the terms of the will of a British scientist, James Smithson, who left his entire estate to the United States.

SMOKING GUN

smoking gun.A piece of physical or documentary evidence that conclusively impeaches an adversary on an outcome-determinative issue or destroys the adversary's credibility.

SMOOT–HAWLEY TARIFF ACT

Smoot–Hawley Tariff Act.Hist. A 1930 protectionist statute that raised tariff rates on most articles imported into the U.S., and provoked U.S. trading partners to institute comparable tariff increases. • This Act is often cited as a factor in precipitating and spreading the Great Depression. The Act was named for the legislators who sponsored it, Senator Reed Smoot of Utah and Representative Willis C. Hawley of Oregon. It is sometimes called the Grundy Tariff for Joseph Grundy, who was president of the Pennsylvania Manufacturers Association and the chief lobbyist supporting the Act. — Also termed Tariff Act of 1930.

SMUGGLING

smuggling,n. The crime of importing or exporting illegal articles or articles on which duties have not been paid. See CONTRABAND. [Cases: Customs Duties 120.1, 125. C.J.S. Customs Duties §§ 211, 213–214, 216–218, 222–223.] — smuggle,vb.

SMURF

smurf,n. Slang. A person who participates in a money-laundering operation by making transactions of less than \$10,000 (the amount that triggers federal reporting requirements) at each of many banks. • The name derives from a cartoon character of the 1980s.

SNEAK-AND-PEEK SEARCH WARRANT

sneak-and-peek search warrant.See covert-entry search warrant under SEARCH WARRANT .

SNS

SNS.abbr.STRATEGIC NATIONAL STOCKPILE.

SO.

So.abbr.SOUTHERN REPORTER.

SOBER

sober,adj.1. (Of a person) not under the influence of drugs or alcohol. 2. (Of a person) regularly abstinent or moderate in the use of intoxicating liquors. [Cases: Chemical Dependents 1. C.J.S. Chemical Dependents §§ 2–3.] 3. (Of a situation, person, etc.) serious; grave. 4. (Of facts, arguments, etc.) basic; unexaggerated. 5. (Of a person) rational; having self-control.

SOBRANTE

sobranante. Surplus. • This term is sometimes found in old land grants in states that were formerly governed by Mexico.

SOBRESTADIA

sobrestadia. See ESTADIA.

SOBRIETY CHECKPOINT

sobriety checkpoint.A part of a roadway at which police officers maintain a roadblock to stop motorists and ascertain whether the drivers are intoxicated. [Cases: Automobiles 349(9).]

SOBRIETY TEST

sobriety test.A method of determining whether a person is intoxicated. • Among the common sobriety tests are coordination tests and the use of mechanical devices to measure the blood alcohol content of a person's breath sample. See BREATHALYZER; HORIZONTAL-GAZE NYSTAGMUS TEST. [Cases: Automobiles 411; Criminal Law 388.2. C.J.S. Motor Vehicles §§ 1397–1411.]

field sobriety test.A motor-skills test administered by a peace officer during a stop to determine whether a suspect has been driving while intoxicated. • The test usu. involves checking the suspect's speaking ability or coordination (as by reciting the alphabet or walking in a straight line). — Abbr. FST. [Cases: Automobiles 411. C.J.S. Motor Vehicles §§ 1397–1411.]

SOBRINI

sobrini (s<<schwa>>-brI-nI), n. pl.[Latin] Roman law. Children of first cousins; second cousins.

SOC

soc (sohkorsok), n.[Law Latin] Hist. 1.A liberty of exercising private jurisdiction; specif., the privilege granted to a seignior of holding a tenant's court. 2. The territory subject to such private jurisdiction. — Also spelled soke; soca; sac.

fold soc. See FALDAGE(1).

SOCA

soca (soh-k<<schwa>> orsok-<<schwa>>), n. See SOC.

SOCAGE

socage (sok-ij).Hist. A type of lay tenure in which a tenant held lands in exchange for providing the lord husbandry-related (rather than military) service. • Socage, the great residuary tenure, was any free tenure that did not fall within the definition of knight-service, serjeanty, or frankalmoin. Cf. KNIGHT-SERVICE; VILLEINAGE.

“If they [the peasant's duties] were fixed — for instance, helping the lord with sowing or reaping at specified times — the tenure was usually called socage. This was originally the tenure of socmen; but it became ... a generic term for all free services other than knight-service, serjeanty, or spiritual service.” J.H. Baker, *An Introduction to English Legal History* 260 (3d ed. 1990).

free socage.Socage in which the services were both certain and honorable. • By the statute 12 Car. 2, ch. 24 (1660), all the tenures by knight-service were, with minor exceptions, converted into free socage. — Also termed free and common socage; liberum socagium.

villein socage (vil-<<schwa>>n). Socage in which the services, though certain, were of a baser nature than those provided under free socage.

SOCAGER

socager (sok-ij-<<schwa>>r). A tenant by socage; SOCMAN.

SOCER

socer (soh-s<<schwa>>r), n.[Latin] Roman law. A father-in-law.

SOCIAL CONTRACT

social contract.The express or implied agreement between citizens and their government by which individuals agree to surrender certain freedoms in exchange for mutual protection; an agreement forming the foundation of a political society. • The term is primarily associated with political philosophers, such as Thomas Hobbes, John Locke, and esp. Jean Jacques Rousseau, though it can be traced back to the Greek Sophists.

SOCIAL COST

social cost.See COST(1).

SOCIAL GUEST

social guest.See GUEST.

SOCIAL HARM

social harm.See HARM.

SOCIAL INSURANCE

social insurance.See INSURANCE.

SOCIAL JUSTICE

social justice.See JUSTICE(1).

SOCIAL RESTRICTION

social restriction. 1. The curtailment of individuals' liberties ostensibly for the general benefit.
2. A governmental measure that has this effect.

SOCIAL SECURITY ACT

Social Security Act.A federal law, originally established in 1935 in response to the Great Depression, creating a system of benefits, including old-age and survivors' benefits, and establishing the Social Security Administration. 42 USCA §§ 401–433. [Cases: Social Security and Public Welfare 5, 121. C.J.S. Social Security and Public Welfare §§ 6–7, 32, 34–35, 46, 48, 58.]

SOCIAL SECURITY ADMINISTRATION

Social Security Administration.A federal agency in the executive branch responsible for administering the nation's retirement program and its survivors-and disability-insurance program. • The agency was established under the Social Security Act of 1935 and became independent in 1995. — Abbr. SSA. [Cases: Social Security and Public Welfare 5. C.J.S. Social Security and Public Welfare §§ 6–7.]

SOCIAL SECURITY DISABILITY INSURANCE

Social Security Disability Insurance.A benefit for adults with disabilities, paid by the Social Security Administration to wage-earners who have accumulated enough quarters of coverage and then become disabled. • Benefits are also available to disabled adult children and to disabled widows and widowers. — Abbr. SSDI.

SOCIAL-SERVICE STATE

social-service state.See STATE.

SOCIAL STUDY

social study.See HOME-STUDY REPORT.

SOCIAL VALUE

social value. See VALUE(1).

SOCIDA

socida (s<<schwa>>-sI-d<<schwa>>), n.[Latin] Civil law. A contract of bailment by which the bailee assumes the risk of loss; specif., a bailment by which a person delivers animals to another for a fee, on the condition that if any animals perish, the bailee will be liable for the loss.

SOCIETAS

societas (s<<schwa>>-sI-<<schwa>>-tas), n.[Latin] Roman law. A partnership between two or more people agreeing to share profits and losses; a partnership contract.

“Societas in its widest acceptation denotes two or more persons who unite or combine for the prosecution of a common object; in its more restricted sense it denotes a mercantile partnership ..., the individual members being termed Socii.” William Ramsay, *A Manual of Roman Antiquities* 316 (Rodolfo Lanciani ed., 15th ed. 1894).

SOCIETAS LEONINA

societas leonina (s<<schwa>>-sI-<<schwa>>-tas lee-<<schwa>>-nI-n<<schwa>>). [Latin “partnership with a lion”] Roman law. An illegal partnership in which a partner shares in only the losses, not the profits; a partnership in which one person takes the lion's share. — Also termed leonina societas.

“But an arrangement by which one party should have all the gain was not recognized as binding; it was considered as contrary to the nature and purposes of the societas, the aim of which was gain for all the parties concerned. Such an arrangement the lawyers called societas leonina, a partnership like that which the lion in the fable imposed upon the cow, the sheep, and the she-goat, his associates in the chase.” James Hadley, *Introduction to Roman Law* 231–32 (1881).

SOCIETAS NAVALIS

societas navalis (s<<schwa>>-sI-<<schwa>>-tas n<<schwa>>-vay-lis), n.[Latin] Hist. A naval partnership; an assembly of vessels for mutual protection. — Also termed admiralitas.

SOCIETAS UNIVERSORUM BONORUM

societas universorum bonorum (s<<schwa>>-sI-<<schwa>>-tas yoo-ni-v<<schwa>>r-sor-<<schwa>>m b<<schwa>>-nor-<<schwa>>m), n. Hist. An entire partnership, including all the individual partners' property.

SOCIÉTÉ

société (soh-see-ay-tay), n.[French] French law. A partnership.

société anonyme (soh-see-ay-tay an-aw-neem), n.[French] French law. An incorporated joint-stock company.

société d'acquêts (soh-see-ay-tay dah-kay), n.[French] French law. A written agreement between husband and wife designating community property to be only that property acquired during marriage.

société en commandite (soh-see-ay-tay awn koh-mawn-deet), n.[French] French law. A limited partnership.

société en nom collectif (soh-see-ay-tay awni nawin koh-lek-teef), n.[French] French law. A partnership in which all members are jointly and severally liable for the partnership debts; an ordinary partnership.

société en participation (soh-see-ay-tay awn pahr-tee-see-pah-syawn), n. French law. A joint venture.

société par actions (soh-see-ay-tay pahr ak-syawn), n. French law. A joint-stock company.

SOCIETY

society. 1. A community of people, as of a state, nation, or locality, with common cultures, traditions, and interests.

civil society. The political body of a state or nation; the body politic.

2. An association or company of persons (usu. unincorporated) united by mutual consent, to deliberate, determine, and act jointly for a common purpose; ORGANIZATION(1). [Cases: Associations 1. C.J.S. Associations §§ 2–3, 8.] 3. The general love, affection, and companionship that family members share with one another.

SOCIOLOGICAL JURISPRUDENCE

sociological jurisprudence. See JURISPRUDENCE.

SOCIOLOGY OF LAW

sociology of law. See sociological jurisprudence under JURISPRUDENCE.

SOCIOPATH

sociopath, n. See PSYCHOPATH. — sociopathy, n. — sociopathic, adj.

SOCIUS

socius (soh-shee-*<<schwa>>*s), n.[Latin] Roman law. 1. A partner. 2. An accomplice; an accessory. 3. A political ally. Pl. *socii* (soh-shee-I).

SOCIUS CRIMINIS

socius criminis (soh-shee-*<<schwa>>*s krim-*<<schwa>>*-nis). An associate in crime; an accomplice.

SOCKMAN

sockman. See SOCMAN.

SOCMAN

socman (sok-m<<schwa>>n).Hist. A person who holds land by socage tenure. — Also spelled sokeman; sockman. — Also termed socager; gainor. See SOCAGE.

SOCMANRY

socmanry (sok-m<<schwa>>n-ree).Hist. 1. Free tenure by socage. 2. Land and tenements held only by simple services; land enfranchised by the sovereign from ancient demesne. • The tenants were socmen. 3. The state of being a socman.

SOCNA

socna (sok-n<<schwa>>).Hist. A privilege; a liberty; a franchise.

SOCRATIC METHOD

Socratic method.A technique of philosophical discussion — and of law-school instruction — by which the questioner (a law professor) questions one or more followers (the law students), building on each answer with another question, esp. an analogy incorporating the answer. • This method takes its name from the Greek philosopher Socrates, who lived in Athens about 469–399 B.C.His method is a traditional one in law schools, primarily because it forces law students to think through issues rationally and deductively — a skill required in the practice of law. Most law professors who employ this method call on students randomly, an approach designed to teach students to think quickly, without stage fright. Cf. CASEBOOK METHOD; HORNBOOK METHOD.

“[Socrates] himself did not profess to be capable of teaching anything, except consciousness of ignorance He called his method of discussion (the Socratic method) obstetrics... because it was an art of inducing his interlocutors to develop their own ideas under a catechetical system.” 5 The Century Dictionary and Cyclopedia 5746 (rev. ed. 1914).

SOCRUS

socrus (sok-r<<schwa>>s), n. [Latin] Roman law. A mother-in-law.

SODDI DEFENSE

SODDI defense (sahd-ee).Slang. The some-other-dude-did-it defense; a claim that somebody else committed a crime, usu. made by a criminal defendant who cannot identify the third party.

SODOMY

sodomy (sod-<<schwa>>-mee), n.1. Oral or anal copulation between humans, esp. those of the same sex. [Cases: Sodomy 1. C.J.S. Sodomy §§ 2–6.] 2. Oral or anal copulation between a human and an animal; bestiality. — Also termed buggery; crime against nature; abominable and detestable crime against nature; unnatural offense; unspeakable crime; (archaically) sodomitry; (in Latin) crimen innominatum. Cf. PEDERASTY. — sodomize,vb. — sodomitic,adj. — sodomist, sodomite,n.

“Sodomitry is a carnal copulation against nature; to wit, of man or woman in the same sex, or of either of them with beasts.” Sir Henry Finch, *Law, or a Discourse Thereof* 219 (1759).

“Sodomy was not a crime under the common law of England but was an ecclesiastical offense only. It was made a felony by an English statute so early that it is a common-law felony in this country, and statutes expressly making it a felony were widely adopted. ‘Sodomy’ is a generic term including both ‘bestiality’ and ‘buggery.’ ” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 465 (3d ed. 1982).

aggravated sodomy. Criminal sodomy that involves force or results in serious bodily injury to the victim in addition to mental injury and emotional distress. • Some laws provide that sodomy involving a minor is automatically aggravated sodomy. [Cases: Sodomy 1. C.J.S. Sodomy §§ 2–6.]

SOF

SOF.abbr.STATUTE OF FRAUDS.

SOFT CURRENCY

soft currency.See CURRENCY.

SOFT DOLLARS

soft dollars. 1.Securities. The credits that brokers give their clients in return for the clients' stock-trading business. 2. The portion of an equity investment that is tax-deductible in the first year. Cf. HARD DOLLARS.

SOFT GOODS

soft goods.See GOODS.

SOFT LAW

soft law. 1. Collectively, rules that are neither strictly binding nor completely lacking in legal significance. 2.Int'l law. Guidelines, policy declarations, or codes of conduct that set standards of conduct but are not legally binding.

SOFT MARKET

soft market.See MARKET.

SOFT SELL

soft sell.A low-key sales practice characterized by sincerity and professionalism. Cf. HARD SELL.

SOFTWARE-BASED INVENTION

software-based invention.See INVENTION.

SOFTWARE BETA-TEST AGREEMENT

software beta-test agreement. See BETA-TEST AGREEMENT.

SOFTWARE DIRECTIVE

Software Directive. See DIRECTIVE ON THE LEGAL PROTECTION OF COMPUTER PROGRAMS.

SOFTWARE PATENT INSTITUTE

Software Patent Institute. A Kansas-based nonprofit institute that collects and organizes nonpatented prior-art software references in a database for patent researchers.

SO HELP ME GOD

so help me God. The final words of the common oath. • The phrase is a translation, with a change to first person, of the Latin phrase *ita te Deus adjuvet* "so help you God." See *ITA TE DEUS ADJUVET*. [Cases: Oath 5; Witnesses 227. C.J.S. Oaths and Affirmations §§ 4, 8–13; Witnesses § 394.]

SOIL BANK

soil bank. A federal agricultural program in which farmers are paid to not grow crops or to grow noncommercial vegetation, to preserve the quality of the soil and stabilize commodity prices by avoiding surpluses. [Cases: Agriculture 3.2.]

SOIL CONSERVATION SERVICE

Soil Conservation Service. See NATURAL RESOURCES CONSERVATION SERVICE.

SOIT

soit (swah). [Law French] Be; let it be. • This term was used in English-law phrases, esp. to indicate the will of the sovereign in a formal communication with Parliament.

SOIT BAILE AUX COMMONS

soit baile aux commons (swah bayl oh kom-<<schwa>>nz). [Law French] Let it be delivered to the commons. • This is an indorsement on a bill sent to the House of Commons.

SOIT BAILE AUX SEIGNEURS

soit baile aux seigneurs (swah bayl oh sen-y<<schwa>>rz). [Law French] Let it be delivered to the lords. • This is an indorsement on a bill sent to the House of Lords.

SOIT DROIT FAIT AL PARTIE

soit droit fait al partie (swah droyt [ordrwah] fayt [orfay] ahl pahr-tee). [Law French] Hist. Let right be done to the party. • This phrase is written on a petition of right and subscribed by the Crown.

SOIT FAIT COMME IL EST DESIRE

soit fait comme il est desire (swah fay[t] kawm eel ay day-zeer-ay). [Law French] Let it be as

it is desired. • This is the phrase indicating royal assent to a private act of Parliament.

SOJOURN

sojourn (soh-j<<schwa>>rn), n. A temporary stay by someone who is not just passing through a place but is also not a permanent resident <she set up a three-month sojourn in France>.

— sojourn (soh-j<<schwa>>rn or soh-j<< schwa>>rn), vb. — sojourner (soh-j<<schwa>>r-n<<schwa>>r or soh-j<<schwa>>r-n<<schwa>>r), n.

SOKE

soke. See SOC.

SOKEMAN

sokeman. See SOCMAN.

SOKE-REEVE

soke-reeve (sohk-reev).Hist. The lord's rent-collector in the soca.

SOLAR

solar (soh-lahr). [Spanish “land lot”] Hist. Spanish & Mexican law. A residential lot; a small, privately owned tract of land. • This term is sometimes found (esp. in the plural form solares) in old land grants in states that were formerly Spanish provinces or governed by Mexico.

SOLAR DAY

solar day. See DAY.

SOLAR EASEMENT

solar easement. See EASEMENT.

SOLARIUM

solarium (s<<schwa>>-lair-ee-<<schwa>>m), n. [Latin fr. solum “soil”] Roman law. Rent paid for building on public land; ground rent.

SOLAR MONTH

solar month. See MONTH(4).

SOLA SUPERVIVENTIA

sola superviventia (soh-l<<schwa>> soo-p<<schwa>>r-vI-ven-shee-<<schwa>>). [Law Latin] Hist. By mere survival.

SOLATIUM

solatium (s<<schwa>>-lay-shee-<<schwa>>m), n. [Latin “solace”] Scots law. Compensation; esp., damages allowed for hurt feelings or grief, as distinguished from damages for physical injury.

SOLDIERS' AND SAILORS' CIVIL RELIEF ACT

Soldiers' and Sailors' Civil Relief Act. A federal law, originally enacted in 1940, protecting the civil rights of persons in military service, as by modifying their civil liability, placing limits on interest rates charged against their obligations, and prescribing specific procedures for claims made against them. 50 USCA app. §§ 501 et seq. [Cases: Armed Services 34.1. C.J.S. Armed Services § 133.]

SOLDIER'S AND SAILOR'S WILL

soldier's and sailor's will. See soldier's will under WILL.

SOLDIER'S WILL

soldier's will. See WILL.

SOLD NOTE

sold note. 1. NOTE(1). 2. CONFIRMATION SLIP.

SOLE-ACTOR DOCTRINE

sole-actor doctrine. Agency. The rule charging a principal with knowledge of the agent's actions, even if the agent acted fraudulently. [Cases: Principal and Agent 177(1), 180–182. C.J.S. Agency §§ 433–435, 440–444, 446, 493, 502, 528, 534.]

SOLE AND SEPARATE USE

sole and separate use. See entire use under USE(4).

SOLE AND UNCONDITIONAL OWNER

sole and unconditional owner. See OWNER.

SOLE CAUSE

sole cause. See CAUSE(1).

SOLE CORPORATION

sole corporation. See CORPORATION.

SOLE CUSTODY

sole custody. See CUSTODY(2).

SOLE DISCRETION

sole discretion. See DISCRETION(2).

SOLEMN ADMISSION

solemn admission. See judicial admission under ADMISSION(1).

SOLEMNITAS ATTACHIAMENTORUM

solemnitas attachiamentorum (s<<schwa>>-lem-ni-tas <<schwa>>-tach-ee-<<schwa>>-men-tor-<<schwa>>m). [Law Latin] Hist. The formality required in issuing attachments of property.

SOLEMNITY

solemnity (s<<schwa>>-lem-n<<schwa>>-tee).1. A formality (such as a ceremony) required by law to validate an agreement or action <solemnity of marriage>.2. The state of seriousness or solemn respectfulness or observance <solemnity of contract>.

SOLEMNITY OF CONTRACT

solemnity of contract.The concept that two people may enter into any contract they wish and that the resulting contract is enforceable if formalities are observed and no defenses exist. [Cases: Contracts 1. C.J.S. Contracts §§ 2–3, 9, 12.]

SOLEMNIZATION

solemnization. The performance of a formal ceremony (such as a marriage ceremony) before witnesses, as distinguished from a clandestine ceremony. [Cases: Marriage 26. C.J.S. Marriage §§ 30, 33.]

SOLEMNIZE

solemnize (sol-<<schwa>>m-nIz), vb. To enter into (a marriage, contract, etc.) by a formal act, usu. before witnesses. [Cases: Marriage 26. C.J.S. Marriage §§ 30, 33.]

SOLEMN OATH

solemn oath.See corporal oath under OATH.

SOLEMN OCCASION

solemn occasion.In some states, the serious and unusual circumstance in which the supreme court is constitutionally permitted to render advisory opinions to the remaining branches of government, as when the legislature doubts the legality of proposed legislation and a determination must be made to allow the legislature to exercise its functions. • Some factors that have been considered in determining whether a solemn occasion exists include whether an important question of law is presented, whether the question is urgent, whether the matter is ripe for an opinion, and whether the court has enough time to consider the question. [Cases: Constitutional Law 69; Courts 208. C.J.S. Constitutional Law § 174.]

SOLEMN WAR

solemn war.See WAR.

SOLE PRACTITIONER

sole practitioner.A lawyer who practices law without any partners or associates. — Often shortened to solo. — Also termed solo practitioner.

SOLE PROPRIETORSHIP

sole proprietorship. 1. A business in which one person owns all the assets, owes all the liabilities, and operates in his or her personal capacity. [Cases: Corporations 1. C.J.S. Corporations §§ 2, 4.] 2. Ownership of such a business. — Also termed individual proprietorship.

SOLE SELLING AGENCY

sole selling agency. See exclusive agency under AGENCY(1).

SOLE-SOURCE RULE

sole-source rule. In a false-advertising action at common law, the principle that a plaintiff may not recover unless it can demonstrate that it has a monopoly in the sale of goods possessing the advertised trait, because only then is it clear that the plaintiff would be harmed by the defendant's advertising.

SOLE USE

sole use. See entire use under USE(4).

SOLICITATION

solicitation, n. 1. The act or an instance of requesting or seeking to obtain something; a request or petition <a solicitation for volunteers to handle at least one pro bono case per year>. 2. The criminal offense of urging, advising, commanding, or otherwise inciting another to commit a crime <convicted of solicitation of murder>. • Solicitation is an inchoate offense distinct from the solicited crime. Under the Model Penal Code, a defendant is guilty of solicitation even if the command or urging was not actually communicated to the solicited person, as long as it was designed to be communicated. Model Penal Code § 5.02(2). — Also termed criminal solicitation; incitement. Cf. ATTEMPT(2). [Cases: Criminal Law 45; Homicide 562. C.J.S. Criminal Law §§ 115, 124–126.] 3. An offer to pay or accept money in exchange for sex <the prostitute was charged with solicitation>. — Also termed soliciting. Cf. PATRONIZING A PROSTITUTE. 4. An attempt or effort to gain business <the attorney's solicitations took the form of radio and television ads>. • The Model Rules of Professional Conduct place certain prohibitions on lawyers' direct solicitation of potential clients. [Cases: Attorney and Client 32(9). C.J.S. Attorney and Client §§ 47–48.] 5. Securities. A request for a proxy; a request to execute, not execute, or revoke a proxy; the furnishing of a form of proxy; or any other communication to security holders under circumstances reasonably calculated to result in the procurement, withholding, or revocation of a proxy. [Cases: Securities Regulation 49.10–49.16. C.J.S. Securities Regulation §§ 229–231.] — solicit, vb.

SOLICITATION FOR BIDS

solicitation for bids. See INVITATION TO NEGOTIATE.

SOLICITATION OF A BRIBE

solicitation of a bribe. The crime of asking or enticing another to commit bribery. 18 USCA §

201. See BRIBERY. [Cases: Bribery 1. C.J.S. Bribery §§ 2–3, 5–8, 10–11.]

SOLICITATION OF CHASTITY

solicitation of chastity.Hist. The act of trying to persuade another person to engage in unlawful sexual intercourse.

SOLICITEE

solicitee. One who is solicited. See SOLICITATION.

SOLICITING

soliciting,n. See SOLICITATION(3).

SOLICITING AGENT

soliciting agent.See AGENT(2).

SOLICITOR

solicitor. 1. A person who seeks business or contributions from others; an advertiser or promoter. 2. A person who conducts matters on another's behalf; an agent or representative. 3. The chief law officer of a governmental body or a municipality. [Cases: Municipal Corporations 169. C.J.S. Municipal Corporations § 371.] 4. In the United Kingdom, a lawyer who consults with clients and prepares legal documents but is not generally heard in High Court or (in Scotland) Court of Session unless specially licensed. — Also termed (in Scotland) law agent. Cf. BARRISTER. 5. See special agent under INSURANCE AGENT. 6. A prosecutor (in some jurisdictions, such as South Carolina).7. See special agent under INSURANCE AGENT.

SOLICITOR GENERAL

solicitor general.(usu. cap.) The second-highest-ranking legal officer in a government (after the attorney general); esp., the chief courtroom lawyer for the executive branch. — Abbr. SG. Pl. solicitors general.

“By [federal] law, only the Solicitor General or his designee can conduct and argue before the Supreme Court cases ‘in which the United States is interested.’ Thus, if a trial court appoints a special, independent prosecutor in order to prosecute a criminal contempt of court, that court-appointed special prosecutor cannot represent the United States in seeking Supreme Court review of any lower court decision unless the Solicitor General authorizes the filing of such a petition.... Although the Solicitor General serves at the pleasure of the President, by tradition the Solicitor General also acts with independence. Thus, if the Solicitor General does not believe in the legal validity of the arguments that the government wants presented, he will refuse to sign the brief. In close cases the Solicitor General will sign the brief but tag on a disclaimer that has become known as ‘tying a tin can.’ The disclaimer would state, for example, ‘The foregoing is presented as the position of the Internal Revenue Service.’ The justices would then know that the Solicitor General, although not withholding a legal argument, was not personally sponsoring or adopting the particular legal position.” Ronald D. Rotunda & John E. Nowak, *Treatise on*

Constitutional Law § 2.2, at 86–88 (3d ed. 1999).

SOLICITOR'S HYPOTHEC

solicitor's hypothec. See HYPOTHEC.

SOLIDARITY

solidarity. The state of being jointly and severally liable (as for a debt). See solidary obligation under OBLIGATION. [Cases: Action 14. C.J.S. Actions § 64.]

SOLIDARY

solidary (sol-*<<schwa>>-der-ee*), adj. (Of a liability or obligation) joint and several. See JOINT AND SEVERAL. [Cases: Action 14. C.J.S. Actions § 64.]

“It is a single debt of £100 owing by each of them, in such fashion that each of them may be compelled to pay the whole of it, but that when it is once paid by either of them, both are discharged from it. Obligations of this description may be called solidary, since in the language of Roman law, each of the debtors is bound in *solidum* instead of *pro parte*; that is to say, for the whole, and not for a proportionate part. A solidary obligation, therefore, may be defined as one in which two or more debtors owe the same thing to the same creditor.” John Salmond, *Jurisprudence* 462–63 (Glanville L. Williams ed., 10th ed. 1947).

SOLIDARY LIABILITY

solidary liability. See LIABILITY.

SOLIDARY OBLIGATION

solidary obligation. See OBLIGATION.

SOLIDUM

solidum (sol-*<<schwa>>-d<<schwa>>m*), n. [Latin] Roman law. A whole; an undivided thing. See SOLIDARY.

SOLINUM

solinum (s-*<<schwa>>-ll-n<<schwa>>m*), n. [Law Latin] Hist. 1. Slightly less than two and a half plowlands. 2. A single plowland.

SOLITARY CONFINEMENT

solitary confinement. Separate confinement that gives a prisoner extremely limited access to other people; esp., the complete isolation of a prisoner. [Cases: Prisons 13(5). C.J.S. Prisons and Rights of Prisoners §§ 21, 25–27.]

SOLLERTIA

sollertia (s-*<<schwa>>-l<<schwa>>r-shee-<<schwa>>*). [Latin] Hist. Shrewdness; resourcefulness; cleverness.

SOLO

solo,n. See SOLE PRACTITIONER.

SOLO ANIMO

solo animo (soh-loh an-*<<schwa>>*-moh). [Latin] Hist. By mere intention.

SOLO PRACTITIONER

solo practitioner. See SOLE PRACTITIONER.

SOLUM ITALICUM

solum italicum (soh-l*<<schwa>>*m I-tal-*<<schwa>>*-k*<<schwa>>*m). [Latin "Italian land"] Roman law. Land in Italy (an extension of the old ager Romanus) needing, for full ownership to pass, to be transferred by formal methods, such as mancipatio or cession in jure. Cf. SOLUM PROVINCIALE.

SOLUM PROVINCIALE

solum provinciale (soh-l*<<schwa>>*m pr*<<schwa>>*-vin-shee-ay-lee). [Latin "provincial land"] Roman law. Provincial land ultimately held by the Emperor or state, with private holders having only, in theory, a possessory title without the right to transfer the property by formal methods, as distinguished from solum italicum. • Justinian abolished all distinctions between the two, allowing all land to be conveyed by traditio. Cf. SOLUM ITALICUM .

"Ownership of provincial land. The dominium of this was in Caesar or the populus according as it was an imperial or a senatorial province The holders were practically owners, but as they were not domini formal methods of transfer were not applicable. The holdings were however transferable informally The case disappeared when Justinian abolished the distinction between Italic and provincial land. Not all land in the provinces was solum provinciale: many provincial communities were given ius italicum, the chief result being that the land was in the dominium of the holder and not of the State, so that it could be transferred and claimed at law by civil law methods." W.W. Buckland, *A Text-Book of Roman Law from Augustus to Justinian* 190 (Peter Stein ed., 3d ed. 1963).

SOLUS CUM SOLA IN LOCO SUSPECTO

solus cum sola in loco suspecto (soh-l*<<schwa>>*s k*<<schwa>>*m soh-l*<<schwa>>* in loh-koh s*<<schwa>>*-spek-toh). [Law Latin] Hist. A man alone with a woman in a suspicious place.

SOLUTIO

solutio (s*<<schwa>>*-loo-shee-oh), n.[Latin "payment"] Roman law. Performance of an obligation; satisfaction. Pl. solutiones (s*<<schwa>>*-loo-shee-oh-nee-z).

SOLUTIO INDEBITI

solutio indebiti (s*<<schwa>>*-loo-shee-oh in-deb-*<<schwa>>*-tI). [Latin "payment of what is

not owing”] Roman law. Payment of a nonexistent debt. • If the payment was made in error, the recipient had a duty to give back the money.

SOLUTIO OBLIGATIONIS

solutio obligationis (s<<schwa>>-loo-shee-oh ob-li-gay-shee-oh-nis). Roman law. The unfastening of a legal bond, so that a party previously bound need not perform any longer. Cf. *VINCULUM JURIS*.

SOLUTUS

solutus (s<<schwa>>-loo-t<<schwa>>s), adj. [Latin fr. *solvere* “to loose”] 1. Roman law. Set free; released from obligation or confinement. 2. Scots law. Purged, esp. in reference to counsel.

SOLVABILITÉ

solvabilité (sawl-vah-beel-ee-tay), n. [French] French law. Solvency.

SOLVENCY

solvency, n. The ability to pay debts as they come due. Cf. *INSOLVENCY*. — *solvent*, adj.

SOLVENDO ESSE

solvendo esse (sol-ven-doh es-ee). [Latin] Hist. To be solvent; to be able to pay an obligation.

SOLVENDUM IN FUTURO

solvendum in futuro (sol-ven-d<<schwa>>m in f[y]oo-t[y]oor-oh). [Latin “to be paid in the future”] Hist. (Of a debt) due now but payable in the future.

SOLVENT DEBTOR

solvent debtor. See *DEBTOR*.

SOLVERE

solvere (sol-v<<schwa>>-ree), vb. [Latin “to unbind”] Roman law. To pay (a debt); to release (a person) from an obligation.

SOLVERE POENAS

solvere poenas (s<<schwa>>l-veer-ee pee-n<<schwa>>s). [Latin] Hist. To pay the penalty.

SOLVIT

solvit (sol-vit). [Latin] He paid; paid.

SOLVIT AD DIEM

solvit ad diem (sol-vit ad dI-<<schwa>>m). [Law Latin “he paid on the day”] Hist. In a debt action, a plea that the defendant paid the debt on the due date.

SOLVIT ANTE DIEM<TT>

solvit ante diem (sol-vit an-tee dī-⟨⟨schwa⟩⟩m). [Law Latin “he paid before the day”] Hist. In a debt action, a plea that the defendant paid the money before the due date.

SOLVIT POST DIEM

solvit post diem (sol-vit pohst dī-⟨⟨schwa⟩⟩m). [Law Latin “he paid after the day”] Hist. In a debt action on a bond, a plea that the defendant paid the debt after the due date but before commencement of the lawsuit.

SOMNAMBULISM

somnambulism (sahm-nam-by-⟨⟨schwa⟩⟩-liz-⟨⟨schwa⟩⟩m). Sleepwalking. • Generally, a person will not be held criminally responsible for an act performed while in this state.

SOMNOLENTIA

somnolentia (sahm-n-⟨⟨schwa⟩⟩-len-shee-⟨⟨schwa⟩⟩).1. The state of drowsiness. 2. A condition of incomplete sleep resembling drunkenness, during which part of the faculties are abnormally excited while the others are dormant; the combined condition of sleeping and wakefulness producing a temporary state of involuntary intoxication. • To the extent that it destroys moral agency, somnolentia may be a defense to a criminal charge.

SON

son. 1. A person's male child, whether natural or adopted; a male of whom one is the parent. 2. An immediate male descendant. 3.Slang. Any young male person.

SON ASSAULT DEMESNE

son assault demesne (sohn -⟨⟨schwa⟩⟩-sawlt di-mayn). [French “his own assault”] The plea of self-defense in a tort action, by which the defendant alleges that the plaintiff originally engaged in an assault and that the defendant used only the force necessary to repel the plaintiff's assault and to protect person and property. See SELF-DEFENSE.

SON-IN-LAW

son-in-law. The husband of one's daughter.

SONNY BONO COPYRIGHT TERM EXTENSION ACT

Sonny Bono Copyright Term Extension Act.Copyright. A federal law extending the copyright term by 20 years for all works published in the U.S. after January 1, 1978, and settling the copyright term for works created before 1978 as 95 years from the original copyright date. • Before the extension, the copyright term was the life of the author plus 50 years. The Act is named in honor of its sponsor, Congressman Sonny Bono, who died before the bill became law.Pub. L. No. 105-298, 112 Stat. 2827. [Cases: Copyrights and Intellectual Property 33. C.J.S. Copyrights and Intellectual Property §§ 31–32, 34, 94.]

SON-OF-SAM LAW

Son-of-Sam law.A state statute that prohibits a convicted criminal from profiting by selling

his or her story rights to a publisher or filmmaker. • State law usu. authorizes prosecutors to seize royalties from a convicted criminal and to place the money in an escrow account for the crime victim's benefit. This type of law was first enacted in New York in 1977, in response to the lucrative book deals that publishers offered David Berkowitz, the serial killer who called himself "Son of Sam." In 1992, the U.S. Supreme Court declared New York's Son-of-Sam law unconstitutional as a content-based speech regulation, prompting many states to amend their laws in an attempt to avoid constitutionality problems. *Simon & Schuster, Inc. v. New York State Crime Victims Bd.*, 502 U.S. 105, 112 S.Ct. 501 (1991). [Cases: Criminal Law 1221. C.J.S. Criminal Law § 1733.]

SONTICUS

sonticus (sahn-ti-k<<schwa>>s), n.[Latin] Roman law. Serious; more than trivial. • The term was used in the Twelve Tables to refer to a serious illness (*morbis sonticus*) that gave a defendant a valid reason not to appear in court.

SONY DOCTRINE

Sony doctrine. See **COMMERCIALLY SIGNIFICANT NONINFRINGEMENT USE**.

SOPHISTICATED INVESTOR

sophisticated investor. See **INVESTOR**.

SOROR

soror (sor-or), n.[Latin] Roman law. A sister.

SORORICIDE

sororicide (s<<schwa>>-ror-<<schwa>>-sId). 1. The act of killing one's own sister. 2. A person who kills his or her sister. Cf. **FRATRICIDE**. — sororicidal, adj.

SORS

sors (sors), n.[Latin] 1. Roman law. A lot; a chance. 2. Scots law. A partnership's capital. 3. Hist. Principal, as distinguished from interest. 4. Hist. Something recovered in an action, as distinguished from mere costs.

SORTITIO

sortitio (sor-tish-ee-oh), n.[Latin fr. *sortiri* "to cast lots"] Roman law. The drawing of lots, used, for example, in selecting judges for a criminal trial. — Also termed (in English) *sortition*; *sortilege*.

SOUL SCOT

soul scot. See **MORTUARY(3)**.

SOUL SHOT

soul shot. See **MORTUARY(3)**.

SOUND

sound,adj.1. (Of health, mind, etc.) good; whole; free from disease or disorder. [Cases: Mental Health 3.1.] 2. (Of property) good; marketable. 3. (Of discretion) exercised equitably under the circumstances. — soundness,n.

sound,vb.1. To be actionable (in) <her claims for physical injury sound in tort, not in contract>.2. To be recoverable (in) <his tort action sounds in damages, not in equitable relief>.

SOUND HEALTH

sound health.See HEALTH.

SOUND MIND

sound mind. 1.MIND(2).2. See testamentary capacity under CAPACITY(3).

SOUND RECORDING AMENDMENT OF 1972

Sound Recording Amendment of 1972.A Copyright Act of 1909 amendment that established copyright protection for sound recordings.

SOURCE

source,n. The originator or primary agent of an act, circumstance, or result < she was the source of the information> <the side business was the source of income>.

SOURCE CODE

source code.Copyright. The nonmachine language used by a computer programmer to create a program. • If it is not included with the software sold to the public, source code is protected by trade-secret laws as well as copyright and patent laws. Source code may be deposited with the U.S. Copyright Office, but because of the need to protect a trade secret, and because a skilled programmer could figure out how to duplicate the source code's functions without necessarily copying the code, strategic parts may be blacked out. Cf. OBJECT CODE.

SOURCE OF LAW

source of law.Something (such as a constitution, treaty, statute, or custom) that provides authority for legislation and for judicial decisions; a point of origin for law or legal analysis. — Also termed fons juris.

“The term ‘sources of law’ is ordinarily used in a much narrower sense than will be attributed to it here. In the literature of jurisprudence the problem of ‘sources’ relates to the question: Where does the judge obtain the rules by which to decide cases? In this sense, among the sources of law will be commonly listed: statutes, judicial precedents, custom, the opinion of experts, morality, and equity. In the usual discussions these various sources of law are analyzed and some attempt is made to state the conditions under which each can appropriately be drawn upon in the decision of legal controversies. Curiously, when a legislature is enacting law we do not talk about the ‘sources’ from which it derives its decision as to what the law shall be, though an analysis in these

terms might be more enlightening than one directed toward the more restricted function performed by judges. Our concern here will be with 'sources' in a much broader sense than is usual in the literature of jurisprudence. Our interest is not so much in sources of laws, as in sources of law. From whence does the law generally draw not only its content but its force in men's lives?" Lon L. Fuller, *Anatomy of the Law* 69 (1968).

"In the context of legal research, the term 'sources of law' can refer to three different concepts which should be distinguished. One, sources of law can refer to the origins of legal concepts and ideas.... Two, sources of law can refer to governmental institutions that formulate legal rules.... Three, sources of law can refer to the published manifestations of the law. The books, computer databases, microforms, optical disks, and other media that contain legal information are all sources of law." J. Myron Jacobstein & Roy M. Mersky, *Fundamentals of Legal Research* 1–2 (5th ed. 1990).

SOUTH EASTERN REPORTER

South Eastern Reporter. A set of regional lawbooks, part of the West Group's National Reporter System, containing every published appellate decision from Georgia, North Carolina, South Carolina, Virginia, and West Virginia, from 1887 to date. • The first series ran from 1887 to 1939; the second series is the current one. — Abbr. S.E.; S.E.2d.

SOUTHERN REPORTER

Southern Reporter. A set of regional lawbooks, part of the West Group's National Reporter System, containing every published appellate decision from Alabama, Florida, Louisiana, and Mississippi, from 1887 to date. • The first series ran from 1887 to 1941; the second series is the current one. — Abbr. So.; So. 2d.

SOUTH WESTERN REPORTER

South Western Reporter. A set of regional lawbooks, part of the West Group's National Reporter System, containing every published appellate decision from Arkansas, Kentucky, Missouri, Tennessee, and Texas, from 1886 to date. • The first series ran from 1886 to 1928; the second series ran until 1999; the third series is the current one. — Abbr. S.W.; S.W.2d; S.W.3d.

SOVEREIGN

sovereign, adj. (Of a state) characteristic of or endowed with supreme authority <sovereign nation> <sovereign immunity>.

sovereign, n. 1. A person, body, or state vested with independent and supreme authority. 2. The ruler of an independent state. — Also spelled *sovrán*. See SOVEREIGNTY.

SOVEREIGN EQUALITY

sovereign equality. Int'l law. The principle that nations have the right to enjoy territorial integrity and political independence, free from intervention by other nations. • The United Nations "is based on the principle of the sovereign equality of all its Members." UN Charter art. 2, ¶ 1.

SOVEREIGN IMMUNITY

sovereign immunity. See IMMUNITY(1).

SOVEREIGN PEOPLE

sovereign people. The political body consisting of the collective number of citizens and qualified electors who possess the powers of sovereignty and exercise them through their chosen representatives.

SOVEREIGN POLITICAL POWER

sovereign political power. See POLITICAL POWER.

SOVEREIGN POWER

sovereign power. The power to make and enforce laws. See sovereign political power under POLITICAL POWER.

SOVEREIGN RIGHT

sovereign right. A unique right possessed by a state or its agencies that enables it to carry out its official functions for the public benefit, as distinguished from certain proprietary rights that it may possess like any other private person. [Cases: States 21. C.J.S. States §§ 36–37.]

SOVEREIGN STATE

sovereign state. 1. A state that possesses an independent existence, being complete in itself, without being merely part of a larger whole to whose government it is subject. 2. A political community whose members are bound together by the tie of common subjection to some central authority, whose commands those members must obey. — Also termed independent state. Cf. client state and nonsovereign state under STATE. [Cases: International Law 3. C.J.S. International Law §§ 6–8, 13.]

“The essence of statehood is sovereignty, the principle that each nation answers only to its own domestic order and is not accountable to a larger international community, save only to the extent it has consented to do so. Sovereign states are thus conceived as hermetically sealed units, atoms that spin around an international orbit, sometimes colliding, sometimes cooperating, but always separate and apart.” David J. Bederman, *International Law Frameworks* 50 (2001).

part-sovereign state. A political community in which part of the powers of external sovereignty are exercised by the home government, and part are vested in or controlled by some other political body or bodies. • Such a state is not fully independent because by the conditions of its existence it is not allowed full freedom of action in external affairs.

SOVEREIGNTY

sovereignty (sahv-[-[<<schwa>>-]rin-tee). 1. Supreme dominion, authority, or rule. [Cases: International Law 8. C.J.S. International Law §§ 25–28.]

popular sovereignty. A system of government in which policy choices reflect the preferences

of the majority of citizens.

state sovereignty. See STATE SOVEREIGNTY.

2. The supreme political authority of an independent state. 3. The state itself. "It is well to [distinguish] the senses in which the word Sovereignty is used. In the ordinary popular sense it means Supremacy, the right to demand obedience. Although the idea of actual power is not absent, the prominent idea is that of some sort of title to exercise control. An ordinary layman would call that person (or body of persons) Sovereign in a State who is obeyed because he is acknowledged to stand at the top, whose will must be expected to prevail, who can get his own way, and make others go his, because such is the practice of the country. Etymologically the word of course means merely superiority, and familiar usage applies it in monarchies to the monarch, because he stands first in the State, be his real power great or small." James Bryce, *Studies in History and Jurisprudence* 504–05 (1901).

external sovereignty. The power of dealing on a nation's behalf with other national governments.

internal sovereignty. The power enjoyed by a governmental entity of a sovereign state, including affairs within its own territory and powers related to the exercise of external sovereignty.

SOVRAN

sovrán. See SOVEREIGN.

SOW

SOW. abbr. STATEMENT OF WORK.

S.P.

s.p. abbr. 1. SINE PROLE. 2. Same principle; same point. • This notation, when inserted between two citations, indicates that the second involves the same principles as the first.

SPACE ARBITRAGE

space arbitrage. See ARBITRAGE.

SPACE CHARTER

space charter. See CHARTER(8).

SPADO

spado (spay-doh), n. [Latin] Roman law. 1. A eunuch. 2. One who is incapable of sexual intercourse by reason of impotence. Pl. spadones (sp<<schwa>>-doh-nee-z).

SPAM

spam. Unsolicited commercial e-mail (UCE). • Most states have some form of antis spam law, usu. prohibiting advertisers from misrepresenting or concealing an e-mail's origin and purpose. In 2004, the much-criticized CAN-SPAM Act of 2003 became federal law. 15 USCA § 7701.

SPARSIM

sparsim (spahr-sim). [Latin] Hist. Scattered; here and there. • This term was used in several situations — for example, when an action to recover for waste not only when the injury was complete, but also when the injury was partial or scattered.

“And if waste be done sparsim, or here and there, all over a wood, the whole wood shall be recovered; or if in several rooms of a house, the whole house shall be forfeited; because it is impracticable for the reversioner to enjoy only the identical places wasted, when lying interspersed with the other. But if waste be done only in one end of a wood (or perhaps in one room of a house) if that can be conveniently separated from the rest, that part only is the locus vastatus, or thing wasted, and that only shall be forfeited to the reversioner.” 2 William Blackstone, Commentaries on the Laws of England 283–84 (1766).

SPATAE PLACITUM

spatae placitum (spay-tee plas-<<schwa>>-t<<schwa>>m), n.[Latin “the plea of the sword”] Hist. During the reign of Henry II, a court providing swift justice in military matters.

SPD

SPD.abbr. SUMMARY PLAN DESCRIPTION.

SPDA

SPDA. See single-premium deferred annuity under ANNUITY.

SPE

SPE.abbr.SPECIAL-PURPOSE ENTITY.

SPEAKER

speaker. 1. One who speaks or makes a speech <the slander claim was viable only against the speaker>.2. The presiding officer of a large deliberative assembly, esp. a legislature's more numerous house, such as the House of Representatives <Speaker of the House>. See CHAIR(1). [Cases: United States 7.1. C.J.S. United States § 16.]

SPEAKING A VESSEL

speaking a vessel.Maritime law. A pilot's offer of services.

SPEAKING DEMURRER

speaking demurrer.See DEMURRER.

SPEAKING MOTION

speaking motion.See MOTION(1).

SPEAKING OBJECTION

speaking objection.See OBJECTION.

SPEAKING STATUTE

speaking statute. See STATUTE.

SPEC

spec. abbr. SPECIFICATION.

SPECIAL

special, adj. 1. Of, relating to, or designating a species, kind, or individual thing. 2. (Of a statute, rule, etc.) designed for a particular purpose. 3. (Of powers, etc.) unusual; extraordinary.

SPECIAL ACCEPTANCE

special acceptance. See ACCEPTANCE(4).

SPECIAL ACT

special act. See special law under LAW.

SPECIAL ADMINISTRATION

special administration. See ADMINISTRATION.

SPECIAL ADMINISTRATOR

special administrator. See ADMINISTRATOR(2).

SPECIAL ADVOCATE

special advocate. See guardian ad litem under GUARDIAN.

SPECIAL AGENCY

special agency. See AGENCY(1).

SPECIAL AGENT

special agent. 1. AGENT(2). 2. INSURANCE AGENT.

SPECIAL AGREEMENT

special agreement. See ad hoc compromis under COMPROMIS.

SPECIAL ALLOCATUR

special allocatur. See ALLOCATUR.

SPECIAL ALLOWANCE

special allowance. See ALLOWANCE(4).

SPECIAL APPEARANCE

special appearance. See APPEARANCE.

SPECIAL ASSESSMENT

special assessment. See ASSESSMENT.

SPECIAL-ASSESSMENT BOND

special-assessment bond. See special-tax bond under BOND(3).

SPECIAL ASSISTANT TO THE UNITED STATES ATTORNEY

Special Assistant to the United States Attorney. See UNITED STATES ATTORNEY.

SPECIAL ASSUMPSIT

special assumpsit. See ASSUMPSIT.

SPECIAL ATTORNEY

special attorney. See special counsel under COUNSEL.

SPECIAL AUTHORITY

special authority. See AUTHORITY(1).

SPECIAL BAIL

special bail. See bail to the action under BAIL(4).

SPECIAL BAILIFF

special bailiff. See BAILIFF.

SPECIAL BENEFIT

special benefit. See BENEFIT.

SPECIAL CALENDAR

special calendar. See CALENDAR(2).

SPECIAL CASE

special case. See case reserved (1) under CASE.

SPECIAL CHARGE

special charge. 1. See special instruction under JURY INSTRUCTION. 2. CHARGE.

SPECIAL CHARTER

special charter. See CHARTER(3).

SPECIAL CIRCUMSTANCES

special circumstances. See exigent circumstances under CIRCUMSTANCE.

SPECIAL-CIRCUMSTANCES RULE

special-circumstances rule. See SPECIAL-FACTS RULE.

SPECIAL COMMITTEE

special committee. See COMMITTEE.

SPECIAL CONTRACT

special contract. See CONTRACT.

SPECIAL-CONTRACT DEBT

special-contract debt. See DEBT.

SPECIAL COUNSEL

special counsel. See COUNSEL.

SPECIAL COUNT

special count. See COUNT.

SPECIAL COURT-MARTIAL

special court-martial. See COURT-MARTIAL.

SPECIAL COVENANT AGAINST ENCUMBRANCES

special covenant against encumbrances. See COVENANT(4).

SPECIAL CUSTOM

special custom. See local custom under CUSTOM.

SPECIAL DAMAGES

special damages. See DAMAGES.

SPECIAL DEMURRER

special demurrer. See DEMURRER.

SPECIAL DEPOSIT

special deposit. See DEPOSIT(2).

SPECIAL DEPUTY

special deputy. See DEPUTY.

SPECIAL-DESIGN PROPERTY

special-design property. See special-purpose property under PROPERTY.

SPECIAL DETERRENCE

special deterrence. See DETERRENCE.

SPECIAL DILIGENCE

special diligence. See DILIGENCE.

SPECIAL DISTRICT

special district. See DISTRICT.

SPECIAL DIVIDEND

special dividend. See extraordinary dividend under DIVIDEND.

SPECIAL-DUTY DOCTRINE

special-duty doctrine. Torts. The rule that a governmental entity (such as a state or municipality) can be held liable for an individual plaintiff's injury when the entity owed a duty to the plaintiff but not to the general public. • This is an exception to the public-duty doctrine. The special-duty doctrine applies only when the plaintiff has reasonably relied on the governmental entity's assumption of the duty. — Also termed special-duty exception. See PUBLIC-DUTY DOCTRINE. [Cases: Municipal Corporations 723. C.J.S. Municipal Corporations §§ 661–663.]

SPECIAL-DUTY EXCEPTION

special-duty exception. 1. SPECIAL-DUTY DOCTRINE. 2. SPECIAL-ERRAND DOCTRINE.

SPECIAL ELECTION

special election. See ELECTION(3).

SPECIAL EMPLOYEE

special employee. See borrowed employee under EMPLOYEE.

SPECIAL EMPLOYER

special employer. See EMPLOYER.

SPECIAL-ERRAND DOCTRINE

special-errand doctrine. The principle that an employee will be covered by workers' compensation for injuries occurring while the employee is on a journey or special duty for the employer away from the workplace. • This is an exception to the general rule that an employee is not covered for injuries occurring away from work. — Also termed special-duty exception; special-mission exception. See GOING-AND-COMING RULE. [Cases: Workers' Compensation 718, 723. C.J.S. Workmen's Compensation §§ 425, 430, 438–439.]

SPECIAL EXCEPTION

special exception. 1. A party's objection to the form rather than the substance of an opponent's claim, such as an objection for vagueness or ambiguity. See DEMURRER. Cf. general exception

(1) under EXCEPTION(1). [Cases: Pleading 228.14. C.J.S. Pleading § 233.] 2. An allowance in a zoning ordinance for special uses that are considered essential and are not fundamentally incompatible with the original zoning regulations. — Also termed (in sense 2) conditional use; special use. Cf. VARIANCE(2). [Cases: Zoning and Planning 481. C.J.S. Zoning and Land Planning §§ 228–229, 231–232.]

SPECIAL EXECUTION

special execution. See EXECUTION.

SPECIAL EXECUTOR

special executor. See EXECUTOR.

SPECIAL-FACTS RULE

special-facts rule. Corporations. The principle that a director or officer has a fiduciary duty to disclose material inside information to a shareholder when engaging in a stock transaction under special circumstances, as when the shareholder lacks business acumen, the shares are closely held with no readily ascertainable market value, or the director or officer instigated the transaction. • This is an exception to the “majority rule.” — Also termed special-circumstances rule. Cf. MAJORITY RULE(3). [Cases: Corporations 316(3). C.J.S. Corporations §§ 519–524.]

SPECIAL FINDING

special finding. See FINDING OF FACT.

SPECIAL-FORM DRAWING

special-form drawing. See DRAWING.

SPECIAL FRANCHISE

special franchise. See FRANCHISE(2).

SPECIAL GRAND JURY

special grand jury. See GRAND JURY.

SPECIAL GUARANTY

special guaranty. See GUARANTY.

SPECIAL GUARDIAN

special guardian. See GUARDIAN.

SPECIAL-HAZARD RULE

special-hazard rule. The principle that an employee is covered by workers' compensation for injuries received while traveling to or from work if the route used contains unique risks or hazards and is not ordinarily used by the public except in dealing with the employer. • This is an exception to the general rule that an employee is not covered for injuries occurring during the employee's

commute. See GOING-AND-COMING RULE. Cf. SPECIAL-MISSION EXCEPTION . [Cases: Workers' Compensation 719–755. C.J.S. Workmen's Compensation §§ 431–432, 435–447.]

SPECIAL HOUSING UNIT

special housing unit. A block of cells used to house inmates who have been separated from the general prison population, usu. for disciplinary purposes but sometimes for safety reasons. • Inmates in special housing units typically have fewer privileges than other inmates. — Abbr. SHU.

SPECIAL IMPARLANCE

special imparlance. See IMPARLANCE.

SPECIAL INDORSEMENT

special indorsement. See INDORSEMENT.

SPECIAL INJUNCTION

special injunction. See INJUNCTION.

SPECIAL INSTRUCTION

special instruction. See JURY INSTRUCTION.

SPECIAL-INTEREST GROUP

special-interest group. An organization that seeks to influence legislation or government policy in favor of a particular interest or issue, esp. by lobbying. — Also termed special interest.

SPECIAL INTERROGATORY

special interrogatory. See INTERROGATORY.

SPECIAL ISSUE

special issue. 1. ISSUE(1). 2. See special interrogatory under INTERROGATORY.

SPECIALIST

specialist. 1. A lawyer who has been board-certified in a specific field of law. See BOARD OF LEGAL SPECIALIZATION. 2. Securities. A securities-exchange member who makes a market in one or more listed securities. • The exchange assigns securities to various specialists and expects them to maintain a fair and orderly market as provided by SEC standards. [Cases: Exchanges 10.10. C.J.S. Exchanges § 6.]

SPECIAL JUDGE

special judge. See JUDGE.

SPECIAL JURISDICTION

special jurisdiction. See limited jurisdiction under JURISDICTION.

SPECIAL JURY

special jury. See JURY.

SPECIAL LAW

special law. See LAW.

SPECIAL LEGACY

special legacy. See specific legacy under LEGACY.

SPECIAL LETTER OF CREDIT

special letter of credit. See LETTER OF CREDIT.

SPECIAL LIEN

special lien. See particular lien under LIEN.

SPECIAL LIMITATION

special limitation. See LIMITATION.

SPECIAL LITIGATION COMMITTEE

special litigation committee. Corporations. A committee of independent corporate directors assigned to investigate the merits of a shareholder derivative suit and, if appropriate, to recommend maintaining or dismissing the suit. — Abbr. SLC. — Also termed independent investigation committee; authorized committee. See DERIVATIVE ACTION(1). [Cases: Corporations 206(1). C.J.S. Corporations §§ 407, 409, 411.]

SPECIALLY ACCREDITED AGENT

specially accredited agent. See AGENT(2).

SPECIAL MALICE

special malice. See particular malice under MALICE.

SPECIAL MASTER

special master. 1. MASTER(2). 2. See judicial officer (3) under OFFICER.

SPECIAL MATTER

special matter. See MATTER.

SPECIAL MEANING

special meaning. See SECONDARY MEANING.

SPECIAL MEETING

special meeting. See MEETING.

SPECIAL MESSAGE

special message. See MESSAGE.

SPECIAL-MISSION EXCEPTION

special-mission exception. See SPECIAL-ERRAND DOCTRINE.

SPECIAL MORTGAGE

special mortgage. See MORTGAGE.

SPECIAL MOTION

special motion. See MOTION(1).

SPECIAL-NEEDS ANALYSIS

special-needs analysis. Criminal procedure. A balancing test used by the Supreme Court to determine whether certain searches (such as administrative, civil-based, or public-safety searches) impose unreasonably on individual rights. [Cases: Searches and Seizures 24. C.J.S. Searches and Seizures §§ 14, 16, 23, 50, 58.]

SPECIAL-NEEDS CHILD

special-needs child. See CHILD.

SPECIAL-NEEDS TRUST

special-needs trust. See supplemental-needs trust under TRUST.

SPECIALNON EST FACTUM

special non est factum. See NON EST FACTUM.

SPECIAL OCCUPANT

special occupant. See OCCUPANT.

SPECIAL OFFERING

special offering. See OFFERING.

SPECIAL ORDER

special order. See ORDER(4).

SPECIAL-ORDER AGENDA

special-order agenda. See special-order calendar under CALENDAR(4).

SPECIAL-ORDER CALENDAR

special-order calendar. See CALENDAR(4).

SPECIAL OWNER

special owner. See OWNER.

SPECIAL PARTNER

special partner. See limited partner under PARTNER.

SPECIAL PARTNERSHIP

special partnership. See PARTNERSHIP.

SPECIAL PERMIT

special permit. See SPECIAL-USE PERMIT.

SPECIAL PLEA

special plea. See PLEA(3).

SPECIAL PLEADER

special pleader. See PLEADER.

SPECIAL PLEADING

special pleading. 1. The common-law system of pleading that required the parties to exchange a series of court papers (such as replications, rebutters, and surrebutters) setting out their contentions in accordance with hypertechnical rules before a case could be tried. • Often, therefore, cases were decided on points of pleading and not on the merits. [Cases: Pleading 1. C.J.S. Pleading §§ 2–3, 6–7, 593.] 2. The art of drafting pleadings under this system. 3. An instance of drafting such a pleading. 4. A responsive pleading that does more than merely deny allegations, as by introducing new matter to justify an otherwise blameworthy act. 5. An argument that is unfairly slanted toward the speaker's viewpoint because it omits unfavorable facts or authorities and develops only favorable ones.

SPECIAL PLEA IN BAR

special plea in bar. See PLEA IN BAR.

SPECIAL PLEA IN ERROR

special plea in error. At common law, a plea alleging some extraneous matter as a ground for defeating a writ of error (such as a release or expiration of the time within which error can be brought), to which the plaintiff in error must reply or demur.

SPECIAL POWER

special power. 1. POWER(3). 2. See limited power of appointment under POWER OF APPOINTMENT .

SPECIAL POWER OF APPOINTMENT

special power of appointment. See limited power of appointment under POWER OF APPOINTMENT .

SPECIAL POWER OF ATTORNEY

special power of attorney. See POWER OF ATTORNEY.

SPECIAL PRAYER

special prayer. See PRAYER FOR RELIEF.

SPECIAL PRIVILEGE

special privilege. See PRIVILEGE(1).

SPECIAL PROCEEDING

special proceeding. See PROCEEDING.

SPECIAL PROPERTY

special property. See PROPERTY.

SPECIAL PROSECUTOR

special prosecutor. See PROSECUTOR.

SPECIAL-PURPOSE ENTITY

special-purpose entity. A business established to perform no function other than to develop, own, and operate a large, complex project (usu. called a single-purpose project), esp. so as to limit the number of creditors claiming against the project. • A special-purpose entity provides additional protection for project lenders, which are usu. paid only out of the money generated by the entity's business, because there will be fewer competing claims for that money and because the entity will be less likely to be forced into bankruptcy. A special-purpose entity will sometimes issue securities instead of just receiving a direct loan. — Abbr. SPE. — Also termed special-purpose vehicle (SPV). See BANKRUPTCY-REMOTE ENTITY; SINGLE-PURPOSE PROJECT ; project financing under FINANCING.

SPECIAL-PURPOSE PROPERTY

special-purpose property. See PROPERTY.

SPECIAL-PURPOSE VEHICLE

special-purpose vehicle. See SPECIAL-PURPOSE ENTITY.

SPECIAL REFERENCE

special reference. See REFERENCE.

SPECIAL REGISTRATION

special registration. See REGISTRATION(1).

SPECIAL RELATIONSHIP

special relationship.See RELATIONSHIP.

SPECIAL-RELATIONSHIP DOCTRINE

special-relationship doctrine.The theory that if a state has assumed control over an individual sufficient to trigger an affirmative duty to protect that individual (as in an involuntary hospitalization or custody), then the state may be liable for the harm inflicted on the individual by a third party. • This is an exception to the general principle prohibiting members of the public from suing state employees for failing to protect them from third parties. — Also termed special-relationship exception. Cf. DANGER-CREATION DOCTRINE . [Cases: States 112.2(2).]

SPECIAL RELIEF

special relief.Copyright. A variance from a formal requirement for copyright registration or deposit granted by the U.S. Copyright Office when an applicant shows a good reason for the variance.

SPECIAL REPLICATION

special replication.See REPLICATION.

SPECIAL REPRISAL

special reprisal.See REPRISAL.

SPECIAL RETAINER

special retainer.See RETAINER.

SPECIAL RETENTION

special retention.See RETENTION.

SPECIAL RULE

special rule. 1. A rule applicable to a particular case or circumstance only. See RULE(1).2. A deliberative assembly's rule that supplements or supersedes its parliamentary authority. See PARLIAMENTARY AUTHORITY. 3. A rule that applies only to a particular matter, such as a specific bill. In senses 2 & 3, see RULE(2), (3).

SPECIALS

specials. See special damages under DAMAGES.

SPECIAL-SENSITIVITY RULE

special-sensitivity rule.See EGGHELL-SKULL RULE.

SPECIAL SESSION

special session.See SESSION(1).

SPECIAL SETTING

special setting. See SETTING.

SPECIAL STATUTE

special statute. See STATUTE.

SPECIAL STOCK

special stock. See STOCK.

SPECIAL TAIL

special tail. See tail special under TAIL.

SPECIAL TAX

special tax. See TAX.

SPECIAL-TAX BOND

special-tax bond. See BOND(3).

SPECIAL TERM

special term. See TERM(5).

SPECIAL 301

Special 301. Intellectual property. A provision of the Omnibus Trade and Competitiveness Act of 1988 directing the U.S. Trade Representative to report annually on countries that do not provide adequate and effective protection against the pirating of goods protected by U.S. intellectual-property rights. • Countries that fail the annual audit are put on a watch list and may face trade sanctions. 19 USCA §§ 2411 et seq.

SPECIAL TRAVERSE

special traverse. See TRAVERSE.

SPECIAL TRIAL SETTING

special trial setting. See special setting under SETTING.

SPECIAL TRUCE

special truce. See TRUCE.

SPECIAL TRUST

special trust. See active trust under TRUST.

SPECIALTY

specialty. 1. See contract under seal under CONTRACT. 2. DOCTRINE OF SPECIALTY.

3.Eminent domain. Unique property (such as a church or cemetery) that is essentially not marketable, so that its value for condemnation purposes is determined by measuring the property's reproduction cost less any depreciation. — Also termed (in sense 3) specialty property. [Cases: Eminent Domain 134. C.J.S. Eminent Domain §§ 148, 155–156, 160.]

SPECIALTY BAR

specialty bar.See BAR.

SPECIALTY CONTRACT

specialty contract.See contract under seal under CONTRACT.

SPECIALTY CREDITOR

specialty creditor.See CREDITOR.

SPECIALTY DEBT

specialty debt.See special-contract debt under DEBT.

SPECIALTY DOCTRINE

specialty doctrine.See DOCTRINE OF SPECIALTY.

SPECIALTY PROPERTY

specialty property.See SPECIALTY(3).

SPECIAL USE

special use.See SPECIAL EXCEPTION(2).

SPECIAL-USE PERMIT

special-use permit.A zoning board's authorization to use property in a way that is identified as a special exception in a zoning ordinance. • Unlike a variance, which is an authorized violation of a zoning ordinance, a special-use permit is a permitted exception. — Abbr. SUP. — Also termed conditional-use permit; special permit. See SPECIAL EXCEPTION(2). Cf. VARIANCE(2). [Cases: Zoning and Planning 371, 483. C.J.S. Zoning and Land Planning §§ 191, 199, 203, 229–231.]

SPECIAL-USE VALUATION

special-use valuation.See VALUATION.

SPECIAL VENIRE

special venire.See VENIRE.

SPECIAL VERDICT

special verdict.See VERDICT.

SPECIAL WARRANTY

special warranty. See WARRANTY(1).

SPECIAL WARRANTY DEED

special warranty deed. See DEED.

SPECIE

specie (spee-shee). See IN SPECIE.

SPECIES

species (spee-sheez). 1. A taxonomic class of organisms uniquely distinguished from other classes by shared characteristics and usu. by an inability to interbreed with members of other classes.

endangered species. A species in danger of becoming extinct; esp., under federal law, a species that is in danger of extinction throughout all or a significant part of its range. • Federal law excludes from the definition a species of the class Insecta if the Environmental Protection Agency determines that it constitutes a pest whose protection would present a significant risk to the human population. 50 CFR § 81. [Cases: Environmental Law 528.]

threatened species. A species that, within the foreseeable future, is likely to become an endangered species throughout all or a significant part of its range. 16 USCA § 1532(20). [Cases: Environmental Law 528.]

2. A specific class or kind of thing within a larger, general class. • For example, tort refers to a general class or genus. Slander refers to a specific kind of tort. Cf. GENUS. 3. Patents. An element, usu. one of several mutually exclusive alternatives, that may be used in an invention to achieve a desired result. • Species may be structures, steps, parts, compounds, and so on.

ultimate species. A species that has been fully and narrowly defined. • For example, a species may be defined generally as “magnetic metals, including iron and steel,” or particularly, such as “sodium chloride.”

SPECIES CLAIM

species claim. See PATENT CLAIM.

SPECIES FACTI

species facti (spee-shee-eez orspee-sheez fak-ti). [Latin] Scots law. The particular character of the thing done. • The phrase appeared in reference to the specific criminal act or civil wrong alleged.

SPECIFIC

specific, adj. 1. Of, relating to, or designating a particular or defined thing; explicit <specific duties>. 2. Of or relating to a particular named thing <specific item>. 3. Conformable to special

requirements <specific performance>. — specificity (spes-*<<schwa>>-fis-i-tee*), n. — specifically,adv.

SPECIFIC APPROPRIATION

specific appropriation.See APPROPRIATION(2).

SPECIFICATIO

specificatio (spes-*<<schwa>>-fi-kay-shee-oh*), n.[Latin fr. species “form” + facere “to make”]
Roman & civil law. 1. A giving of form to materials; the process of making something new from existing property. 2. A mode of acquisition by which a person made something new from existing material (for example, wine from grapes or a ship from timber). See ACCESSION(4). Pl. specificationes.

“Specificatio. This may be described as acquisition of a new thing by making it, out of materials wholly or partly belonging to another person. We shall deal only with the case in which the materials are wholly another's. There was in classical law a conflict of opinion on this topic Justinian tells us that there had been a *media sententia* according to which it belonged to the maker if (i) it was irreducible to its former state, and (ii) it really was a *nova species*, where *species* means thing. And this view he adopts as law.” W.W. Buckland, *A Manual of Roman Private Law* 143 (2d ed. 1953).

SPECIFICATION

specification. 1. The act of making a detailed statement, esp. of the measurements, quality, materials, or other items to be provided under a contract. [Cases: Contracts 199(1).] 2. The statement so made. 3.Patents. The part of a patent application describing how an invention is made and used, the best mode of operation of the claimed invention, and the inventor's claims. • The specification must be clear and complete enough to enable a person of ordinary skill in the art to make and use the invention. It must also disclose the best mode of working the invention. The term may also refer to the description as separate from the claims. — Abbr. spec. Cf. PATENT CLAIM. [Cases: Patents 99. C.J.S. Patents § 139.]

“The specification and claims of a patent, particularly if the invention be at all complicated, constitute one of the most difficult legal instruments to draw with accuracy; and, in view of the fact that valuable inventions are often placed in the hands of inexperienced persons to prepare such specifications and claims, it is no matter of surprise that the latter frequently fail to describe with requisite certainty the exact invention of the patentee, and err either in claiming that which the patentee had not in fact invented, or in omitting some element which was a valuable or essential part of his actual invention.” *Topliff v. Topliff*, 145 U.S. 156, 170, 12 S.Ct. 825, 831 (1892).

substitute specification.A patent specification that is rewritten (1) to include amendments made to the specification after filing; (2) to replace an illegible or unreadable original; or (3) to prepare the papers for printing. • A substitute specification must be accompanied by a statement that it contains no new matter, and by a copy showing what has been added and deleted since the

original specification. Substitute specifications are allowed under 37 CFR § 1.125. — Also termed rewritten specification. [Cases: Patents 109. C.J.S. Patents §§ 152–155.]

4. A statement of charges against one who is accused of an offense, esp. a military offense. [Cases: Armed Services 47(2); Military Justice 950–971. C.J.S. Armed Services § 164; Military Justice §§ 180–191.]“A charge sets forth an offense — that is, a particular kind of act or conduct that the governing rules define as entailing liability to prescribed penalties — of which the accused is alleged to be guilty. A specification states what the accused is alleged to have done which, if true, constitutes an instance of the offense indicated in the charge. An accused must be found guilty of a charge before a penalty can be imposed.” Henry M. Robert, *Robert's Rules of Order Newly Revised* § 61, at 636 (10th ed. 2002).

5. The acquisition of title to materials belonging to another person by converting those materials into a new and different form, as by changing grapes into wine, lumber into shelving, or corn into liquor. • The effect is that the original owner of the materials loses the property rights in them and is left with a right of action for their original value. — Abbr. spec.

SPECIFIC BEQUEST

specific bequest.See BEQUEST.

SPECIFIC DENIAL

specific denial.See DENIAL.

SPECIFIC DEPOSIT

specific deposit.See special deposit under DEPOSIT(2).

SPECIFIC DEVISE

specific devise.See DEVISE.

SPECIFIC DUTY

specific duty.See DUTY(4).

SPECIFIC ENFORCEMENT

specific enforcement.See primary right under RIGHT.

SPECIFIC EXAMPLE

specific example.See EXAMPLE.

SPECIFIC GUARANTY

specific guaranty.See GUARANTY.

SPECIFIC INTENT

specific intent.See INTENT(1).

SPECIFIC-INTENT DEFENSE

specific-intent defense. Criminal law. A defendant's claim that he or she did not have the capacity (often supposedly because of intoxication or mental illness) to form the intent necessary for committing the crime alleged.

SPECIFIC JURISDICTION

specific jurisdiction. See JURISDICTION.

SPECIFIC LEGACY

specific legacy. See LEGACY.

SPECIFIC LEGATEE

specific legatee. See LEGATEE.

SPECIFIC LIEN

specific lien. See LIEN.

SPECIFIC MAIN MOTION

specific main motion. See incidental main motion under MOTION(2).

SPECIFIC OBJECTION

specific objection. See OBJECTION.

SPECIFIC PERFORMANCE

specific performance. The rendering, as nearly as practicable, of a promised performance through a judgment or decree; *specif.*, a court-ordered remedy that requires precise fulfillment of a legal or contractual obligation when monetary damages are inappropriate or inadequate, as when the sale of real estate or a rare article is involved. • Specific performance is an equitable remedy that lies within the court's discretion to award whenever the common-law remedy is insufficient, either because damages would be inadequate or because the damages could not possibly be established. — Also termed specific relief. [Cases: Specific Performance 1. C.J.S. Specific Performance §§ 2, 5–6.]

“In essence, the remedy of specific performance enforces the execution of a contract according to its terms, and it may therefore be contrasted with the remedy of damages, which is compensation for non-execution. In specific performance, execution of the contract is enforced by the power of the Court to treat disobedience of its decree as contempt, for which the offender may be imprisoned until he is prepared to comply with the decree. Actually, ... it is not strictly accurate to say that the Court enforces execution of the contract according to its terms, for the Court will not usually intervene until default upon the contract has occurred, so that enforcement by the Court is later in time than performance carried out by the person bound, without the intervention of the Court.” G.W. Keeton, *An Introduction to Equity* 304 (5th ed. 1961).

SPECIFIC POLICY

specific policy. See basic-form policy under INSURANCE POLICY.

SPECIFIC RELIEF

specific relief. See SPECIFIC PERFORMANCE.

SPECIFIC REMEDY

specific remedy. See REMEDY.

SPECIFIC TAX

specific tax. See TAX.

SPECIFIC TRAVERSE

specific traverse. See common traverse under TRAVERSE.

SPECIMEN

specimen. An actual sample of something; esp., an example of a trademark as it is used in commerce. • In the field of trademarks, a specimen typically consists of a label, a container, a display, or a photograph of the mark used for selling or advertising the goods or services.

SPECTROGRAPH

spectrograph. An electromagnetic machine that analyzes sound, esp. a human voice, by separating and mapping it into elements of frequency, time lapse, and intensity (represented by a series of horizontal and vertical bar lines) to produce a final voiceprint. See VOICEPRINT. [Cases: Criminal Law 339.6. C.J.S. Criminal Law §§ 800–801.]

SPECULATION

speculation, n. 1. The buying or selling of something with the expectation of profiting from price fluctuations <he engaged in speculation in the stock market>. 2. The act or practice of theorizing about matters over which there is no certain knowledge <the public's speculation about the assassination of John F. Kennedy>. — speculate, vb. — speculative, adj.

SPECULATIVE DAMAGES

speculative damages. See DAMAGES.

SPECULATIVE RISK

speculative risk. See RISK.

SPECULATIVE SECURITY

speculative security. See SECURITY.

SPECULATOR

speculator. A knowledgeable, aggressive investor who trades securities to profit from fluctuating market prices.

SPEECH

speech. 1. The expression or communication of thoughts or opinions in spoken words; something spoken or uttered. See FREEDOM OF SPEECH. [Cases: Constitutional Law 90. C.J.S. Constitutional Law §§ 539, 542.]

commercial speech. Communication (such as advertising and marketing) that involves only the commercial interests of the speaker and the audience, and is therefore afforded lesser First Amendment protection than social, political, or religious speech. Cf. pure speech. [Cases: Constitutional Law 90.2, 90.3. C.J.S. Constitutional Law §§ 544–545, 561, 568, 570–571, 573–574, 576–577, 581.]

corporate speech. Speech deriving from a corporation and protected under the First Amendment. • It does not lose protected status simply because of its corporate source.

hate speech. Speech that carries no meaning other than the expression of hatred for some group, such as a particular race, esp. in circumstances in which the communication is likely to provoke violence. Cf. hate crime under CRIME; group libel under LIBEL. [Cases: Civil Rights 1808. C.J.S. Civil Rights § 222.]

pure speech. Words or conduct limited in form to what is necessary to convey the idea. • This type of speech is given the greatest constitutional protection. Cf. commercial speech; symbolic speech.

sedition speech. Speech advocating the violent overthrow of government. See SEDITION. [Cases: Constitutional Law 90.1(2). C.J.S. Constitutional Law §§ 550, 557, 605–606.]

speech-plus. See symbolic speech.

symbolic speech. Conduct that expresses opinions or thoughts, such as a hunger strike or the wearing of a black armband. • Symbolic speech does not enjoy the same constitutional protection that pure speech does. — Also termed speech-plus. Cf. pure speech. [Cases: Constitutional Law 90.1(1). C.J.S. Constitutional Law §§ 461, 501–503, 539–543, 548–554, 561, 565, 572, 582–584, 603–605, 608, 610.]

2. English law. An opinion delivered by a Law Lord; JUDGMENT(2). 3. Parliamentary law. The unit of debate; specif., one statement, usu. subject to a time limit, on one question by one member. • When finished, the speaker must relinquish the floor and ordinarily cannot yield it to another member.

SPEECH CLAUSE

Speech Clause. The First Amendment provision that “Congress shall make no law ... abridging the freedom of speech.” U.S. Const. amend I. — Also termed Freedom of Speech Clause.

SPEECH OR DEBATE CLAUSE

Speech or Debate Clause. The clause of the U.S. Constitution giving members of Congress immunity for statements made during debate in either the House or the Senate. • This immunity is extended to other areas where it is necessary to prevent impairment of deliberations and other legitimate legislative activities, such as subpoenaing bank records for an investigation. U.S. Const. art. I, § 6, cl. 1. — Also termed Speech and Debate Clause. See congressional immunity under IMMUNITY(1). [Cases: United States 12.C.J.S. United States §§ 27–28.]

SPEECH-PLUS

speech-plus. See symbolic speech under SPEECH.

SPEEDY EXECUTION

speedy execution. See EXECUTION.

SPEEDY REMEDY

speedy remedy. See REMEDY.

SPEEDY TRIAL

speedy trial. Criminal procedure. A trial that the prosecution, with reasonable diligence, begins promptly and conducts expeditiously. • The Sixth Amendment secures the right to a speedy trial. In deciding whether an accused has been deprived of that right, courts generally consider the length of the delay, the reason for the delay, and the prejudice to the accused. [Cases: Criminal Law 577.1–577.16. C.J.S. Criminal Law §§ 578–621.]

SPEEDY TRIAL ACT OF 1974

Speedy Trial Act of 1974. A federal statute establishing time limits for carrying out the major events (such as information, indictment, arraignment, and trial commencement) in the prosecution of federal criminal cases. 18 USCA §§ 3161–3174. [Cases: Criminal Law 577.2, 577.5. C.J.S. Criminal Law §§ 579, 591–592, 599, 602–603.]

SPENDING BILL

spending bill. See appropriations bill under BILL(3).

SPENDING POWER

spending power. See POWER(3).

SPENDTHRIFT

spendthrift, n. One who spends lavishly and wastefully; a profligate. [Cases: Spendthrifts 3. C.J.S. Spendthrifts § 3.] — spendthrift, adj.

SPENDTHRIFT TRUST

spendthrift trust. See TRUST.

SPENT BILL OF LADING

spent bill of lading. See BILL OF LADING.

SPE NUMERANDAE PECUNIAE

spe numerandae pecuniae (spee n[y]oo-m<<schwa>>-ran-dee pi-kyoo-nee-ee). [Law Latin] Scots law. In the hope of the money being paid.

“So, also, where one delivers a conveyance, which acknowledges receipt of the consideration price, and discharges the disponee, this does not exclude his action for the price, if the disponee, on receiving delivery, refuses payment; the disponee is still liable ex dolo, the deed having been delivered spe numerandae pecuniae.” John Trayner, *Trayner's Latin Maxims* 582 (4th ed. 1894).

SPERATE

sperate (speer-<<schwa>>t), adj. Archaic. (Of a debt) recoverable; not hopeless. • In determining whether a debt could be collected, consideration was formerly given to whether the debt was desperate or sperate.

SPES ACCRESCENDI

spes accrescendi (speez ak-r<<schwa>>-sen-dI). [Latin “hope of accrual”] Hope of acquiring an extra share of a legacy or inheritance by survival.

SPES OBLIGATIONIS

spes obligationis (speez ob-li-gay-shee-oh-nis). [Latin] Hist. The hope of an obligation yet to emerge.

SPES RECUPERANDI

spes recuperandi (speez ri-k[y]oo-p<<schwa>>-ran-dI). [Latin “hope of recovery”] Hope of recovering a prize, as from a captured vessel.

SPES SUCCESSIONIS

spes successionis (speez s<<schwa>>k-sesh-ee-oh-nis). [Latin “hope of succession”] Hope of succeeding to a right.

“A mere spes successionis must be distinguished from a contingent right. If Matilda has nursed her invalid friend for thirty years, she may have every hope of succeeding to the property, but she has no right.” George Whitecross Paton, *A Textbook of Jurisprudence* 306 (G.W. Paton & David P. Derham eds., 4th ed. 1972).

SPES SUCCESSIONIS IN DESTINATIONE

spes successionis in destinatione (speez s<<schwa>>k-ses[h]-ee-oh-nis in des-ti-nay-shee-oh-nee). [Law Latin] Hist. A hope of succeeding under a destination (that is, an appointment by will).

SPES SUCCESSIONIS IN OBLIGATIONE

spes successionis in obligatione (speez s<<schwa>>k-ses[h]-ee-oh-nis in ob-li-gay-shee-oh-nee). [Law Latin] Hist. A hope of succeeding to a right under an existing obligation.

SPIELBERG DOCTRINE

Spielberg doctrine.Labor law. The policy of the National Labor Relations Board to defer to an arbitrator's decision regarding a contract dispute if (1) the decision is not repugnant to the National Labor Relations Board, (2) the arbitration proceedings provided a hearing as fair as would have been provided before the NLRB, and (3) the contract requires binding arbitration.Spielberg Mfg. Co., 112 NLRB Dec. (CCH) 86 (1955). Cf. COLLYER DOCTRINE.

“In Spielberg Mfg. Co. (1955), the Board announced its policy of dismissing an unfair labor practice complaint in deference to an arbitration award already rendered, provided the arbitral procedures were fair and the award was not repugnant to the policies of the Labor Act.... The Supreme Court in several cases cited the Board's deferral policy with approval, noting that the Board has discretion to respect an arbitration award and that arbitration of disputes contributes to industrial peace and stability.” Robert A. Gorman, *Basic Text on Labor Law: Unionization and Collective Bargaining* 751 (1976).

SPIGURNEL

spigurnel (spig-<<schwa>>r-nel), n. Hist. An early officer of the Chancery, equivalent to the Sealer of the king's writs in later times.

SPILOVER

spillover. See EXTERNALITY.

SPILOVER THEORY

spillover theory.The principle that a severance must be granted only when a defendant can show that trial with a codefendant would substantially prejudice the defendant's case, as when the jury might wrongly use evidence against the defendant. See BRUTON ERROR. [Cases: Criminal Law 622.2(8). C.J.S. Criminal Law §§ 570–571.]

“The spillover theory involves the question of whether a jury's unfavorable impression of a defendant against whom the evidence is properly admitted will influence the way the jurors view a codefendant.... The test ... is whether the jury can keep separate the evidence that is relevant to each defendant and render a fair and impartial verdict.” 22A C.J.S. Criminal Law § 571, at 190–91 (1989).

SPIN-OFF

spin-off,n.1. A corporate divestiture in which a division of a corporation becomes an independent company and stock of the new company is distributed to the corporation's shareholders. [Cases: Corporations 445. C.J.S. Corporations § 656.] 2. The company created by this divestiture. Cf. SPLIT-OFF F; SPLIT-UP.

SPIRIT OF THE LAW

spirit of the law.The general meaning or purpose of the law, as opposed to its literal content. Cf. LETTER OF THE LAW. [Cases: Statutes 183.C.J.S. Statutes § 317.]

SPIRITUAL

spiritual,adj. Of or relating to ecclesiastical rather than secular matters < spiritual corporation>.

SPIRITUAL CORPORATION

spiritual corporation.See CORPORATION.

SPIRITUAL COURT

spiritual court.See ecclesiastical court under COURT.

SPIRITUAL LORD

spiritual lord.An archbishop or bishop having a seat in the House of Lords.

SPIRITUAL TENURE

spiritual tenure.See TENURE.

SPIRITUAL-TREATMENT EXEMPTION

spiritual-treatment exemption.See FAITH-HEALING EXEMPTION.

SPITAL

spital (spit-<<schwa>>l).Archaic. A hospital. — Also termed spittle.

SPITE FENCE

spite fence.A fence erected solely to annoy a neighbor, as by blocking the neighbor's view or preventing the neighbor from acquiring an easement of light <the court temporarily enjoined the completion of the 25-foot spite fence>. Cf. LAWFUL FENCE. [Cases: Adjoining Landowners 10; Fences 22; Nuisance 3(12). C.J.S. Adjoining Landowners §§ 68–69, 71, 74; Nuisances § 38.]

SPITTLE

spittle. See SPITAL.

SPLIT

split,vb.1. To divide (a cause of action) into segments or parts. 2. To issue two or more shares for each old share without changing the shareholder's proportional ownership interest. See STOCK SPLIT. [Cases: Corporations 66. C.J.S. Corporations §§ 177–179.]

SPLIT CUSTODY

split custody. See CUSTODY(2).

SPLIT-DOLLAR LIFE INSURANCE

split-dollar life insurance. See LIFE INSURANCE.

SPLIT FUND

split fund. See dual fund under MUTUAL FUND.

SPLIT-FUNDED PLAN

split-funded plan. See EMPLOYEE BENEFIT PLAN.

SPLIT GIFT

split gift. See GIFT.

SPLIT INCOME

split income. See INCOME.

SPLIT-INTEREST TRUST

split-interest trust. See charitable-remainder trust under TRUST.

SPLIT-LEVEL STATUTE

split-level statute. See STATUTE.

SPLIT-OFF

split-off, n. 1. The creation of a new corporation by an existing corporation that gives its shareholders stock in the new corporation in return for their stock in the original corporation. 2. The corporation created by this process. Cf. SPIN-OFF; SPLIT-UP. [Cases: Corporations 445. C.J.S. Corporations § 656.]

SPLIT ORDER

split order. See ORDER(8).

SPLIT SENTENCE

split sentence. See SENTENCE.

SPLITTING A CAUSE OF ACTION

splitting a cause of action. Separating parts of a demand and pursuing it piecemeal; presenting only a part of a claim in one lawsuit, leaving the rest for a second suit. • This practice has long been considered procedurally impermissible. [Cases: Action 53; Judgment 591. C.J.S. Actions §§ 177–203; Judgments §§ 761, 764–765.]

SPLIT-UP

split-up, n. The division of a corporation into two or more new corporations. • The

shareholders in the original corporation typically receive shares in the new corporations, and the original corporation goes out of business. Cf. SPIN-OFF; SPLIT-OFF.

SPLIT VERDICT

split verdict. See VERDICT.

SPOILED BALLOT

spoiled ballot. See BALLOT(2).

SPOILS OF WAR

spoils of war. See BOOTY(1).

SPOILS SYSTEM

spoils system. The practice of awarding government jobs to supporters and friends of the victorious political party. Cf. MERIT SYSTEM. [Cases: Officers and Public Employees 25. C.J.S. Officers and Public Employees § 36.]

SPOILIATION

spoliation (s-poh-lee-ay-sh<<schwa>>n), n.1. The intentional destruction, mutilation, alteration, or concealment of evidence, usu. a document. • If proved, spoliation may be used to establish that the evidence was unfavorable to the party responsible. [Cases: Evidence 78; Federal Civil Procedure 1636; Pretrial Procedure 434. C.J.S. Discovery § 79; Evidence §§ 163–165, 167–168.] 2. The seizure of personal or real property by violent means; the act of pillaging. 3. The taking of a benefit properly belonging to another. 4. Eccles. law. The wrongful deprivation of a cleric of his benefice. — spoliator (s-poh-lee-ayt), vb. — spoliator (s-poh-lee-ay-t<<schwa>>r), n.

SPOLIUM

spolium (s-poh-lee-<<schwa>>m), n. [Latin “booty”] Roman law. Something taken from an enemy in war or plundered from a fellow-citizen. • The plural spolia was more common than the singular.

SPONDESNE? SPONDEO

Spondesne? Spondeo (spon-deez spon-dee-oh). [Latin] Roman law. Do you agree to undertake? I undertake. • This was the special phrase, available only to citizens, that created a sponsio. See SPONSIO; STIPULATIO.

SPONDET PERITIAM ARTIS

spondet peritiam artis (spon-det p<<schwa>>-rish-ee-<<schwa>>m ahr-tis). [Latin “he guarantees his professional skill”] Hist. A personal promise to use the skill of one's art. • This phrase is used in construction contracts to indicate an implied agreement to perform in a workmanlike manner.

SPONGE TAX

sponge tax. See pickup tax under TAX.

SPONSALIA

sponsalia (spon-say-lee-⟨schwa⟩), n. [Latin] Hist. 1. A betrothal; an engagement to marry. 2. An engagement gift. — Also termed stipulatio sponsalitia.

SPONSALIA PER VERBA DE FUTURO

sponsalia per verba de futuro (spon-say-lee-⟨schwa⟩ p⟨schwa⟩r v⟨schwa⟩r-b⟨schwa⟩r dee f[y]oo-t[y]oor-oh). [Latin “espousals by words about the future”] Hist. A promise to marry in the future.

“[A] promise to marry in the future (sponsalia per verba de futuro) gave rise only to an executory contract of marriage. The regular way of executing the contract was to solemnise the marriage, using present words. But the Canon law acknowledged that it could also be turned into the indissoluble bond of present matrimony by physical consummation Thus, in the absence of carnal copulation, the validity of a marriage had come to depend on whether the contract was by words de praesenti or de futuro.... It is hardly surprising that it gave rise to so much wrangling and fraud, and that the commonest species of matrimonial suit in the medieval consistory courts was to interpret and enforce ‘espousals.’” J.H. Baker, *An Introduction to English Legal History* 546 (3d ed. 1990).

SPONSALIA PER VERBA DE PRAESENTI

sponsalia per verba de praesenti (spon-say-lee-⟨schwa⟩ p⟨schwa⟩r v⟨schwa⟩r-b⟨schwa⟩r dee pri-zen-t[or]pree-). Eccles. law. A type of informal marriage that occurred when the parties made an informal agreement to have each other as husband and wife. • This type of informal marriage was based on nothing more than the present consent to be married but was entirely valid and would take precedence over a later formal ceremonial marriage that either of the parties attempted to contract with someone else.

SPONSIO

sponsio (spon-shee-oh), n. [Latin] Roman law. An undertaking, available only to citizens, in the form of an answer to a question using a solemn form of words with religious overtones. • This was the original form of stipulation. See SPONDESNE? SPONDEO; STIPULATIO.

SPONSIO JUDICIALIS

sponsio judicialis (spon-shee-oh joo-dish-ee-ay-lis). [Latin] Roman law. A formal promise that the judge is entitled to acquire by virtue of his office. Pl. sponsiones judiciales.

SPONSIO LUDICRA

sponsio ludicra (spon-shee-oh loo-di-kr⟨schwa⟩). [Latin “a laughable promise”] 1. Civil law. An informal or illicit understanding that is not enforceable. 2. Scots law. An obligation that a court will not enforce because it does not concern a worthy subject; e.g., a gambling agreement. Pl.

sponsiones ludicrae.

SPONSION

sponson (spon-sh<<schwa>>n), n.[fr. Latin spondere “to engage”] 1. The formal pledge by which a person becomes a surety. 2.Int'l law. An ultra vires promise of an official agent (such as a general in wartime), requiring later ratification by the principal. 3.Roman law. A form of guarantee accessory to an oral contract. • Only Roman citizens could make this type of guarantee. See ADPROMISSION(1). — sponsional (spon-sh<<schwa>>n-<<schwa>>l), adj.

SPONSOR

sponsor. 1. One who acts as a surety for another. 2. A legislator who proposes a bill. 3.Civil law. One who voluntarily intervenes for another without being requested to do so. 4.GODPARENT.

SPONTANEOUS ABORTION

spontaneous abortion.See MISCARRIAGE.

SPONTANEOUS CRIME

spontaneous crime.See CRIME.

SPONTANEOUS DECLARATION

spontaneous declaration.Evidence. A statement that is made without time to reflect or fabricate and is related to the circumstances of the perceived occurrence. — Also termed spontaneous statement; spontaneous exclamation; spontaneous utterance. See EXCITED UTTERANCE; PRESENT SENSE IMPRESSION. [Cases: Criminal Law 363; Evidence 20. C.J.S. Criminal Law §§ 867–870; Evidence §§ 87, 100–101, 103.]

SPONTE

spon-te (spon-tee). [Latin] Hist. Spontaneously; voluntarily. See SUA SPONTE.

SPONTE OBLATA

spon-te oblata (spon-tee <<schwa>>-blay-t<<schwa>>). [Latin “freely offered”] Hist. A gift to the Crown.

SPORTS FRANCHISE

sports franchise.See FRANCHISE(4).

SPORTULA

sportula (spor-ch<<schwa>>-l<<schwa>>), n.[Latin] Roman law. 1. A present; a donation, as to the poor. 2. A fee paid to certain officials for performing judicial duties. — Also termed sportella.

SPOT

spot,adj. Made, paid, or delivered immediately <a spot sale> <spot commodities>.

SPOT MARKET

spot market.See MARKET.

SPOT PRICE

spot price.See PRICE.

SPOT ZONING

spot zoning.See ZONING.

SPOUSAL ABUSE

spousal abuse.See ABUSE.

SPOUSAL ALLOWANCE

spousal allowance.See ALLOWANCE(1).

SPOUSAL CONSORTIUM

spousal consortium.See CONSORTIUM.

SPOUSAL LABOR

spousal labor.Family law. Work by either spouse during the marriage. • This term is typically used in community-property states.

SPOUSAL PRIVILEGE

spousal privilege.See marital privilege under PRIVILEGE(3).

SPOUSAL RAPE

spousal rape.See marital rape under RAPE.

SPOUSALS

spousals.Hist. Mutual promises to marry.

SPOUSAL SUPPORT

spousal support.See ALIMONY.

SPOUSAL-UNITY DOCTRINE

spousal-unity doctrine.Hist.1.Family law. The common-law rule that a husband and wife were a legal unity. • Under the spousal-unity doctrine, the husband had all rights to the possession, management, control, and alienation of property. The wife had no interests in property. — Also termed doctrine of spousal unity. See MARRIED WOMEN'S PROPERTY ACTS. Cf. LEGAL-UNITIES DOCTRINE . 2.Tax. The rule that a person and that person's spouse are treated as one. • This rule has been repealed. — Also termed spousal-unity rule.

SPOUSE

spouse. One's husband or wife by lawful marriage; a married person. [Cases: Husband and Wife 1.]

innocent spouse.Tax. A spouse who may be relieved of liability for taxes on income that the other spouse did not include on a joint tax return. • The innocent spouse must prove that the other spouse omitted the income, that the innocent spouse did not know and had no reason to know of the omission, and that it would be unfair under the circumstances to hold the innocent spouse liable. [Cases: Internal Revenue 3566.1; Taxation 1014. C.J.S. Internal Revenue § 366; Taxation § 1703.]

putative spouse.Family law. A spouse who believes in good faith that his or her invalid marriage is legally valid. See putative marriage under MARRIAGE (1). [Cases: Marriage 54. C.J.S. Marriage §§ 43–44.]

surviving spouse.A spouse who outlives the other spouse.

SPOUSE-BREACH

spouse-breach. See ADULTERY.

SPRAY TRUST

spray trust.See sprinkle trust under TRUST.

SPREAD

spread,n.1.Banking. The difference between the interest rate that a financial institution must pay to attract deposits and the rate at which money can be loaned. 2.Securities. The difference between the highest price a buyer will pay for a security (the bid price) and the lowest price at which a seller will sell a security (the asked price).3.Securities. The simultaneous buying and selling of one or more options or futures contracts on the same security in order to profit from the price difference. 4. In investment banking, the difference between the price the underwriter pays the issuer of the security and the price paid by the public in the initial offering. • The spread compensates the underwriter for its services; it is made up of the manager's fee, the underwriter's discount, and the selling-group concession or discount. — Also termed (in sense 4) gross spread; underwriting spread.

SPREAD EAGLE

spread eagle.See STRADDLE.

SPREADSHEET

spreadsheet. A multicolumn worksheet used esp. by accountants and auditors to summarize and analyze financial transactions.

SPREAD UPON THE MINUTES

spread upon the minutes.Parliamentary law. To incorporate into the minutes a statement

expressing a sentiment, such as a memorial celebrating a deceased member's life.

SPRETA AUCTORITATE JUDICIS

spreta auctoritate judicis (spree-t<<schwa>> awk-tor-<<schwa>>-tay-tee joo-di-sis). [Law Latin] Hist. The authority of the judge being disregarded.

SPRETA INHIBITIONE

spreta inhibitione (spree-t<<schwa>> in-hi-bish-ee-oh-nee). [Law Latin] Hist. In contempt of an inhibition.

SPRINGING DURABLE POWER OF ATTORNEY

springing durable power of attorney. See springing power of attorney under POWER OF ATTORNEY.

SPRINGING EXECUTORY INTEREST

springing executory interest. See EXECUTORY INTEREST.

SPRINGING POWER OF ATTORNEY

springing power of attorney. See POWER OF ATTORNEY.

SPRINGING USE

springing use. See USE(4).

SPRING TIDE

spring tide. See TIDE.

SPRINKLE POWER

sprinkle power. In a sprinkle trust, the trustee's discretion about when and how much of the trust principal and income are to be distributed to the beneficiaries. See sprinkle trust under TRUST.

SPRINKLE TRUST

sprinkle trust. See TRUST.

SPUILZIE

spuilzie (spuul-ye), n. Scots law. 1. The wrongful taking of corporeal movable property from another's possession. • This is the Scottish equivalent of common-law conversion. 2. An action to recover wrongfully taken movables, and often for either profits made with them while in the taker's possession or reparations for unjust dispossession. — Also spelled spulzie; spulyie. — spuilzied, adj.

SPURIOUS

spurious (spyoor-ee-<<schwa>>s), adj. 1. Deceptively suggesting an erroneous origin; fake

<spurious trademarks>.2. Of doubtful or low quality <spurious goods that fell apart>.3.Archaic. Of illegitimate birth <spurious offspring>.

SPURIOUS BANK BILL

spurious bank bill.See spurious banknote under BANKNOTE.

SPURIOUS BANKNOTE

spurious banknote.See BANKNOTE.

SPURIOUS CLASS ACTION

spurious class action.See CLASS ACTION.

SPURIUS

spurius (spyuur-ee-*<<schwa>>*s), n.[Latin] Roman law. A bastard; the offspring of unlawful intercourse. Pl. spurii (spyuur-ee-I). See NOTHUS.

SPV

SPV.abbr.Special-purpose vehicle. See SPECIAL-PURPOSE ENTITY.

SPY

spy. One who secretly observes and collects secret information or intelligence about what another government or company is doing or plans to do; one who commits espionage. See ESPIONAGE.

SQUALOR CARCERIS

squalor carceris (skway-lor kahr-s*<<schwa>>*r-is). [Law Latin] Scots law. The strictness of imprisonment.

“This term means merely the strictness of imprisonment which a creditor is entitled to enforce, with the view of compelling the debtor to pay the debt, or disclose any funds which he may have concealed. It does not imply (as it did with the ancient churchmen, from whom the term is derived) anything loathsome or unhealthy in the imprisonment in Scotland, which is indeed less close than in England. Squalor carceris is not necessary in imprisonment on *meditatio fugae* warrant, security being all that is required in such cases.” William Bell, *Bell's Dictionary and Digest of the Law of Scotland* 1032 (George Watson ed., 7th ed. 1890).

SQUALOR MORBI

squalor morbi (skway-lor mor-bi). [Law Latin] Hist. The dregs of disease.

SQUARE

square,n.1. A certain portion of land within a city limit. — Also termed block. [Cases: *Municipal Corporations* 721(1). C.J.S. *Municipal Corporations* §§ 1557–1559.] 2. A space set apart for public use. 3. In a government survey, an area measuring 24 by 24 miles.

SQUATTER

squatter. 1. A person who settles on property without any legal claim or title. 2. A person who settles on public land under a government regulation allowing the person to acquire title upon fulfilling specified conditions. [Cases: Public Lands 35. C.J.S. Public Lands § 43.]

SQUATTER'S RIGHTS

squatter's rights. The right to acquire title to real property by adverse possession, or by preemption of public lands. See ADVERSE POSSESSION.

SQUEEZE-OUT

squeeze-out, n. An action taken in an attempt to eliminate or reduce a minority interest in a corporation. Cf. FREEZE-OUT. [Cases: Corporations 182.3, 584. C.J.S. Corporations §§ 344, 799–801.]

SQUIRES<TT> CLAIM

Squires claim. See PATENT CLAIM.

SQUIRES<TT> DOCTRINE

Squires doctrine. Patents. A rule of the U.S. Patent and Trademark Office that a utility-patent claim may incorporate drawings or tables by reference, but only when there is no practical way to express the information in words, and when referring to the artwork is a concise way to communicate the information. • The namesake case involved a numerical font designed to be readable in the dim red light inside a submarine. It is allowed only when necessary, and is not available just for the convenience of an applicant. *Ex parte Squires*, 133 USPQ (BNA) 598 (Bd. App. 1961). See Squires claim under PATENT CLAIM. [Cases: Patents 100. C.J.S. Patents § 143.]

SS

ss. abbr. 1. Sections. 2. Subscripti (i.e., signed below). 3. Sans (i.e., without). 4. (Erroneously) scilicet.

“Many possible etymologies have been suggested for this mysterious abbreviation. One is that it signifies scilicet (= namely, to wit), which is usually abbreviated sc. or scil. Another is that ss. represents ‘[t]he two gold letters at the ends of the chain of office or “collar” worn by the Lord Chief Justice of the King's Bench’ Max Radin, *Law Dictionary* 327 (1955). Mellinkoff suggests that the precise etymology is unknown: ‘Lawyers have been using ss for nine hundred years and still are not sure what it means.’ David Mellinkoff, *The Language of the Law* 296 (1963). In fact, though, it is a flourish deriving from the Year Books — an equivalent of the paragraph mark: ‘¶.’ Hence Lord Hardwicke's statement that ss. is nothing more than a division mark. See *Jodderrell v. Cowell*, 95 Eng. Rep. 222, 222 (K.B. 1737).... An early formbook writer incorporated it into his forms, and ever since it has been mindlessly perpetuated by one generation after another.” Bryan A. Garner, *A Dictionary of Modern Legal Usage* 825 (2d ed. 1995).

SSA

SSA.abbr.SOCIAL SECURITY ADMINISTRATION.

SSDI

SSDI.abbr.SOCIAL SECURITY DISABILITY INSURANCE.

SSI

SSI.abbr.SUPPLEMENTAL SECURITY INCOME.

SSS

SSS.abbr.SELECTIVE SERVICE SYSTEM.

STABILIZE

stabilize,vb.1. To make firm or steadfast <to stabilize the ship>.2. To maintain a particular level or amount <stabilize prices>.

STABLE STAND

stable stand.Hist. In forest law, a person found standing in a forest either with a bow bent, ready to shoot a deer, or close to a tree with greyhounds on a leash and ready to slip, being presumptive evidence of an intent to steal the Crown's deer.

STACKING

stacking. 1.Insurance. The process of obtaining benefits from a second policy on the same claim when recovery from the first policy alone would be inadequate. [Cases: Insurance 2108, 2799. C.J.S. Insurance §§ 1676, 1680.]

judicial stacking.The principle that a court can construe insurance policies to permit stacking, under certain circumstances, when the policies do not specifically provide for stacking but public policy is best served by permitting it. [Cases: Insurance 2799. C.J.S. Insurance §§ 1676, 1680.]

policy stacking.Stacking that is permitted by the express terms of an insurance policy. [Cases: Insurance 2108.]

2. A gerrymandering technique in which a large political or racial group is combined in the same district with a larger opposition group. Cf. CRACKING; PACKING. [Cases: Elections 12(6).]

STAFF ATTORNEY

staff attorney.3. See ATTORNEY. 2. See CLERK(5).

STAFF DIRECTOR

staff director.See EXECUTIVE DIRECTOR.

STAFF JUDGE ADVOCATE

staff judge advocate. See JUDGE ADVOCATE.

STAGFLATION

stagflation (stag-flay-sh<<schwa>>n), n. A period of slow economic growth or recession characterized by high inflation, stagnant consumer demand, and high unemployment. — stagflationary, adj.

STAGGERED BOARD OF DIRECTORS

staggered board of directors. See BOARD OF DIRECTORS.

STAGIARIUS

stagiarius (stay-jee-air-ee-<<schwa>>s), n. [Latin] Hist. 1. Eccles. law. A resident canon; an ecclesiastic bound to keep terms of residence. 2. A stagiary; a law student keeping terms before admission to the bar.

STAKE

stake, n. 1. Something (such as property) deposited by two or more parties with a third party pending the resolution of a dispute; the subject matter of an interpleader. [Cases: Interpleader 21. C.J.S. Interpleader §§ 30–31.] 2. An interest or share in a business venture. 3. Something (esp. money) bet in a wager, game, or contest. [Cases: Gaming 27.] 4. A boundary marker used in land surveys. [Cases: Boundaries 5. C.J.S. Boundaries §§ 3, 5, 7.]

STAKEHOLDER

stakeholder. 1. A disinterested third party who holds money or property, the right to which is disputed between two or more other parties. See INTERPLEADER. [Cases: Interpleader 13. C.J.S. Interpleader § 12.] 2. A person who has an interest or concern in a business or enterprise, though not necessarily as an owner. 3. One who holds the money or valuables bet by others in a wager. [Cases: Gaming 27.]

STALE CHECK

stale check. See CHECK.

STALE CLAIM

stale claim. See CLAIM(3).

STALINGRAD DEFENSE

Stalingrad defense. See DEFENSE(2).

STALKING

stalking. 1. The act or an instance of following another by stealth. 2. The offense of following or loitering near another, often surreptitiously, with the purpose of annoying or harassing that person or committing a further crime such as assault or battery. • Some statutory definitions include an element that the person being stalked must reasonably feel harassed, alarmed, or

distressed about personal safety or the safety of one or more persons for whom that person is responsible. And some definitions state that acts such as telephoning another and remaining silent during the call amount to stalking. Cf. CYBERSTALKING. [Cases: Extortion and Threats 25.1. C.J.S. Threats and Unlawful Communications §§ 2–20.]

STALLAGE

stallage (stawl-ij), n. Hist. 1. The right to erect stalls in public markets. 2. The cost for that right.

STAMP

stamp, n. An official mark or seal placed on a document, esp. to indicate that a required tax (such as duty or excise tax) has been paid. [Cases: Bills and Notes 56; Internal Revenue 4390–4409; Taxation 105.5, 1212.1. C.J.S. Bills and Notes; Letters of Credit § 31; Taxation §§ 167, 1681–1692, 1995, 2002–2003, 2007.]

STAMP ACTS

stamp acts. English statutes requiring and regulating stamps on deeds, contracts, legal papers, bills, or other documents.

STAMP DUTY

stamp duty. Hist. A tax raised by requiring stamps sold by the government to be affixed to designated documents, thus forming part of the perpetual revenue. See stamp tax under TAX. [Cases: Internal Revenue 4390–4409; Taxation 105.5. C.J.S. Taxation §§ 167, 1681–1692.]

“A fifth branch of the perpetual revenue consists in the stamp duties, which are a tax imposed upon all parchment and paper whereon any legal proceedings, or private instruments of almost any nature whatsoever, are written; and also upon licenses ... and pamphlets containing less than six sheets of paper. These imposts are very various, according to the nature of the thing stamped, rising gradually from a penny to ten pounds.” 1 William Blackstone, Commentaries on the Laws of England 312–13 (1765).

STAMP TAX

stamp tax. See TAX.

STAND

stand. See WITNESS STAND.

STAND ADJOURNED

stand adjourned. (Of a meeting or proceeding) to be in a state of adjournment < this court stands adjourned until 10:00 a.m. tomorrow >. • This status is usu. announced by a judge or other presiding officer concerning the business scheduled to continue at a later time. — Often shortened to adjourned.

STANDARD

standard,n.1. A model accepted as correct by custom, consent, or authority < what is the standard in the ant-farm industry?>.2. A criterion for measuring acceptability, quality, or accuracy <the attorney was making a nice living — even by New York standards>. — standard,adj.

objective standard.A legal standard that is based on conduct and perceptions external to a particular person. • In tort law, for example, the reasonable-person standard is considered an objective standard because it does not require a determination of what the defendant was thinking.

subjective standard.A legal standard that is peculiar to a particular person and based on the person's individual views and experiences. • In criminal law, for example, premeditation is determined by a subjective standard because it depends on the defendant's mental state.

STANDARD & POOR'S

Standard & Poor's.An investment-analysis and-advisory service. • Standard & Poor's rates the financial strength of businesses from AAA (strongest) to AA, A, BBB, and so on to CCC. Most grades may also be modified with a plus- or minus-sign according to the business's relative strength among similar companies. A rating of R means that the company is the subject of some regulatory action.

STANDARD CHARACTERISTICS

standard characteristics.See STANDARD DESCRIPTIVE CHARACTERISTICS.

STANDARD DEDUCTION

standard deduction.See DEDUCTION.

STANDARD DESCRIPTIVE CHARACTERISTICS

standard descriptive characteristics.Parliamentary law. The basic rules that apply to and define a motion. • The characteristics include when the motion is in order; its rank — that is, what it takes precedence over, and what yields to it; whether making it may interrupt a speaker; whether it needs a second; whether it is debatable; whether it is amendable; what vote its adoption takes; and whether it can be reconsidered. — Also termed standard characteristics.

STANDARD-FORM CONTRACT

standard-form contract.See CONTRACT.

STANDARD INSTRUCTION

standard instruction.See JURY INSTRUCTION.

STANDARDIZED CONTRACT

standardized contract.See standard-form contract under CONTRACT.

STANDARD MORTGAGE CLAUSE

standard mortgage clause.See MORTGAGE CLAUSE.

STANDARD OF CARE

standard of care. Torts. In the law of negligence, the degree of care that a reasonable person should exercise. See CARE(2). [Cases: Negligence 230–233. C.J.S. Negligence §§ 34, 59, 114, 116–121, 125–127, 130–131, 133.]

STANDARD OF NEED

standard of need. In public-assistance law, the total subsistence resources required by an individual or family unit as determined by a state and, when unsatisfied by available resources, entitles the individual or family unit to public assistance. [Cases: Social Security and Public Welfare 4.10, 194.7. C.J.S. Social Security and Public Welfare §§ 11, 18, 118, 121.]

STANDARD OF PROOF

standard of proof. The degree or level of proof demanded in a specific case, such as “beyond a reasonable doubt” or “by a preponderance of the evidence.” See BURDEN OF PERSUASION. [Cases: Criminal Law 560; Evidence 596. C.J.S. Criminal Law § 1108; Evidence §§ 1299, 1304–1306, 1308, 1310–1311, 1315–1317.]

STANDARD OF REVIEW

standard of review. The criterion by which an appellate court exercising appellate jurisdiction measures the constitutionality of a statute or the propriety of an order, finding, or judgment entered by a lower court.

STANDARD POLICY

standard policy. See INSURANCE POLICY.

STANDARD-SETTING ORGANIZATION

standard-setting organization. A body that sets, describes, or documents uniform operating, technological, or other norms for participants in a particular field or industry. — Also termed standards body.

STANDARDS FOR IMPOSING LAWYER SANCTIONS

Standards for Imposing Lawyer Sanctions. The ABA's 1986 supplement to the Standards for Lawyer Discipline, prescribing a range of sanctions and guidelines for applying them. • Sanctions range from reprimands to disbarment.

STANDARDS FOR LAWYER DISCIPLINE

Standards for Lawyer Discipline. A set of model rules, created by the ABA in 1979, establishing procedures for disciplining lawyers who violate ethics rules or commit crimes. • The rules stress that the process is an inquiry to determine an attorney's fitness to practice, not to determine a punishment.

STAND AT EASE

stand at ease.Parliamentary law. To take an informal pause during a meeting without taking a recess, at the instance of the chair.

STANDBY CHARGE

standby charge.A property levy, often based on acreage, imposed on the mere availability of a service, whether or not the service is actually used.

STANDBY COMMITMENT

standby commitment.An arrangement between an underwriter and an issuer of securities whereby the underwriter agrees, for a fee, to buy any unsold shares remaining after the public offering. — Also termed standby underwriting agreement.

STANDBY COUNSEL

standby counsel.See COUNSEL.

STANDBY GUARDIAN

standby guardian.See GUARDIAN.

STANDBY GUARDIANSHIP

standby guardianship.See GUARDIANSHIP.

STANDBY LETTER OF CREDIT

standby letter of credit.See LETTER OF CREDIT.

STANDBY TRUST

standby trust.See TRUST.

STANDBY UNDERWRITING

standby underwriting.See UNDERWRITING.

STANDBY UNDERWRITING AGREEMENT

standby underwriting agreement.See STANDBY COMMITMENT.

STANDING

standing,n. A party's right to make a legal claim or seek judicial enforcement of a duty or right. • To have standing in federal court, a plaintiff must show (1) that the challenged conduct has caused the plaintiff actual injury, and (2) that the interest sought to be protected is within the zone of interests meant to be regulated by the statutory or constitutional guarantee in question. — Also termed standing to sue. Cf. JUSTICIABILITY. [Cases: Action 13; Federal Civil Procedure 103.1. C.J.S. Actions §§ 57–63.]

“Have the appellants alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so

largely depends for illumination of difficult constitutional questions? This is the gist of the question of standing.” *Baker v. Carr*, 369 U.S. 186, 204, 82 S.Ct. 691, 703 (1962)(Brennan, J.).

“The word standing is rather recent in the basic judicial vocabulary and does not appear to have been commonly used until the middle of our own century. No authority that I have found introduces the term with proper explanations and apologies and announces that henceforth standing should be used to describe who may be heard by a judge. Nor was there any sudden adoption by tacit consent. The word appears here and there, spreading very gradually with no discernible pattern. Judges and lawyers found themselves using the term and did not ask why they did so or where it came from.” Joseph Vining, *Legal Identity* 55 (1978).

third-party standing. Standing held by someone claiming to protect the rights of others. • For example, in most jurisdictions, only a parent has standing to bring a suit for custody or visitation; in some, however, a third party — for instance, a grandparent or a person with whom the child has substantial contacts — may have standing to bring an action for custody or visitation. See GRANDPARENT RIGHTS. [Cases: Action 13; Federal Civil Procedure 103.4. C.J.S. Actions §§ 57–63.]

STANDING ASIDE A JUROR

standing aside a juror. The prosecution practice of provisionally placing a juror aside until the panel is exhausted, without providing a reason, instead of challenging the juror or showing cause. • The practice originally developed as a method of avoiding the Challenge of Jurors Act (1305), which prohibited the Crown from challenging a juror without showing cause. A similar practice was formerly used in Pennsylvania. [Cases: Jury 122. C.J.S. Juries § 368.]

STANDING BY

standing by. 1. The awaiting of an opportunity to respond, as with assistance. 2. Silence or inaction when there is a duty to speak or act; esp., the tacit possession of knowledge under circumstances requiring the possessor to reveal the knowledge. See estoppel by silence under ESTOPPEL.

STANDING COMMITTEE

standing committee. See COMMITTEE.

STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

Standing Committee on Rules of Practice and Procedure. A group of judges, lawyers, and legal scholars appointed by the Chief Justice of the United States to advise the Judicial Conference of the United States on possible amendments to the procedural rules in the various federal courts and on other issues relating to the operation of the federal courts. 28 USCA § 331.

“[Under 28 USCA § 331], the Judicial Conference of the United States has created a Standing Committee on Rules of Practice and Procedure and has authorized the appointment from time to time of various advisory committees. These committees make recommendations regarding amendments of the rules to the Judicial Conference, which in turn transmits those

recommendations it approves to the Supreme Court. Under this new plan, as under the machinery in effect from 1934 to 1956, the Court retains the ultimate responsibility for the adoption of amendments to the rules.” 4 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1007, at 35 (2d ed. 1987).

STANDING CROPS

standing crops. See CROPS.

STANDING DIVISION

standing division. See standing vote under VOTE(4).

STANDING MASTER

standing master. See MASTER.

STANDING MORTGAGE

standing mortgage. See interest-only mortgage under MORTGAGE.

STANDING MUTE

standing mute. See MUTE(2).

STANDING OFFER

standing offer. See OFFER.

STANDING ORDER

standing order. See ORDER(2).

STANDING RULE

standing rule. See RULE(3).

STANDING SEISED TO USES

standing seised to uses. The holding of title for the benefit or use of another, such as a relative in consideration of blood or marriage. • A covenant to stand seised to uses is a type of conveyance that depends on the Statute of Uses for its effect. — Often shortened to seised to uses. See STATUTE OF USES.

STANDING TO SUE

standing to sue. See STANDING.

STANDING VOTE

standing vote. See VOTE(4).

STAND MUTE

stand mute. 1. (Of a defendant) to refuse to enter a plea to a criminal charge. • Standing mute

is treated as a plea of not guilty. [Cases: Criminal Law 300. C.J.S. Criminal Law §§ 378–379.] 2. (Of any party) to raise no objections.

STANDSTILL AGREEMENT

standstill agreement. Any agreement to refrain from taking further action; esp., an agreement by which a party agrees to refrain from further attempts to take over a corporation (as by making no tender offer) for a specified period, or by which financial institutions agree not to call bonds or loans when due.

STAND TRIAL

stand trial. To submit to a legal proceeding, esp. a criminal prosecution.

STANTE MATRIMONIO

stante matrimonio (stan-tee ma-tr<<schwa>>-moh-nee-oh). [Latin] Hist. The marriage remaining undissolved.

STAPLE

staple (stay-p<<schwa>>l). 1. A key commodity such as wool, leather, tin, lead, butter, or cheese (collectively termed the staple). 2. Hist. A town appointed by the Crown as an exclusive market for staple products. See STATUTE STAPLE. 3. Patents. An unpatented thing or material that is a component of a patented product or is used in a patented process, but also has other practical uses. • Patentees may not gain control of the market for staples through tying agreements. Cf. NONSTAPLE.

STAR CHAMBER

Star Chamber. 1. Hist. An English court having broad civil and criminal jurisdiction at the king's discretion and noted for its secretive, arbitrary, and oppressive procedures, including compulsory self-incrimination, inquisitorial investigation, and the absence of juries. • The Star Chamber was abolished in 1641 because of its abuses of power. — Also termed Court of Star Chamber; Camera Stellata. 2. (usu. l.c.) Any secretive, arbitrary, or oppressive tribunal or proceeding.

STARE DECISIS

stare decisis (stahr-ee di-si-sis or stair-ee), n. [Latin “to stand by things decided”] The doctrine of precedent, under which it is necessary for a court to follow earlier judicial decisions when the same points arise again in litigation. See PRECEDENT; NON QUIETA MOVERE. Cf. RES JUDICATA; LAW OF THE CASE ; (in civil law) jurisprudence constante under JURISPRUDENCE. [Cases: Courts 89. C.J.S. Courts §§ 139–140, 144–146, 161–164, 166–167.]

“The rule of adherence to judicial precedents finds its expression in the doctrine of stare decisis. This doctrine is simply that, when a point or principle of law has been once officially decided or settled by the ruling of a competent court in a case in which it is directly and

necessarily involved, it will no longer be considered as open to examination or to a new ruling by the same tribunal, or by those which are bound to follow its adjudications, unless it be for urgent reasons and in exceptional cases.” William M. Lile et al., *Brief Making and the Use of Law Books* 321 (3d ed. 1914).

“The general orthodox interpretation of *stare decisis*... is *stare rationibus decidendis* (‘keep to the *rationes decidendi* of past cases’), but a narrower and more literal interpretation is sometimes employed. To appreciate this narrower interpretation it is necessary to refer ... to Lord Halsbury’s assertion that a case is only authority for what it actually decides. We saw that situations can arise in which all that is binding is the decision. According to Lord Reid, such a situation arises when the *ratio decidendi* of a previous case is obscure, out of accord with authority or established principle, or too broadly expressed.” Rupert Cross & J.W. Harris, *Precedent in English Law* 100–01 (4th ed. 1991).

STARE DECISIS ET NON QUIETA MOVERE

stare decisis et non quieta movere (stair-ee di-si-sis et non kwI-ee-t<<schwa>>moh-veer-ee). [Latin] To stand by things decided, and not to disturb settled points. See STARE DECISIS.

STARE ENIM RELIGIONI DEBET

stare enim religioni debet (stair-ee ee-nim ri-lij-ee-oh-nee dee-bet ordeb-et). [Latin] Hist. For one ought to abide by one’s solemn obligation.

STARE IN JUDICIO

stare in judicio (stair-ee in joo-dish-ee-oh). [Latin] Hist. To appear before a tribunal as either a plaintiff or a defendant.

STAR PAGING

star paging, n.1. A method of referring to a page in an earlier edition of a book, esp. a legal source. • This method correlates the pagination of the later edition with that of the earlier (usu. the first) edition. 2. By extension, the method of displaying on a computer screen the page breaks that occur in printed documents such as law reports and law reviews. — Also termed *star pagination*. — *star page*, n.

STARR

starr (stahr), n.[fr. Latin *starrum* fr. Hebrew *sh'tar* “a writing”] Hist. A Jewish contract (esp. for release of an obligation) that Richard I declared to be invalid unless it was placed in a lawful repository, the largest being in the king’s Exchequer at Westminster. Pl. *starra*, *starrs*.

“It is well known that, before the banishment of the Jews under Edward I, their contracts and obligations were denominated in our ancient records *starra* or *starrs*, from a corruption of the Hebrew word, *shetàr*, a covenant.... These *starrs*, by an ordinance of Richard the first ... were commanded to be enrolled and deposited in chests under three keys in certain places; one, and the most considerable, of which was in the king’s exchequer at Westminster [T]he room at the exchequer, where the chests containing these *starrs* were kept, was probably called the

starr-chamber, and, when the Jews were expelled [from] the kingdom, was applied to the use of the king's council, when sitting in their judicial capacity." 4 William Blackstone, Commentaries on the Laws of England 263 n.a (1769).

STASH

stash,vb. To hide or conceal (money or property).

STAT

stat.abbr.STATUTE.

STATE

state,n.1. The political system of a body of people who are politically organized; the system of rules by which jurisdiction and authority are exercised over such a body of people <separation of church and state>. — Also termed political society. Cf. NATION. [Cases: International Law 3. C.J.S. International Law §§ 6–8, 13.]

“A STATE is a community of persons living within certain limits of territory, under a permanent organization which aims to secure the prevalence of justice by self-imposed law. The organ of the state by which its relations with other states are managed is the government.” Theodore D. Woolsey, Introduction to the Study of International Law § 36, at 34 (5th ed. 1878).

“A state or political society is an association of human beings established for the attainment of certain ends by certain means. It is the most important of all the various kinds of society in which men unite, being indeed the necessary basis and condition of peace, order, and civilisation. What then is the difference between this and other forms of association? In what does the state differ from such other societies as a church, a university, a joint-stock company, or a trade union? The difference is clearly one of function. The state must be defined by reference to such of its activities and purposes as are essential and characteristic.” John Salmond, Jurisprudence 129 (Glanville L. Williams ed., 10th ed. 1947).

“A state is an institution, that is to say, it is a system of relations which men establish among themselves as a means of securing certain objects, of which the most fundamental is a system of order within which their activities can be carried on. Modern states are territorial; their governments exercise control over persons and things within their frontiers, and today the whole of the habitable world is divided between about seventy of these territorial states. A state should not be confused with the whole community of persons living on its territory; it is only one among a multitude of other institutions, such as churches and corporations, which a community establishes for securing different objects, though obviously it is one of tremendous importance; none the less it is not, except in the ideology of totalitarianism, an all-embracing institution, not something from which, or within which, all other institutions and associations have their being; many institutions, e.g. the Roman Catholic Church, and many associations, e.g. federations of employers and of workers, transcend the boundaries of any single state.” J.L. Brierly, The Law of Nations 118 (5th ed. 1955).

client state.A country that is obliged in some degree to share in the control of its external

relations with some foreign power or powers. — Also termed satellite state. Cf. SOVEREIGN STATE.

composite state.A state that comprises an aggregate or group of constituent states.

dependent state.See nonsovereign state.

federal state.A composite state in which the sovereignty of the entire state is divided between the central or federal government and the local governments of the several constituent states; a union of states in which the control of the external relations of all the member states has been surrendered to a central government so that the only state that exists for international purposes is the one formed by the union. Cf. confederation of states under CONFEDERATION.

imperial state.Archaic. A composite state in which a common or central government possesses in itself the entire sovereignty, so that the constituent states possess no portion of this sovereignty.

nonsovereign state.A state that is a constituent part of a greater state that includes both it and one or more others, and to whose government it is subject; a state that is not complete and self-existent. • Among other things, a nonsovereign state has no power to engage in foreign relations. — Also termed dependent state. Cf. SOVEREIGN STATE.

part-sovereign state.See SOVEREIGN STATE.

police state.A state in which the political, economic, and social life of its citizens is subject to repressive governmental control and arbitrary uses of power by the ruling elite, which uses the police as the instrument of control; a totalitarian state.

receiving state.The country to which a diplomatic agent or consul is sent by the country represented by that agent. Cf. sending state. [Cases: Ambassadors and Consuls 3. C.J.S. Ambassadors and Consuls §§ 15–23.]

satellite state.See client state.

sending state.The country from which a diplomatic agent or consul is sent abroad. Cf. receiving state. [Cases: Ambassadors and Consuls 3. C.J.S. Ambassadors and Consuls §§ 15–23.]

simple state.See unitary state.

social-service state.A state that uses its power to create laws and regulations to provide for the welfare of its citizens.

sovereign state.See SOVEREIGN STATE.

unitary state.A state that is not made up of territorial divisions that are states themselves. — Also termed (archaically) simple state.

2. An institution of self-government within a larger political entity; esp., one of the

constituent parts of a nation having a federal government <the 50 states>. [Cases: States 1. C.J.S. States §§ 2, 16.] 3. (often cap.) The people of a state, collectively considered as the party wronged by a criminal deed; esp., the prosecution as the representative of the people <the State rests its case>.

STATE ACTION

state action. Anything done by a government; esp., in constitutional law, an intrusion on a person's rights (esp. civil rights) either by a governmental entity or by a private requirement that can be enforced only by governmental action (such as a racially restrictive covenant, which requires judicial action for enforcement). [Cases: Civil Rights 1325; Constitutional Law 82(5), 213(2), 254(2). C.J.S. Civil Rights §§ 92–94; Constitutional Law §§ 456, 619, 629, 631, 704, 708.]

STATE-ACTION DOCTRINE

state-action doctrine. Antitrust. The principle that the antitrust laws do not prohibit a state's anticompetitive acts, or official acts directed by a state. *Parker v. Brown*, 317 U.S. 341, 63 S.Ct. 307 (1943). — Also termed Parker doctrine. See MIDCAL TEST. [Cases: Monopolies 12(15.6). C.J.S. Monopolies §§ 136, 143.]

STATE AGENCY

state agency. See AGENCY(3).

STATE AUDITOR

state auditor. See AUDITOR.

STATE BANK

state bank. See BANK.

STATE BAR ASSOCIATION

state bar association. See BAR ASSOCIATION.

STATE BODY

state body. See state agency under AGENCY(3).

STATE BOND

state bond. See BOND(3).

STATE-COMPULSION TEST

state-compulsion test. Civil-rights law. The rule that a state is responsible for discrimination that a private party commits while acting under the requirements of state law, as when a restaurant owner is required by state law to refuse service to minorities. *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 90 S.Ct. 1598 (1970). See SYMBIOTIC-RELATIONSHIP TEST; NEXUS TEST. [Cases: Civil Rights 1326(4, 7). C.J.S. Civil Rights §§ 92–94.]

STATE COURT

state court. See COURT.

STATE CRIMINAL

state criminal. See CRIMINAL.

STATED

stated, adj. 1. Fixed; determined; settled <at the stated time> <settlement for a stated amount>. 2. Expressed; declared <stated facts>.

STATED ACCOUNT

stated account. See account stated under ACCOUNT.

STATED CAPITAL

stated capital. See CAPITAL.

STATE DEPARTMENT

State Department. See DEPARTMENT OF STATE.

STATED INTEREST RATE

stated interest rate. See nominal rate under INTEREST RATE.

STATED MEETING

stated meeting. See regular meeting under MEETING.

STATED RATE

stated rate. See nominal rate under INTEREST RATE.

STATED TERM

stated term. See general term under TERM(5).

STATED VALUE

stated value. See PAR VALUE.

STATE GOVERNMENT

state government. See GOVERNMENT.

STATE JURISDICTION

state jurisdiction. See JURISDICTION.

STATE JUSTICE INSTITUTE

State Justice Institute. A nonprofit federal corporation charged with improving judicial

administration in state courts. • It was created by the State Justice Institute Act of 1984. — Abbr. SJI.

STATE LAW

state law.A body of law in a particular state consisting of the state's constitution, statutes, regulations, and common law. Cf. FEDERAL LAW.

STATELESS PERSON

stateless person.Int'l law. A natural person who is not considered a national by any country. • The Stateless Persons Convention (1954) provides these people with certain protections and obliges them to abide by the laws of the country where they reside.

STATEMENT

statement. 1.Evidence. A verbal assertion or nonverbal conduct intended as an assertion. [Cases: Evidence 267. C.J.S. Evidence §§ 259, 285, 311–313, 326, 333–336, 343.] 2. A formal and exact presentation of facts. — Also termed (for plaintiff) statement of cause of action. 3.Criminal procedure. An account of a person's (usu. a suspect's) knowledge of a crime, taken by the police pursuant to their investigation of the offense. Cf. CONFESSION.

consonant statement.A prior declaration of a witness, testified to by a person to whom the declaration was made and allowed into evidence only after the witness's testimony has been impeached. • This type of evidence would, but for the impeachment of the witness, be inadmissible hearsay. [Cases: Witnesses 414(2). C.J.S. Witnesses § 781.]

false statement. 1. An untrue statement knowingly made with the intent to mislead. See PERJURY. 2. Any one of three distinct federal offenses: (1) falsifying or concealing a material fact by trick, scheme, or device; (2) making a false, fictitious, or fraudulent representation; and (3) making or using a false document or writing. 18 USCA § 1001. [Cases: Fraud 68.10(1).]

financial statement.See FINANCIAL STATEMENT.

incriminating statement.A statement that tends to establish the guilt of someone, esp. the person making it.

prior consistent statement.A witness's earlier statement that conflicts with the witness's testimony at trial. • In federal practice, extrinsic evidence of an unsworn prior inconsistent statement is admissible — if the witness is given an opportunity to explain or deny the statement — for impeachment purposes only. Fed. R. Evid. 613(b). Sworn statements may be admitted for all purposes. Fed. R. Evid. 801(d)(1)(A). A prior consistent statement is not hearsay if it is offered to rebut a charge that the testimony was improperly influenced or fabricated. Fed. R. Evid. 801(d)(1)(B). [Cases: Witnesses 379–397; 414(2). C.J.S. Witnesses §§ 674–754; 781.]

sworn statement. 1. A statement given under oath; an affidavit. [Cases: Affidavits 1. C.J.S. Affidavits §§ 2–6.] 2. A contractor-builder's listing of suppliers and subcontractors, and their respective bids, required by a lending institution for interim financing.

voluntary statement. A statement made without the influence of duress, coercion, or inducement.

STATEMENT AND ACCOUNT CLAUSE

Statement and Account Clause. The clause of the U.S. Constitution requiring the regular publication of the receipts and expenditures of the federal government. U.S. Const. art. I, § 9, cl. 7. [Cases: United States 44. C.J.S. United States § 78.]

STATEMENT OF ACCOUNT

statement of account. 1. A report issued periodically (usu. monthly) by a bank to a customer, providing certain information on the customer's account, including the checks drawn and cleared, deposits made, charges debited, and the account balance. — Also termed bank statement. See ACCOUNT(4). [Cases: Banks and Banking 151. C.J.S. Banks and Banking §§ 266–268, 277–278.] 2. A report issued periodically (usu. monthly) by a creditor to a customer, providing certain information on the customer's account, including the amounts billed, credits given, and the balance due. — Also termed account statement.

STATEMENT OF AFFAIRS

statement of affairs. 1. STATEMENT OF FINANCIAL AFFAIRS. 2. A balance sheet showing immediate liquidation values (rather than historical costs), usu. prepared when insolvency is imminent.

STATEMENT OF CAUSE OF ACTION

statement of cause of action. See STATEMENT(2).

STATEMENT OF CLAIM

statement of claim. 1. COMPLAINT(1). 2. English law. A plaintiff's initial pleading in a civil case; DECLARATION(7).

STATEMENT OF CONDITION

statement of condition. See BALANCE SHEET.

STATEMENT OF CONFESSION

statement of confession. See CONFESSION OF JUDGMENT.

STATEMENT OF DEFENSE

statement of defense. The assertions by a defendant; esp., in England, the defendant's answer to the plaintiff's statement of claim.

STATEMENT OF FACT

statement of fact. A form of conduct that asserts or implies the existence or nonexistence of a fact. • The term includes not just a particular statement that a particular fact exists or has existed, but also an assertion that, although perhaps expressed as an opinion, implies the existence of some

fact or facts that have led the assertor to hold the opinion in question. See affirmative testimony under TESTIMONY.

STATEMENT OF FACTS

statement of facts.A party's written presentation of the facts leading up to or surrounding a legal dispute, usu. recited toward the beginning of a brief.

“The statement of facts is another of those critical parts of the brief Two principles are at war in drafting the statement of facts. First, judges want and some circuit rules require a nonargumentative, ‘fair summary without argument or comment.’ Conversely, you want a statement of facts that persuades the judges to rule for you as soon as they finish reading it. Satisfying both ends requires some balancing.” David G. Knibb, *Federal Court of Appeals Manual* § 31.7, at 549 (4th ed. 2000).

agreed statement of facts.A narrative statement of facts that is stipulated to be correct by the parties and is submitted to a tribunal for a ruling. • When the narrative statement is filed on appeal instead of a report of the trial proceedings, it is called an agreed statement on appeal. — Also termed agreed case. [Cases: Appeal and Error 845(2); Stipulations 14(10), 18(7). C.J.S. Appeal and Error §§ 707, 709; Stipulations §§ 92–98.]

STATEMENT OF FINANCIAL AFFAIRS

statement of financial affairs.Bankruptcy. A document that an individual or corporate debtor must file to answer questions about its past and present financial status, including any previous bankruptcy, the location of any current accounts, and its recent or current debt. — Also termed statement of affairs. [Cases: Bankruptcy 2321. C.J.S. Bankruptcy § 44.]

STATEMENT OF FINANCIAL CONDITION

statement of financial condition.See BALANCE SHEET.

STATEMENT OF FINANCIAL POSITION

statement of financial position.See BALANCE SHEET.

STATEMENT OF INCOME

statement of income.See INCOME STATEMENT.

STATEMENT OF INTENTION

statement of intention.Bankruptcy. A preliminary statement filed by the debtor in a Chapter 7 case, in which the debtor details whether property secured by consumer debt will be retained or surrendered and whether the property is claimed as exempt. • The statement usu. must be filed before the first creditors' meeting or within 30 days from the petition-filing date, whichever is earlier. 11 USCA § 521. [Cases: Bankruptcy 2851, 3022, 3034, 3415.1. C.J.S. Bankruptcy §§ 111–112, 191, 246–247.]

STATEMENT OF PARTICULARS

statement of particulars.See BILL OF PARTICULARS.

STATEMENT OF PRINCIPLE

statement of principle.In legislative drafting, a sentence or paragraph that explains the legislature's purpose in passing a statute. • Although a statement of principle often resembles a preamble (usu. both do not appear in a single statute), it differs in that it typically appears in a numbered section of the statute.

STATEMENT OF PRIOR-ART REFERENCES

statement of prior-art references.See INFORMATION-DISCLOSURE STATEMENT.

STATEMENT OF USE

statement of use.See amendment to allege use under TRADEMARK-APPLICATION AMENDMENT .

STATEMENT OF UTILITY

statement of utility.Patents. The portion of a patent-application disclosure statement that explains how the invention is useful. [Cases: Patents 99. C.J.S. Patents § 139.]

STATEMENT OF WORK

statement of work.A contractual provision or exhibit that defines what one party (e.g., the seller) is going to do for the other (e.g., the buyer). • The statement of work often covers such terms as (1) inspection and acceptance, (2) quality-assurance requirements, (3) packing and marking, (4) data requirements, and (5) training. There are generally two types of specifications in a statement of work: a performance specification establishing the minimum requirements for items to be supplied, and a design specification establishing the methods to be used in meeting those minimum requirements. — Also termed statement-of-work clause. — Abbr. SOW.

STATE OF ART

state of art. See STATE OF THE ART.

STATE OFFICER

state officer.See OFFICER(1).

STATE OF MIND

state of mind. 1. The condition or capacity of a person's mind; MENS REA. 2. Loosely, a person's reasons or motives for committing an act, esp. a criminal act.

STATE-OF-MIND EXCEPTION

state-of-mind exception.Evidence. The principle that an out-of-court declaration of an existing motive is admissible, even when the declarant cannot testify in person. • This principle constitutes an exception to the general rule that hearsay is inadmissible. [Cases: Criminal Law 419(2.20); Evidence 268. C.J.S. Criminal Law § 862; Evidence §§ 314–318, 325, 327–328,

330.]

STATE OF NATURE

state of nature. The lack of a politically organized society. • The term is a fictional construct for the period in human history predating any type of political society.

“[W]e may make use of the contrast, familiar to the philosophy of the seventeenth and eighteenth centuries, between the civil state and the state of nature. This state of nature is now commonly rejected as one of the fictions which flourished in the era of the social contract, but such treatment is needlessly severe. The term certainly became associated with much false or exaggerated doctrine touching the golden age, on the one hand, and the bellum omnium contra omnes of Hobbes, on the other, but in itself it nevertheless affords a convenient mode for the expression of an undoubted truth. As long as there have been men, there has probably been some form of human society. The state of nature, therefore, is not the absence of society, but the absence of a society so organised on the basis of physical force as to constitute a state. Though human society is coeval with mankind, the rise of political society, properly so called, is an event in human history.” John Salmond, *Jurisprudence* 103–04 (Glanville L. Williams ed., 10th ed. 1947).

STATE OF THE ART

state of the art. Products liability. The level of pertinent scientific and technical knowledge existing at the time of a product's manufacture, and the best technology reasonably available at the time the product was sold. — Also termed state of art. [Cases: Products Liability 11. C.J.S. Products Liability §§ 19–21.] — state-of-the-art, adj.

“While the statutes in effect in some jurisdictions speak in terms of a state of the art defense, statutes in other jurisdictions provide that state of the art evidence is admissible or may be considered by the trier of fact by statute, and that in determining whether a product was in a defective condition or unreasonably dangerous at the time it left the control of the manufacturer or seller, consideration is given to the state of scientific and technical knowledge available to the manufacturer or seller at the time the product was placed on the market, and to the customary designs, methods, standards, and techniques of manufacturing, inspecting, and testing used by other manufacturers or sellers of similar products.” 63A Am. Jur. 2d Products Liability § 1319, at 472 (1997).

STATE OF THE CASE

state of the case. The posture of litigation as it develops, as in discovery, at trial, or on appeal.

STATE OF THE UNION

State of the Union. See Presidential message under MESSAGE.

STATE OF WAR

state of war. A situation in which war has been declared or armed conflict is in progress. See WAR. [Cases: War and National Emergency 7. C.J.S. War and National Defense §§ 2, 5.]

STATE PAPER

state paper. 1. A document prepared by or relating to a state or national government and affecting the administration of that government in its political or international relations. 2. A newspaper officially designated for the publication of public statutes, resolutions, notices, and advertisements. [Cases: Newspapers 1–7. C.J.S. Newspapers §§ 2–29.]

STATE PAPER OFFICE

state paper office.Hist. An office established in London in 1578, headed by the Clerk of the Papers, to maintain custody of state documents.

STATE POLICE

state police.The department or agency of a state government empowered to maintain order, as by investigating and preventing crimes, and making arrests.

STATE POLICE POWER

state police power.The power of a state to enforce laws for the health, welfare, morals, and safety of its citizens, if enacted so that the means are reasonably calculated to protect those legitimate state interests.

STATE RELIGION

state religion.See RELIGION.

STATE'S ATTORNEY

state's attorney.1.DISTRICT ATTORNEY. 2.PROSECUTOR(1).

STATE SEAL

state seal.See great seal (2) under SEAL.

STATE SECRET

state secret.A governmental matter that would be a threat to the national defense or diplomatic interests of the United States if revealed; information possessed by the government and of a military or diplomatic nature, the disclosure of which would be contrary to the public interest. • State secrets are privileged from disclosure by a witness in an ordinary judicial proceeding. — Also termed governmental secret; government secret. See executive privilege under PRIVILEGE(3). [Cases: Witnesses 216.C.J.S. Witnesses §§ 361–364.]

STATE-SECRETS PRIVILEGE

state-secrets privilege.See PRIVILEGE(3).

STATE'S EVIDENCE

state's evidence.See EVIDENCE.

STATE'S EVIDENCE, TURN

state's evidence, turn. See TURN STATE'S EVIDENCE.

STATE SOVEREIGNTY

state sovereignty. The right of a state to self-government; the supreme authority exercised by each state. [Cases: States 1. C.J.S. States §§ 2, 16.]

STATES' RIGHTS

states' rights. Under the Tenth Amendment, rights neither conferred on the federal government nor forbidden to the states. [Cases: States 4.16. C.J.S. States §§ 25–26.]

STATE STREET BANK<TT>

State Street Bank. Patents. A landmark 1998 decision in the Federal Circuit that made it easier to get patents on computer software, and also called into question the long-accepted notion that business methods are unpatentable. • The court struck down per se rules against patenting mathematical algorithms (the soul of software), focusing instead on whether the result was useful, concrete, and tangible in practice. *State Street Bank & Trust Co. v. Signature Fin. Group, Inc.*, 149 F.3d 1368 (Fed. Cir. 1998).

STATE'S WARD

state's ward. See ward of the state under WARD.

STATE TAX

state tax. See TAX.

STATE THE QUESTION

state the question. (Of the chair) to formally state a motion as in order and ready for consideration. Cf. PUT THE QUESTION.

STATE TRIAL

state trial. See TRIAL.

STATEWAY

stateway, n. A governmental policy or law. • This term is formed on the analogy of folkway.

STATIM

statim (stay-tim). [Latin] Hist. Immediately; at the earliest possible time when an act might lawfully be completed.

STATION

station. 1. Social position or status. See STATUS. 2. A place where military duties are performed or military goods are stored. 3. A headquarters, as of a police department. 4. A place where both freight and passengers are received for transport or delivered after transport. [Cases: Railroads 225. C.J.S. Railroads §§ 776–778, 782, 806.] 5. Civil law. A place where ships may

safely travel. [Cases: Shipping 11. C.J.S. Shipping § 8.]

STATIONERS' COMPANY

Stationers' Company.Hist. An association of stationers and their successors, established in London in 1557 and entrusted, by order of the Privy Council, with censorship of the press. • This company was the holder of the first rights we associate today with copyright.

STATIONERS' HALL

Stationers' Hall.Hist. The hall of the Stationers' Company, established in London in 1553, at which every person claiming a copyright was required to register as a condition precedent to filing an infringement action.

“Accordingly ‘Entered at Stationers' Hall’ on the title page of books was a form of warning to pirates that the owner of the copyright could and might sue. This requirement disappeared with the Copyright Act, 1911.” David M. Walker, *The Oxford Companion to Law* 1182 (1980).

STATIONERY OFFICE

Stationery Office.Hist. English law. A government office established in 1786 as a department of the treasury, to supply government offices (including Parliament) with stationery and books, and to print and publish government papers. — Also termed Her Majesty's Stationery Office.

STATIONHOUSE

stationhouse. 1. A police station or precinct. 2. The lockup at a police precinct.

STATIONHOUSE BAIL

stationhouse bail.See cash bail under BAIL(1).

STATIST

statist (stay-tist).1.Archaic. A statesman; a politician. 2. A statistician.

STATISTICAL-DECISION THEORY

statistical-decision theory.A method for determining whether a panel of potential jurors was selected from a fair cross section of the community, by calculating the probabilities of selecting a certain number of jurors from a particular group to analyze whether it is statistically probable that the jury pool was selected by mere chance. • This method has been criticized because a pool of potential jurors is not ordinarily selected by mere chance; potential jurors are disqualified for a number of legitimate reasons. See FAIR-CROSS-SECTION REQUIREMENT; ABSOLUTE DISPARITY; COMPARATIVE DISPARITY; DUREN TEST. [Cases: Jury 33(1.1, 1.2).C.J.S. Juries §§ 269–274, 277, 279, 292, 299, 303, 306, 445.]

STATULIBER

statuliber (stach-<<schwa>>-ll-b<<schwa>>r), n.[Latin] Roman law. A person whose freedom under a will is made conditional or postponed; a person who will be free at a particular

time or when certain conditions are met. — Also written *statu liber* (stay-t[y]oo II-b<<schwa>>r).

“The *statuliber* is one who has freedom arranged to take effect on completion of a period or fulfillment of a condition. Men become *statuliberi* as a result of an express condition, or by the very nature of the case. The meaning of ‘express condition’ presents no problem. The status arises from the very nature of the case when men are manumitted for the purpose of defrauding a creditor; for so long as it is uncertain whether the creditor will use his right, the men remain *statuliberi*, since fraud is taken in the *lex Aelia Sentia* to involve actual damage.” *Digest of Justinian* 40.7.1 (Paul, ad *Sabinum* 5).

STATUS

status. 1. A person's legal condition, whether personal or proprietary; the sum total of a person's legal rights, duties, liabilities, and other legal relations, or any particular group of them separately considered <the status of a landowner>. 2. A person's legal condition regarding personal rights but excluding proprietary relations <the status of a father> <the status of a wife>. 3. A person's capacities and incapacities, as opposed to other elements of personal status <the status of minors>. 4. A person's legal condition insofar as it is imposed by the law without the person's consent, as opposed to a condition that the person has acquired by agreement <the status of a slave>.

“By the status (or standing) of a person is meant the position that he holds with reference to the rights which are recognized and maintained by the law — in other words, his capacity for the exercise and enjoyment of legal rights.” James Hadley, *Introduction to Roman Law* 106 (1881).

“The word ‘status’ itself originally signified nothing more than the position of a person before the law. Therefore, every person (except slaves, who were not regarded as persons, for legal purposes) had a status. But, as a result of the modern tendency towards legal equality formerly noticed, differences of status became less and less frequent, and the importance of the subject has greatly diminished, with the result that the term status is now used, at any rate in English Law, in connection only with those comparatively few classes of persons in the community who, by reason of their conspicuous differences from normal persons, and the fact that by no decision of their own can they get rid of these differences, require separate consideration in an account of the law. But professional or even political differences do not amount to status; thus peers, physicians, clergymen of the established Church, and many other classes of persons, are not regarded as the subjects of status, because the legal differences which distinguish them from other persons, though substantial, are not enough to make them legally abnormal. And landowners, merchants, manufacturers, and wage-earners are not subjects of the Law of Status, though the last-named are, as the result of recent legislation, tending to approach that position.” Edward Jenks, *The Book of English Law* 109 (P.B. Fairsted ed., 6th ed. 1967).

STATUS, LAW OF

status, law of. See LAW OF STATUS.

STAT-USA

STAT-USA. A unit in the U.S. Department of Commerce responsible for disseminating economics and trade information compiled by other federal agencies to businesses and individuals through subscription services and federal depository libraries. • STAT-USA is a part of the Department's Economics and Statistics Administration.

STATUS CRIME

status crime. See CRIME.

STATUS DE MANERIO

status de manerio (stay-t<<schwa>>s dee m<<schwa>>-neer-ee-oh). [Law Latin “the state of a manor”] Hist. The assembly of tenants to attend the lord's court.

STATUS OFFENDER

status offender. See OFFENDER.

STATUS OFFENSE

status offense. See OFFENSE(1).

STATUS-OFFENSE JURISDICTION

status-offense jurisdiction. See JURISDICTION.

STATUS OF IRREMOVABILITY

status of irremovability. Hist. A pauper's right not to be removed from a parish after residing there for one year.

STATUS QUO

status quo (stay-t<<schwa>>s orstat-<<schwa>>s kwoh). [Latin] The situation that currently exists.

STATUS QUO ANTE<TT>

status quo ante (stay-t<<schwa>>s kwoh an-tee). [Latin] The situation that existed before something else (being discussed) occurred.

STATUTABLE

statutable (stach-<<schwa>>-t<<schwa>>-b<<schwa>>l), adj. 1. Prescribed or authorized by statute. 2. Conformed to the legislative requirements for quality, size, amount, or the like. 3. (Of an offense) punishable by law. See STATUTORY.

STATUTE

statute. A law passed by a legislative body; specif., legislation enacted by any lawmaking body, including legislatures, administrative boards, and municipal courts. • The term act is interchangeable as a synonym. For each of the subentries listed below, act is sometimes substituted for statute. — Abbr. s.; stat. [Cases: Statutes 2. C.J.S. Statutes § 2–3.]

“[W]e are not justified in limiting the statutory law to those rules only which are promulgated by what we commonly call ‘legislatures.’ Any positive enactment to which the state gives the force of a law is a ‘statute,’ whether it has gone through the usual stages of legislative proceedings, or has been adopted in other modes of expressing the will of the people or other sovereign power of the state. In an absolute monarchy, an edict of the ruling sovereign is statutory law. Constitutions, being direct legislation by the people, must be included in the statutory law, and indeed they are examples of the highest form that the statute law can assume. Generally speaking, treaties also are statutory law, because in this country, under the provisions of the United States Constitution, treaties have not the force of law until so declared by the representatives of the people.” William M. Lile et al., *Brief Making and the Use of Law Books* 8 (3d ed. 1914).

affirmative statute.A law requiring that something be done; one that directs the doing of an act. Cf. negative statute.

antideficiency statute.See antideficiency legislation under LEGISLATION.

codifying statute.A law that purports to be exhaustive in restating the whole of the law on a particular topic, including prior caselaw as well as legislative provisions. • Courts generally presume that a codifying statute supersedes prior caselaw. Cf. consolidating statute.

compiled statutes.Laws that have been arranged by subject but have not been substantively changed; COMPILATION(2). Cf. revised statutes.

“The term ‘compiled statutes’ is properly applied to a methodical arrangement, without revision or reenactment, of the existing statutes of a State, all the statutes on a given subject being collected in one place. The work is usually performed by private persons; and the former statutes, as they were before the compilation, remain the authority.” Frank Hall Childs, *Where and How to Find the Law* 12 (1922).

consolidating statute.A law that collects the legislative provisions on a particular subject and embodies them in a single statute, often with minor amendments and drafting improvements. • Courts generally presume that a consolidating statute leaves prior caselaw intact. Cf. codifying statute.

“A distinction of greater importance in this field is that between consolidating and codifying statutes. A consolidating statute is one which collects the statutory provisions relating to a particular topic, and embodies them in a single Act of Parliament, making only minor amendments and improvements. A codifying statute is one which purports to state exhaustively the whole of the law on a particular subject (the common law as well as previous statutory provisions).... The importance of the distinction lies in the courts’ treatment of the previous case law, the existence of special procedural provisions with regard to consolidating statutes and the existence of a presumption that they do not change the law.” Rupert Cross, *Statutory Interpretation* 5 (1976).

construction statute.A legislative directive included in a statute, intended to guide or direct a court’s interpretation of the statute. • A construction act can, for example, be a simple statement such as “The word ‘week’ means seven consecutive days” or a broader directive such as “Words

and phrases are to be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, are to be construed accordingly." [Cases: Statutes 179. C.J.S. Statutes § 309.]

criminal statute. A law that defines, classifies, and sets forth punishment for one or more specific crimes. See PENAL CODE. [Cases: Statutes 241. C.J.S. Statutes § 378.]

curative statute. 1. An act that corrects an error in a statute's original enactment, usu. an error that interferes with interpreting or applying the statute. 2. See remedial statute.

declaratory statute. A law enacted to clarify prior law by reconciling conflicting judicial decisions or by explaining the meaning of a prior statute. — Also termed expository statute.

directory statute. A law that indicates only what should be done, with no provision for enforcement. Cf. mandatory statute. [Cases: Statutes 227. C.J.S. Statutes §§ 362–369.]

disabling statute. A law that limits or curbs certain rights.

enabling statute. A law that permits what was previously prohibited or that creates new powers; esp., a congressional statute conferring powers on an executive agency to carry out various delegated tasks. [Cases: Administrative Law and Procedure 305. C.J.S. Public Administrative Law and Procedure §§ 49–54, 57–58, 64.]

expository statute. See declaratory statute.

general statute. A law pertaining to an entire community or all persons generally. — Also termed public statute. See PUBLIC LAW(2). [Cases: Statutes 68. C.J.S. Statutes §§ 154–161.]

imperfect statute. A law that prohibits, but does not render void, an objectionable transaction. • Such a statute provides a penalty for disobedience without depriving the violative transaction of its legal effect.

local statute. 1. LOCAL LAW(1). 2. LOCAL LAW(2).

mandatory statute. A law that requires a course of action as opposed to merely permitting it. Cf. directory statute. [Cases: Statutes 227. C.J.S. Statutes §§ 362–369.]

negative statute. A law prohibiting something; a law expressed in negative terms. Cf. affirmative statute.

nonclaim statute. 1. STATUTE OF LIMITATIONS. 2. A law that sets a time limit for creditors to bring claims against a decedent's estate. • Unlike a statute of limitations, a nonclaim statute is usu. not subject to tolling and is not waivable. [Cases: Executors and Administrators 223, 225. C.J.S. Executors and Administrators §§ 425, 434–436.]

organic statute. A law that establishes an administrative agency or local government. Cf. ORGANIC LAW.

penal statute. A law that defines an offense and prescribes its corresponding fine, penalty, or

punishment. — Also termed penal law; punitive statute. [Cases: Statutes 241. C.J.S. Statutes § 378.]

“It is a familiar and well-settled rule that penal statutes are to be construed strictly, and not extended by implications, intendments, analogies, or equitable considerations. Thus, an offense cannot be created or inferred by vague implications. And a court cannot create a penalty by construction, but must avoid it by construction unless it is brought within the letter and the necessary meaning of the act creating it.” Henry Campbell Black, *Handbook on the Construction and Interpretation of the Laws* 287 (1896).

permanent statute. See perpetual statute.

permissive statute. A statute that allows certain acts but does not command them. • A permissive statute creates a license or privilege, or allows discretion in performing an act.

perpetual statute. A law containing no provision for repeal, abrogation, or expiration. — Also termed permanent statute.

personal statute. Civil law. A law that primarily affects a person's condition or status (such as a statute relating to capacity or majority) and affects property only incidentally.

preceptive statute. A statute that is prescriptive, general, definite, and complete. • In form, a preceptive statute is similar to a rule.

private statute. See special statute.

prohibitive statute. A statute that forbids all acts that disturb society's peace or forbids certain acts on other grounds. • An example of a noncriminal prohibitive statute is one forbidding the execution of a mentally retarded criminal because a person who lacks mental capacity cannot understand the reason for the punishment.

prospective statute. A law that applies to future events.

public statute. See PUBLIC LAW(2).

punitive statute. See penal statute.

real statute. Civil law. A law primarily affecting the operation, status, and condition of property, and addressing persons only incidentally.

recording statute. See RECORDING ACT.

reference statute. A law that incorporates and adopts by reference provisions of other laws. [Cases: Statutes 51. C.J.S. Statutes §§ 66–67.]

remedial statute. A law that affords a remedy. — Also termed curative statute. [Cases: Statutes 236, 264. C.J.S. Statutes §§ 377, 417.]

repealing statute. A statute that revokes, and sometimes replaces, an earlier statute. • A repealing statute may work expressly or by implication.

restraining statute. See disabling statute.

retroactive statute. See RETROACTIVE LAW.

retrospective statute. See RETROACTIVE LAW.

revised statutes. Laws that have been collected, arranged, and reenacted as a whole by a legislative body. — Abbr. Rev. Stat.; R.S. See CODE(1). Cf. compiled statutes. [Cases: Statutes 144–148, 231. C.J.S. Statutes §§ 266–275, 374–375.]

revival statute. A law that provides for the renewal of actions, of wills, and of the legal effect of documents.

severable statute. A law that remains operative in its remaining provisions even if a portion of the law is declared unconstitutional. [Cases: Statutes 64. C.J.S. Statutes § 83.]

speaking statute. A statute to be interpreted in light of the understanding of its terms prevailing at the time of interpretation.

special statute. A law that applies only to specific individuals, as opposed to everyone. — Also termed private statute; special act. [Cases: Statutes 77–104. C.J.S. Statutes §§ 148–149, 154–155, 159, 162–201.]

“It is ancient wisdom, tracing back at least as far as the Roman taboo against the privilegium, that laws ought to be general, they ought to be addressed, not to particular persons, but to persons generally or to classes of persons (say, ‘all householders’). Accordingly, a number of American states have inserted in their constitutions prohibitions against ‘private or special’ statutes. These have given rise to endless difficulties.” Lon L. Fuller, *Anatomy of the Law* 102–03 (1968).

split-level statute. A law that includes officially promulgated explanatory materials in addition to its substantive provisions, so that courts are left with two levels of documents to construe.

statute of descent and distribution. See STATUTE OF DISTRIBUTION.

statute of distribution. See STATUTE OF DISTRIBUTION.

statute of frauds. See STATUTE OF FRAUDS.

temporary statute. 1. A law that specifically provides that it is to remain in effect for a fixed, limited period. [Cases: Statutes 172. C.J.S. Statutes § 303.] 2. A law (such as an appropriation statute) that, by its nature, has only a single and temporary operation.

uniform statute. A law drafted with the intention that it will be adopted by all or most of the states; esp., UNIFORM LAW. Cf. MODEL ACT. [Cases: Statutes 226. C.J.S. Statutes §§ 358–361.]

validating statute. A law that is amended either to remove errors or to add provisions to conform to constitutional requirements. — Also termed validation statute. [Cases: Statutes 236. C.J.S. Statutes § 377.]

STATUTE BOOK

statute book. A bound collection of statutes, usu. as part of a larger set of books containing a complete body of statutory law, such as the United States Code Annotated.

STATUTE FAIR

statute fair. Hist. A fair during which the fixed labor rates are announced and laborers of both sexes offer themselves for hire. — Also termed mop.

STATUTE LAW

statute law. See STATUTORY LAW.

STATUTE-MAKING

statute-making. See LEGISLATION(1).

STATUTE MERCHANT

statute merchant. Hist. 1. (cap.) One of two 13th-century statutes establishing procedures to better secure and recover debts by, among other things, providing for a commercial bond that, if not timely paid, resulted in swift execution on the lands, goods, and body of the debtor. 13 Edw., ch. 6 (1283); 15 Edw., ch. 6 (1285). • These statutes were repealed in 1863. — Also termed pocket judgment. 2. The commercial bond so established. Cf. STATUTE STAPLE.

“It is not a little remarkable that our common law knew no process whereby a man could pledge his body or liberty for payment of a debt Under Edward I, the tide turned. In the interest of commerce a new form of security, the so-called ‘statute merchant,’ was invented, which gave the creditor power to demand the seizure and imprisonment of his debtor's body.” 2 Frederick Pollock & Frederic W. Maitland, *The History of English Law Before the Time of Edward I* 596–97 (2d ed. 1899).

STATUTE MILE

statute mile. See MILE(1).

STATUTE OF ACCUMULATIONS

Statute of Accumulations. Hist. A statute forbidding the accumulation, beyond a certain period, of property settled by deed or will. 39 & 40 Geo. 3, ch. 98 (1800).

STATUTE OF ALLEGIANCE DE FACTO

Statute of Allegiance de Facto. Hist. A statute requiring subjects to give allegiance to the actual (de facto) king, and protecting them in so doing. 11 Hen. 7, ch. 1.

STATUTE OF AMENDMENTS AND JEOFAILS

Statute of Amendments and Jeofails (jef-aylz). Hist. One of several 15th- and 16th-century statutes allowing a party who acknowledges a pleading error to correct it. 1 Hen. 5, ch. 5 (1413); 32 Hen. 8, ch. 30 (1540); 37 Hen. 8, ch. 6 (1545). See JEOFAIL.

STATUTE OF ANNE

Statute of Anne.Hist. 1.The Copyright Act of 1709, which first granted copyright protection to book authors. 8 Anne, ch. 19 (1709).2. The statute that modernized the English bankruptcy system and first introduced the discharge of the debtor's existing debts. 4 Anne, ch. 17 (1705).

STATUTE OF BREAD AND ALE

statute of bread and ale.See ASSISA PANIS ET CEREVISIAE.

STATUTE OF DISTRIBUTION

statute of distribution.A state law regulating the distribution of an estate among an intestate's heirs and relatives. • Historically, the statute specified separate, and often different, patterns for distributing an intestate's real property and personal property. Generally, land descended to the heirs and personalty descended to the next of kin. — Also termed statute of descent and distribution. [Cases: Descent and Distribution 1–43.C.J.S. Conflict of Laws §§ 71, 84; Descent and Distribution §§ 1–49; Right of Privacy and Publicity § 42.]

STATUTE OF ELIZABETH

Statute of Elizabeth.Hist. The Bankrupts Act of 1705, which contained provisions against conveyances made to defraud creditors. 13 Eliz., ch. 5.

STATUTE OF FRAUDS

statute of frauds. 1.Hist. (cap.) A 1677 English statute that declared certain contracts judicially unenforceable (but not void) if they were not committed to writing and signed by the party to be charged. • The statute was entitled “An Act for the Prevention of Frauds and Perjuries” (29 Car. 2, ch. 3). — Also termed Statute of Frauds and Perjuries.

“The best known, and until recently, most important, Act prescribing written formalities for certain contracts only required that those contracts should be evidenced in writing, or to put it another way, that the contract would be unenforceable in a Court (but not void) in the absence of writing. This was the Statute of Frauds 1677, sections 4 and 17 of which required written evidence of a somewhat curious list of contracts. Today, all that is left of these provisions is that part of section 4, which requires contracts of guarantee to be evidenced in writing, and section 40 of the Law of Property Act 1925 (replacing another part of section 4), which deals with contracts of sale of an interest in land.” P.S. Atiyah, *An Introduction to the Law of Contract* 141 (3d ed. 1981).

2. A statute (based on the English Statute of Frauds) designed to prevent fraud and perjury by requiring certain contracts to be in writing and signed by the party to be charged. • Statutes of frauds traditionally apply to the following types of contracts: (1) a contract for the sale or transfer of an interest in land, (2) a contract that cannot be performed within one year of its making, (3) a contract for the sale of goods valued at \$500 or more, (4) a contract of an executor or administrator to answer for a decedent's debt, (5) a contract to guarantee the debt or duty of another, and (6) a contract made in consideration of marriage. UCC § 2-201. — Abbr. S/F; SOF. [Cases: Frauds, Statute of 1–119. C.J.S. Boundaries §§ 70–72; Sales §§ 68, 71.] “[T]he primary theory of statutes of frauds, past and present, is that they are means to the end of preventing successful courtroom perjury. The means to this end is simply the requirement of a writing signed

by the party to be charged.... [B]ut the statute of frauds writing requirement is ... so far from any kind of guarantee against successful perjury that it is inappropriate even to call it a means to fraud prevention at all." 1 James J. White & Robert S. Summers, Uniform Commercial Code § 2-8, at 82 (4th ed. 1995).

STATUTE OF FRAUDS AND PERJURIES

Statute of Frauds and Perjuries. See STATUTE OF FRAUDS(1).

STATUTE OF GLOUCESTER

Statute of Gloucester (glos-t<<schwa>>r). Hist. A statute providing for the award of costs in legal actions. 6 Edw., ch. 1 (1278).

STATUTE OF JEOFAILS

statute of jeofails (jef-aylz). A law permitting a litigant to acknowledge an error in a pleading and correct or amend the pleading without risking dismissal of the claim. See JEOFAIL.

STATUTE OF LIMITATIONS

statute of limitations. 1. A law that bars claims after a specified period; specif., a statute establishing a time limit for suing in a civil case, based on the date when the claim accrued (as when the injury occurred or was discovered). • The purpose of such a statute is to require diligent prosecution of known claims, thereby providing finality and predictability in legal affairs and ensuring that claims will be resolved while evidence is reasonably available and fresh. — Also termed nonclaim statute; limitations period. [Cases: Limitation of Actions 1. C.J.S. Limitations of Actions §§ 2–4.]

“Statutes of limitations, like the equitable doctrine of laches, in their conclusive effects are designed to promote justice by preventing surprises through the revival of claims that have been allowed to slumber until evidence has been lost, memories have faded, and witnesses have disappeared.” *Order of R.R. Telegraphers v. Railway Express Agency*, 321 U.S. 342, 348–49, 64 S.Ct. 582, 586 (1944).

2. A statute establishing a time limit for prosecuting a crime, based on the date when the offense occurred. Cf. STATUTE OF REPOSE. [Cases: Criminal Law 145.5–160. C.J.S. Criminal Law §§ 196–207.] — Abbr. S/L; SOL. “The purpose of a statute of limitations is to limit exposure to criminal prosecution to a certain fixed period of time following the occurrence of those acts the legislature had decided to punish by criminal sanctions. Such a limitation is designed to protect individuals from having to defend themselves against charges when the basic facts have become obscured by the passage of time and to minimize the danger of official punishment because of acts in the far-distant past. Such a time limit may also have the salutary effect of encouraging law enforcement officials promptly to investigate suspected criminal activity.” *Toussie v. United States*, 397 U.S. 112, 90 S.Ct. 858 (1970).

STATUTE OF MONOPOLIES

Statute of Monopolies. Hist. A 1624 act of the English Parliament banning the Crown's

practice of granting monopolies with the single exception of letters patent, which gave an inventor the exclusive right to make and use an invention for 14 years.

STATUTE OF MORTMAIN

statute of mortmain. See MORTMAIN STATUTE.

STATUTE OF REPOSE

statute of repose. A statute barring any suit that is brought after a specified time since the defendant acted (such as by designing or manufacturing a product), even if this period ends before the plaintiff has suffered a resulting injury. Cf. STATUTE OF LIMITATIONS. [Cases: Limitation of Actions 1. C.J.S. Limitations of Actions §§ 2–4.]

“A statute of repose ... limits the time within which an action may be brought and is not related to the accrual of any cause of action; the injury need not have occurred, much less have been discovered. Unlike an ordinary statute of limitations which begins running upon accrual of the claim, the period contained in a statute of repose begins when a specific event occurs, regardless of whether a cause of action has accrued or whether any injury has resulted.” 54 C.J.S. Limitations of Actions § 4, at 20–21 (1987).

STATUTE OF USES

Statute of Uses. Hist. An English statute of 1535 that converted the equitable title held by a cestui que use (i.e., a beneficiary) to a legal one in order to make the cestui que use liable for feudal dues, as only a legal owner (the feoffee to uses) could be. • This statute was the culmination of a series of enactments designed by the Tudors to stop the practice of creating uses in land that deprived feudal lords of the valuable incidents of feudal tenure. The statute discouraged the granting of property subject to another's use by deeming the person who enjoys the use to have legal title with the right of absolute ownership and possession. So after the statute was enacted, if A conveyed land to B subject to the use of C, then C became the legal owner of the land in fee simple. Ultimately, the statute was circumvented by the courts' recognition of the use of equitable trusts in land-conveyancing. See CESTUI QUE USE; GRANT TO USES; USE(4).

“The Statute of 27 H.8. hath advanced Uses, and hath established Surety for him that hath the Use against the Feoffees: for before the Statute the Feoffees were Owners of the Land, but now it is destroyed, and the cestuy que use is the Owner of the same: before the Possession ruled the Use, but since the Use governeth the Possession.” William Noy, *A Treatise of the Principal Grounds and Maxims of the Laws of This Nation* 73 (4th ed. 1677; repr. C. Sims ed., 1870).

STATUTE OF WESTMINSTER THE FIRST

Statute of Westminster the First. See WESTMINSTER THE FIRST, STATUTE OF.

STATUTE OF WILLS

statute of wills. 1. (cap.) An English statute (enacted in 1540) that established the right of a person to devise real property by will. — Also termed Wills Act. 2. A state statute, usu. derived from the English statute, providing for testamentary disposition and requiring an elaborate set of

requirements for valid execution in that jurisdiction. [Cases: Wills 1–20. C.J.S. Conflict of Laws §§ 72; Wills § 1–3, 53–87, 93–95, 97–98, 103–104, 106–132, 172, 174, 381.]

STATUTE OF WINCHESTER

Statute of Winchester. See WINCHESTER, STATUTE OF.

STATUTE OF YORK

Statute of York. See YORK, STATUTE OF.

STATUTE ROLL

statute roll. Hist. A roll upon which a statute was formally entered after receiving the royal assent.

STATUTES AT LARGE

Statutes at Large. An official compilation of the acts and resolutions that become law from each session of Congress, printed in chronological order.

STATUTE STAPLE

statute staple. Hist. 1. A 1353 statute establishing procedures for settling disputes among merchants who traded in staple towns. • The statute helped merchants receive swift judgments for debt. Cf. STATUTE MERCHANT. 2. A bond for commercial debt. • A statute staple gave the lender a possessory right in the land of a debtor who failed to repay a loan. See STAPLE.

“A popular form of security after 1285 ... was the ... ‘statute staple’ — whereby the borrower could by means of a registered contract charge his land and goods without giving up possession; if he failed to pay, the lender became a tenant of the land until satisfied The borrower under a statute or recognizance remained in possession of his land, and it later became a common practice under the common-law forms of mortgage likewise to allow the mortgagor to remain in possession as a tenant at will or at sufferance of the mortgagee.” J.H. Baker, *An Introduction to English Legal History* 354 (3d ed. 1990).

STATUTI

statuti (st<<schwa>>-t[y]oo-tl), n. pl. [Latin] Roman law. Licensed officials, esp. advocates, whose names are inscribed in registers of matriculation, forming part of the college of advocates. Cf. SUPERNUMERARII.

STATUTO MERCATORIO

statuto mercatorio. See DE STATUTO MERCATORIO.

STATUTORY

statutory (stach-<<schwa>>-tor-ee), adj. 1. Of or relating to legislation < statutory interpretation>. 2. Legislatively created <the law of patents is purely statutory>. 3. Conformable to a statute <a statutory act>.

STATUTORY ACTION

statutory action. See ACTION(4).

STATUTORY AGENT

statutory agent. See AGENT(2).

STATUTORY ARSON

statutory arson. See ARSON(2).

STATUTORY BAR

statutory bar. Patents. A patent-law provision that denies patent protection to inventors who wait too long to apply. • This “loss of right” may occur when an inventor publishes an article about the work, sells it, offers it for sale, or makes public use of the invention. The inventor has one year after the disclosure to apply for a patent. See BAR(7). Cf. GRACE PERIOD(2). [Cases: Patents 80. C.J.S. Patents §§ 105–106, 108–111.]

STATUTORY BOND

statutory bond. 1. BOND(2). 2. BOND(3).

STATUTORY BURGLARY

statutory burglary. See BURGLARY(2).

STATUTORY CONSTRUCTION

statutory construction. 1. The act or process of interpreting a statute. 2. Collectively, the principles developed by courts for interpreting statutes. — Also termed statutory interpretation. See CONSTRUCTION(2). [Cases: Statutes 174–247. C.J.S. Statutes §§ 306–387.]

“[T]here is not, and probably never can be, anything meriting the description of a coherent body of case-law on statutory interpretation as a whole as distinct from the interpretation of a particular statute.” Rupert Cross, *Statutory Interpretation* 39 (1976).

STATUTORY CONTRACT

statutory contract. See CONTRACT.

STATUTORY CRIME

statutory crime. See CRIME.

STATUTORY DAMAGES

statutory damages. See DAMAGES.

STATUTORY DEDICATION

statutory dedication. See DEDICATION.

STATUTORY DEED

statutory deed.See DEED.

STATUTORY DISCLAIMER

statutory disclaimer.See DISCLAIMER.

STATUTORY DOUBLE PATENTING

statutory double patenting.See DOUBLE PATENTING.

STATUTORY DOUBLE-PATENTING REJECTION

statutory double-patenting rejection.See REJECTION.

STATUTORY EMPLOYEE

statutory employee.See EMPLOYEE.

STATUTORY EMPLOYER

statutory employer.See EMPLOYER.

STATUTORY EXCEPTION

statutory exception.See EXCEPTION(2).

STATUTORY EXCLUSION

statutory exclusion.Criminal procedure. The removal, by law, of certain crimes from juvenile-court jurisdiction. • More than half the states now remove certain particularly serious crimes committed by older juveniles from the jurisdiction of the juvenile courts. In this kind of case, the juvenile court never has jurisdiction, so a transfer hearing is not required or necessary. Cf. MANDATORY WAIVER.

STATUTORY EXPOSITION

statutory exposition.A statute's special interpretation of the ambiguous terms of a previous statute <the statute contained a statutory exposition of the former act>.

STATUTORY EXTORTION

statutory extortion.See EXTORTION.

STATUTORY FORCED SHARE

statutory forced share.See ELECTIVE SHARE.

STATUTORY FORECLOSURE

statutory foreclosure.See power-of-sale foreclosure under FORECLOSURE.

STATUTORY GUARDIAN

statutory guardian. See GUARDIAN.

STATUTORY HOMESTEAD

statutory homestead. See constitutional homestead under HOMESTEAD.

STATUTORY INSOLVENCY

statutory insolvency. See BANKRUPTCY(3).

STATUTORY INSTRUMENT

statutory instrument. A British administrative regulation or order; an order or regulation issued by an authority empowered by statute to do so, usu. to give detailed effect to the statute.

STATUTORY INTERPRETATION

statutory interpretation. See STATUTORY CONSTRUCTION.

STATUTORY INVENTION REGISTRATION

statutory invention registration. Patents. An official procedure for placing an invention in the public domain by publishing the patent abstract (which is included with the invention's original application) in the U.S. Patent and Trademark Office's Official Gazette, thus making the abstract a prior-art reference as of the application's filing date. • The process results in abandonment of the patent application. If an alternative form of disclosure is used, the prior-art reference's effective date is the date of publication. — Abbr. SIR. See DEFENSIVE DISCLOSURE. [Cases: Patents 115. C.J.S. Patents § 210.]

STATUTORY LAW

statutory law. The body of law derived from statutes rather than from constitutions or judicial decisions. — Also termed statute law; legislative law; ordinary law. Cf. COMMON LAW(1); CONSTITUTIONAL LAW.

STATUTORY LIABILITY

statutory liability. See LIABILITY.

STATUTORY LIEN

statutory lien. See LIEN.

STATUTORY MERGER

statutory merger. See MERGER.

STATUTORY OBLIGATION

statutory obligation. See OBLIGATION.

STATUTORY OMNIBUS CLAUSE

statutory omnibus clause. See OMNIBUS CLAUSE.

STATUTORY PARTNERSHIP ASSOCIATION

statutory partnership association. See PARTNERSHIP ASSOCIATION.

STATUTORY PENALTY

statutory penalty. See PENALTY(1).

STATUTORY PERIOD

statutory period. 1. A time limit specified in a statute; esp., the period prescribed in the relevant statute of limitations. • This period includes, in addition to a fixed number of years, whatever time local law allows because of infancy, insanity, coverture, and other like circumstances. 2. Patents. The time available to a patent applicant to answer an examiner's office action. • Since the six-month period is set by statute, it cannot be extended. 35 USCA § 133. Cf. SHORTENED STATUTORY PERIOD.

STATUTORY PRESUMPTION

statutory presumption. See PRESUMPTION.

STATUTORY RAPE

statutory rape. See RAPE.

STATUTORY RATE

statutory rate. See MECHANICAL ROYALTY.

STATUTORY RECEIVER

statutory receiver. See RECEIVER.

STATUTORY REDEMPTION

statutory redemption. See REDEMPTION.

STATUTORY RELEASE

statutory release. Hist. A conveyance superseding the compound assurance by lease and release, created by the Conveyance by Release Without Lease Act of 1841 (St. 4 & 5 Vict., ch. 21).

STATUTORY RIGHT OF REDEMPTION

statutory right of redemption. The right of a mortgagor in default to recover property after a foreclosure sale by paying the principal, interest, and other costs that are owed, together with any other measure required to cure the default. • This statutory right exists in many states but is not uniform. See EQUITY OF REDEMPTION; REDEMPTION(4). [Cases: Mortgages 591–624. C.J.S. Mortgages §§ 57–61, 66–67, 565, 991–1090, 1092–1093.]

STATUTORY SHARE

statutory share. See ELECTIVE SHARE.

STATUTORY STAPLE

statutory staple. Hist. A writ to seize the lands, goods, and person of a debtor for forfeiting a statute staple. See STATUTE STAPLE.

STATUTORY SUBJECT MATTER

statutory subject matter. See PATENTABLE SUBJECT MATTER.

STATUTORY SUCCESSOR

statutory successor. See SUCCESSOR.

STATUTORY TENANT

statutory tenant. See TENANT.

STATUTO STAPULAE

statuto stapulae. See DE STATUTO STAPULAE.

STATUTUM

statutum (st<<schwa>>-t[y]oo-t<<schwa>>m), adj. Established; determined.

statutum, n. 1. Hist. An act of Parliament, esp. one that has been approved by the monarch. Cf. ACTUS(2). 2. Roman law. An ordinance; esp., an imperial law.

STATUTUM DE NOVA CUSTUMA

Statutum de Nova Custuma (st<<schwa>>-t[y]oo-t<<schwa>>m dee noh-v<<schwa>> k<<schwa>>s-ch<<schwa>>-m<<schwa>> ork<<schwa>>s-ty<<schwa>>-m<<schwa>>). See CARTA MERCATORIA.

STAY

stay, n. 1. The postponement or halting of a proceeding, judgment, or the like. 2. An order to suspend all or part of a judicial proceeding or a judgment resulting from that proceeding. — Also termed stay of execution; suspension of judgment. [Cases: Action 67; Execution 158; Federal Civil Procedure 2700. C.J.S. Actions § 243; Executions §§ 152–153, 155.] — stay, vb. — stayable, adj.

automatic stay. Bankruptcy. A bar to all judicial and extrajudicial collection efforts against the debtor or the debtor's property. • The policy behind the automatic stay, which is effective upon the filing of the bankruptcy petition, is that all actions against the debtor should be halted pending the determination of creditors' rights and the orderly administration of the debtor's assets free from creditor interference. — Also termed automatic suspension. [Cases: Bankruptcy 2391–2404. C.J.S. Bankruptcy §§ 65–79.]

STAY-AWAY ORDER

stay-away order. 1. In a domestic-violence case, an order forbidding the defendant to contact the victim. • A stay-away order usu. prohibits the defendant from coming within a certain number of feet of the victim's home, school, work, or other specific place. Stay-away orders are most often issued in criminal cases. 2.RESTRAINING ORDER(1).3. In a juvenile-delinquency case, an order prohibiting a youthful offender from frequenting the scene of the offense or from being in the company of certain persons. — Also termed no-contact order; stay-away order of protection.

STAY OF EXECUTION

stay of execution.See STAY.

STAY OF MANDATE

stay of mandate. 1. The suspension of a lower court's order of execution, imposed by a higher court. 2. An appellate court's suspension of its own judgment for reconsideration.

STAYOR

stayor.Rare. Tennessee law. A surety for a judgment.

STAY-PUT RULE

stay-put rule.School law. The principle that a child must remain in his or her current educational placement while an administrative claim under the Individuals with Disabilities Education Act (usu. for an alternative placement or for mainstreaming) is pending. 20 USCA § 1415(j). [Cases: Schools 154(2.1). C.J.S. Schools and School Districts §§ 716, 718–719.]

STB

STB.abbr.SURFACE TRANSPORTATION BOARD.

STD

STD.abbr.SEXUALLY TRANSMITTED DISEASE.

STEADY COURSE

steady course.Maritime law. A ship's path that can be readily ascertained either because the ship is on a straight heading or because the ship's future positions are easy to plot based on the ship's current position and movements. [Cases: Collision 35–38. C.J.S. Collision §§ 4, 40–48.]

STEAL

steal,vb.1. To take (personal property) illegally with the intent to keep it unlawfully. [Cases: Larceny 1. C.J.S. Larceny §§ 1(1, 2), 9.] 2. To take (something) by larceny, embezzlement, or false pretenses.

STEALTH

stealth. 1.Hist. Theft; an act or instance of stealing. • Etymologically, this term is the noun corresponding to the verb steal.

“Stealth is the wrongful taking of goods without pretence of title: and therefore altereth not the property, as a trespass doth, so as upon an appeal the party shall re-have them.” Sir Henry Finch, *Law, or a Discourse Thereof* 210 (1759).

2. Surreptitiousness; furtive slyness.

STEALTH JUROR

stealth juror. See JUROR.

STEGANOGRAPHY

steganography (steg-<<schwa>>-nog-r<<schwa>>-fee), n. A cryptographic method that digitally embeds or encodes one item of information within another. • Because a digitized audio or visual file usu. has unused data areas, indelible (and nearly undetectable) information can be added without altering the file's quality. Copyright or trademark tags can be hidden in every fragment of a digital work, making disassociation almost impossible. — Also termed digital fingerprinting; digital watermarking.

STELLIONATUS

stellionatus (stel-ee-<<schwa>>-nay-t<<schwa>>s or stel-y-<<schwa>>-nay-t<< schwa>>s). [Latin “underhand dealing”] Roman & Scots law. Conduct that is fraudulent but does not fall within a specific class of offenses. • This term applies primarily to fraudulent practices in the sale or hypothecation of land. — Also termed (in Scots law) stellionate. Cf. COZENING.

“STELLIONATE... is a term applied, in the law of Scotland, either to any crime which, though indictable, goes under no general denomination, and is punishable arbitrarily, or to any civil delinquency of which fraud is an ingredient. Those, e.g., who grant double conveyances of the same subject, are guilty of this crime ... and are punishable arbitrarily in their persons and goods, besides becoming infamous.” William Bell, *Bell's Dictionary and Digest of the Law of Scotland* 940 (George Watson ed., 1882).

“Though pignus and hypothec are almost different names for the same thing, there were differences. Hypothec was used mainly for land, which cannot be removed. A thing could be pledged only to one, but successive hypothecs might be created over a thing. There was no fraud in this but it was the offence of stellionatus to give a hypothec without declaring existing hypothecs.” W.W. Buckland, *A Manual of Roman Private Law* 355 (2d ed. 1953).

STENOGRAPHER'S RECORD

stenographer's record. See reporter's record under RECORD.

STENT

stent, n. Scots law. A property assessment made for taxation purposes.

stent, vb. Scots law. To assess or charge (a person or community) for taxation purposes.

STEPBROTHER

stepbrother. See BROTHER.

STEPCHILD

stepchild. See CHILD.

STEPFATHER

stepfather. See FATHER.

STEP-IN-THE-DARK RULE

step-in-the-dark rule. Torts. The contributory-negligence rule that a person who enters a totally unfamiliar area in the darkness has a duty, in the absence of unusual stress, to refrain from proceeding until first ascertaining the existence of any dangerous obstacles. See contributory negligence under NEGLIGENCE. [Cases: Negligence 1286(8). C.J.S. Negligence § 640.]

STEPMOTHER

stepmother. See MOTHER.

STEPPARENT

stepparent. See PARENT.

STEPPARENT ADOPTION

stepparent adoption. See ADOPTION.

STEPPED-UP BASIS

stepped-up basis. See BASIS.

STEPPED-UP VISITATION

stepped-up visitation. See VISITATION.

STEP-RATE-PREMIUM INSURANCE

step-rate-premium insurance. See INSURANCE.

STEPSISTER

stepsister. See SISTER.

STEP-TRANSACTION DOCTRINE

step-transaction doctrine. A method used by the Internal Revenue Service to determine tax liability by viewing the transaction as a whole, and disregarding one or more nonsubstantive, intervening transactions taken to achieve the final result. — Also termed step-transaction approach. [Cases: Internal Revenue 3071. C.J.S. Internal Revenue §§ 13–14.]

STERILIZATION

sterilization. 1. The act of making (a person or other living thing) permanently unable to

reproduce. 2. The act of depriving (a person or other living thing) of reproductive organs; esp., castration. — Also termed (in both senses) asexualization.

STERLING

sterling,adj.1. Of or conforming to a standard of national value, esp. of English money or metal <a pound sterling>.2. (Of an opinion, value, etc.) valuable; authoritative <a sterling report>.

STET

stet (stet), n.[Latin “let it stand”] 1. An order staying legal proceedings, as when a prosecutor determines not to proceed on an indictment and places the case on a stet docket. • The term is used chiefly in Maryland. 2. An editor's instruction to leave a text as it stands.

STET PROCESSUS

stet processus (stet pr<<schwa>>-ses-<<schwa>>s), n.[Law Latin “let the process stand”] Hist. 1.A record entry, similar to a nolle prosequi, by which the parties agree to stay further proceedings. 2. The agreement between the parties to stay those proceedings. • This was typically used by a plaintiff to suspend an action rather than suffer a nonsuit.

STEVEDORE

stevedore (stee-v<<schwa>>-dor).Maritime law. A person or company that hires longshore and harbor workers to load and unload ships. Cf. SEAMAN. [Cases: Shipping 84, 110. C.J.S. Shipping §§ 199–210, 326, 328.]

STEWARD

steward. 1. A person appointed in place of another. 2. A union official who represents union employees and who oversees the performance of union contracts. — Also termed (in sense 2) union steward; shop steward.

steward of all England.Hist. An officer vested with various powers, including the power to preside over the trial of peers.

steward of a manor.Hist. An officer who handles the business matters of a manor, including keeping the court rolls and granting admittance to copyhold lands.

STEWARD OF CHILTERN HUNDREDS

Steward of Chiltern Hundreds (chil-t<<schwa>>rn).English law. Formerly, a royal officer charged with protecting residents from robbers and thieves who hid in the hundreds' wooded areas. • Today, a member of Parliament can accept this royal appointment as a step toward resigning, which is generally forbidden by statute. By law, for a member to accept this and certain other Crown appointments is to forfeit his or her seat. A resignation from the office of Steward completes the resignation process.

STICKERING

stickering.Securities. The updating of a prospectus by affixing stickers that contain the new

or revised information. • Stickers avoid the expense of reprinting an entire prospectus.

STICKLER

stickler. Hist. An arbitrator.

STICKUP

stickup. An armed robbery in which the victim is threatened by the use of weapons. — Also termed holdup. See armed robbery under ROBBERY. [Cases: Robbery 11. C.J.S. Robbery §§ 24–28, 79, 82, 90.]

STIFFENING NOTE

stiffening note. Maritime law. A permit, issued by a customs collector to the ship's master, that authorizes the receipt and loading of heavy goods necessary to ballast a vessel before the inward-bound cargo has been completely unloaded.

STIFLING OF A PROSECUTION

stifling of a prosecution. An agreement, in exchange for money or other benefit, to abstain from prosecuting a person. [Cases: Compounding Offenses 1. C.J.S. Compounding Offenses § 1.]

STIGMA-PLUS DOCTRINE

stigma-plus doctrine. The principle that defamation by a government official is not actionable as a civil-rights violation unless the victim suffers not only embarrassment but also the loss of a property interest (such as continued employment in a government job). [Cases: Civil Rights 1038; Libel and Slander 32. C.J.S. Civil Rights §§ 18, 20, 23–24; Libel and Slander; Injurious Falsehood § 6.]

STILL

still, n. An instrument or apparatus used for making distilled liquor or alcohol.

STILLBORN

stillborn, adj. (Of an infant) born dead. — Also termed deadborn.

STILLICIDIUM

stillicidium (stil-*schwa*-sid-ee-*schwa*m), n. [Latin fr. *stilla* “a drop” + *cadere* “to fall”] Roman law. Eavesdropping. See AQUAE IMMITTENDAE; *servitus stillicidii* under SERVITUS.

STILUS CURIAE

stilus curiae (stī-*schwa*s kyoor-ee-ee). [Law Latin] Hist. The form of court.

STING

sting. An undercover operation in which law-enforcement agents pose as criminals to catch

actual criminals engaging in illegal acts.

STINT

stint. 1.English law. Limitation; restriction <a right to take fish from a canal without stint can exist as a profit in gross>.

“All these species, of pasturable common, may be and usually are limited as to number and time; but there are also commons without stint, and which last all the year.” 2 William Blackstone, Commentaries on the Laws of England 34 (1766).

2. The task for the day or work <he has done his stint>.

STIPEND

stipend (stI-pend or -p<<schwa>>nd).1. A salary or other regular, periodic payment. 2. A tribute to support the clergy, usu. consisting of payments in money or grain. [Cases: Religious Societies 27(5). C.J.S. Religious Societies §§ 50, 52.]

STIPENDIARY ESTATE

stipendiary estate (stI-pen-dee-er-ee). See ESTATE(1).

STIPENDIARY MAGISTRATE

stipendiary magistrate.See MAGISTRATE.

STIPENDIUM

stipendium (stI-pen-dee-<<schwa>>m), n.[Latin] Roman law. A soldier's regular pay. Cf. SALARIUM.

STIPES

stipes (stI-peeZ), n.[Latin “a trunk”] Hist. Family stock; a source of descent or title. Pl. stipites (stip-<<schwa>>-teeZ).

STIPITAL

stipital (stip-i-t<<schwa>>l), adj. See STIRPITAL.

STIPULATED AUTHORITY

stipulated authority.See express authority under AUTHORITY(1).

STIPULATED DAMAGES

stipulated damages.See liquidated damages under DAMAGES.

STIPULATED JUDGMENT

stipulated judgment.See agreed judgment under JUDGMENT.

STIPULATIO

stipulatio (stip-y<<schwa>>-lay-shee-oh), n.[Latin] Roman law. An oral contract requiring a formal question and reply, binding the replier to do what was asked. • It is essential that both parties speak, and that the reply directly conforms to the question asked and is made with the intent to enter into a contractual obligation. No consideration is required. See SPONDESNE? SPONDEO; actio ex stipulatu under ACTIO. Pl. stipulationes (stip-y<<schwa>>-lay-shee-oh-neeZ).

“[I]t must be remembered that the law-forms used by the Romans had their origin in times when writing was neither easy nor common. It is not surprising, therefore, that among them a form of spoken words, a verbal contract, should hold the place which among us is occupied by written notes. This form ...stipulatio — was of a very simple character, consisting only of a question asked by one party, and an answer returned by the other Such forms as Spondesne mihi decem aureos dare (do you engage to give me ten aurei, or gold-pieces): answer, Spondeo (I engage)” James Hadley, *Introduction to Roman Law* 210 (1881).

“The oldest Roman contract was the stipulatio, an oral promise made by an answer to an immediately preceding question, with the promisor using the same verb. The contract was unilateral. Only one party, the promisor, was legally liable, and he was bound strictly by the words used.” Alan Watson, *Ancient Law and Modern Understanding* 96 (1998).

STIPULATIO AQUILIANA

stipulatio aquiliana (stip-y<<schwa>>-lay-shee-oh <<schwa>>-kwil-ee-ay-n<< schwa>>). [Latin] Roman law. A type of stipulatio used to collect and discharge all the liabilities owed on various grounds by a single contract.

“[S]tipulatio Aquiliana, a device credited to Aquilius Gallus, of Cicero's time. Where two persons with complex relations between them desired to square or simplify their accounts they could work out the items and arrive at the balance This balance being paid or otherwise arranged, each party would then make with the other this stipulatio, which was a comprehensive formula This would novate all the claims and turn them into a single promise, for an incertum. These mutual stipulations might then be released by acceptilatio.” W.W. Buckland, *A Manual of Roman Private Law* 348 (2d ed. 1953).

STIPULATIO JURIS

stipulatio juris (stip-y<<schwa>>-lay-shee-oh joor-is). [Latin “stipulatio as to the law”] The parties' agreement on a question of law or its applicability. • The court is not bound to accept the stipulation if it is erroneous. But the parties are allowed to stipulate the law to be applied to a dispute.

STIPULATION

stipulation (stip-y<<schwa>>-lay-sh<<schwa>>n), n.1. A material condition or requirement in an agreement; esp., a factual representation that is incorporated into a contract as a term <breach of the stipulation regarding payment of taxes>. • Such a contractual term often appears in a section of the contract called “Representations and Warranties.” [Cases: Contracts 173, 207,

218, 221. C.J.S. Contracts §§ 355–356, 358, 361, 373, 444–445, 450, 475.] 2. A voluntary agreement between opposing parties concerning some relevant point; esp., an agreement relating to a proceeding, made by attorneys representing adverse parties to the proceeding <the plaintiff and defendant entered into a stipulation on the issue of liability>. • A stipulation relating to a pending judicial proceeding, made by a party to the proceeding or the party's attorney, is binding without consideration. [Cases: Stipulations 1. C.J.S. Stipulations §§ 2–3.]

“Breach of a stipulation should not be confused with misrepresentation, which is a false statement made before or at the time the contract is made, and which induces the contract; only if it is incorporated into the contract does it become a stipulation or term, the breach of which will entitle the injured party to pursue the usual remedies which are available where there has been a breach of a warranty or of a condition.” 1 E.W. Chance, *Principles of Mercantile Law* 239 (P.W. French ed., 13th ed. 1950).

“Stipulations with respect to matters of form and procedure serve the convenience of the parties to litigation and often serve to simplify and expedite the proceeding. In some cases they are supported by the policy of favoring compromise in order to reduce the volume of litigation. Hence they are favored by the courts and enforced without regard to consideration.” RESTATEMENT (SECOND) OF CONTRACTS § 94 cmt. a (1979).

3. Roman law. A formal contract by which a promisor (and only the promisor) became bound by oral question and answer. • By the third century A.D., stipulations were always evidenced in writing. See REUS PROMITTENDI; REUS STIPULANDI. — stipulate (stip-y<<schwa>>-layt), vb. — stipulative (stip-y<< schwa>>-l<<schwa>>-tiv), adj. “A stipulation consisted in a question and answer, the question being put by the person who was to acquire a right, the answer being given orally by the person who undertook the obligation. The matter of the agreement being stated, the binding words were usually simple; those used by (and peculiar to) Romans being *Spondesne?* or *spondes?* *Spondeo*. A stipulation made with a foreigner in these terms was invalid. The questioner was called stipulator, sometimes *reus stipulandi* (‘[stipulating party]’), the answerer usually promissor (or *reus promittendi* [the promising party])” 2 Henry John Roby, *Roman Private Law* 12 (1902).

STIPULATION POUR AUTRUI

stipulation pour autrui (poor oh-troo-ee). [French “for other persons”] Civil law. A contractual provision that benefits a third party and gives the third party a cause of action against the promisor for specific performance. La. Civ. Code art. 1978. See third-party beneficiary under BENEFICIARY. [Cases: Contracts 187. C.J.S. Contracts §§ 612–622, 624–629.]

STIPULATIO SPONSALITIA

stipulatio sponsalitia (stip-y<<schwa>>-lay-shee-oh spon-s<<schwa>>-lish-ee-<< schwa>>). [Latin] Roman law. In early law, a solemn promise by a father (*paterfamilias*) that his child would marry someone else's child. • In some cases, there was a penalty if the marriage did not occur. In classical and later Roman law, in which free marriage was the rule, such a promise was unenforceable because it was regarded as immoral (*contra bonos mores*).

STIPULATIVE DEFINITION

stipulative definition. See DEFINITION.

STIPULATOR

stipulator. 1. One who makes a stipulation. 2. Civil law. The promisee in a stipulation pour autrui, accepting the promise of a benefit to a third party. See REUS STIPULANDI.

STIRPAL

stirpal (st<<schwa>>r-p<<schwa>>l), adj. See STIRPITAL.

STIRPES

stirpes (st<<schwa>>r-peeZ). (pl.) STIRPS.

STIRPITAL

stirpital (st<<schwa>>r-p<<schwa>>-t<<schwa>>l), adj. Of or relating to per stirpes distribution. — Also termed stipital; stirpal. See PER STIRPES. [Cases: Descent and Distribution 43; Wills 530. C.J.S. Descent and Distribution § 27–28; Wills §§ 1015–1016.]

STIRPS

stirps (st<<schwa>>rps), n. [Latin “stock”] A branch of a family; a line of descent. Pl. stirpes (st<<schwa>>r-peeZ). See PER STIRPES.

STOCK

stock, n. 1. The original progenitor of a family; a person from whom a family is descended <George Harper Sr. was the stock of the Harper line>. 2. A merchant's goods that are kept for sale or trade <the car dealer put last year's models on sale to reduce its stock>. 3. The capital or principal fund raised by a corporation through subscribers' contributions or the sale of shares <Acme's stock is worth far more today than it was 20 years ago>. 4. A proportional part of a corporation's capital represented by the number of equal units (or shares) owned, and granting the holder the right to participate in the company's general management and to share in its net profits or earnings <Julia sold her stock in Pantheon Corporation>. See SHARE(2). Cf. SECURITY(4). [Cases: Corporations 63.1.]

assented stock. Stock that an owner deposits with a third person according to an agreement by which the owner voluntarily accepts a change in the corporation's securities.

assessable stock. Stock that is subject to resale by the issuer if the holder fails to pay any assessment levied on it. [Cases: Corporations 175. C.J.S. Corporations § 316.]

authorized stock. See capital stock (1).

bailout stock. Nontaxable preferred stock issued to stockholders as a dividend. • Bailout stock is issued to gain favorable tax rates by distributing corporate earnings at capital gains rates rather than by distributing dividends at ordinary income rates. This practice is now prohibited by the

Internal Revenue Code. IRC (26 USCA)§ 306.

barometer stock.A stock whose price fluctuates according to market conditions; an individual stock considered to be indicative of the strength of the market in general. — Also termed bellwether stock.

blank stock.Securities. Stock with voting powers and rights set by the issuer's board of directors after the stock has been sold. [Cases: Corporations 197. C.J.S. Corporations §§ 373, 375–378.]

blue-chip stock.See BLUE CHIP.

bonus stock.A stock share that is issued for no consideration, as an enticement to buy some other type or class of security. • It is considered a type of watered stock. — Also termed bonus share. [Cases: Corporations 99, 243(6). C.J.S. Corporations §§ 163, 169.]

book-value stock.Stock offered to executives at a book-value price, rather than at its market value. • The stock is offered with the understanding that when its book value has risen, the company will buy back the stock at the increased price or will make payments in stock equal to the increased price. [Cases: Corporations 316(3). C.J.S. Corporations §§ 519–524.]

callable preferred stock.Preferred stock that may be repurchased by the issuing corporation at a pre stated price, usu. at or slightly above par value. [Cases: Corporations 68. C.J.S. Corporations §§ 177, 180–183.]

capital stock. 1. The total number of shares of stock that a corporation may issue under its charter or articles of incorporation, including both common stock and preferred stock. • A corporation may increase the amount of capital stock if the owners of a majority of the outstanding shares consent. — Also termed authorized stock; authorized capital stock; authorized stock issue; authorized shares. [Cases: Corporations 60. C.J.S. Corporations §§ 122–125.] 2. The total par value or stated value of this stock; CAPITALIZATION(4).3. See common stock.

common stock.A class of stock entitling the holder to vote on corporate matters, to receive dividends after other claims and dividends have been paid (esp. to preferred shareholders), and to share in assets upon liquidation. • Common stock is often called capital stock if it is the corporation's only class of stock outstanding. — Also termed ordinary shares. Cf. preferred stock. [Cases: Corporations 155. C.J.S. Corporations §§ 294, 302–303.]

convertible stock.See convertible security under SECURITY.

corporate stock.An equity security issued by a corporation.

cumulative preferred stock.Preferred stock that must receive dividends in full before common shareholders may receive any dividend. • If the corporation omits a dividend in a particular year or period, it is carried over to the next year or period and must be paid before the common shareholders receive any payment. — Also termed cumulative stock; cumulative preference share. [Cases: Corporations 156. C.J.S. Corporations § 158.]

deferred stock.Stock whose holders are entitled to dividends only after the corporation has

met some other specified obligation, such as the discharge of a liability or the payment of a dividend to preferred shareholders. [Cases: Corporations 155(3).]

discount stock. A stock share issued for less than par value. • Discount stock is considered a type of watered stock, the issuance of which may impose liability on the recipient for the difference between the par value and the cash amount paid. — Also termed discount share. [Cases: Corporations 99(3). C.J.S. Corporations § 170.]

donated stock. Stock donated to a charity or given to a corporation by its own stockholders, esp. for resale.

equity stock. Stock of any class having unlimited dividend rights, regardless of whether the stock is preferred. [Cases: Corporations 155(3).]

floating stock. Stock that is offered for sale on the open market and that has not yet been purchased; the number of outstanding shares available for trading.

full-paid stock. Stock on which no further payments can be demanded by the issuing company. — Also termed paid-up stock. [Cases: Corporations 88–89.]

glamour stock. A stock with great public interest because of a real or imagined potential for fast growth or high earnings. — Also termed growth stock; performance stock.

growth stock. 1. Stock issued by a growth company. • Because a growth company usu. reinvests a large share of its income back into the company, growth stock pays relatively low dividends, though its price usu. has a relatively high appreciation in market value over time. 2. See glamour stock.

guaranteed stock. Preferred stock on which a dividend is guaranteed by someone (usu. a parent corporation) other than the issuer. [Cases: Corporations 156. C.J.S. Corporations § 158.]

guarantee stock. A fixed, nonwithdrawal investment in a building-and-loan association. • This type of stock guarantees to all other investors in the association a fixed dividend or interest rate. See BUILDING-AND-LOAN ASSOCIATION. [Cases: Building and Loan Associations 7. C.J.S. Building and Loan Associations, Savings and Loan Associations, and Credit Unions §§ 33, 36.]

guaranty stock. A savings-and-loan association's stock yielding dividends to the holders after dividends have been paid to the depositors. [Cases: Building and Loan Associations 11. C.J.S. Building and Loan Associations, Savings and Loan Associations, and Credit Unions § 41.]

hot stock. See hot issue under ISSUE(2).

inactive stock. A low-volume stock.

income stock. A stock with a history of high yields or dividend payments (e.g., public utilities and well-established corporations).

issued stock. Capital stock that has been authorized and sold to subscribers, but may be reacquired, such as treasury stock. [Cases: Corporations 72, 159. C.J.S. Corporations §§ 133, 146–147.]

joint stock.Capital invested in an unincorporated business and divided into shares proportionate to the size of each investment.

letter stock.See restricted security under SECURITY.

listed stock.See listed security under SECURITY.

margin stock.See marginable security under SECURITY.

nonassessable stock.Stock owned by a holder whose potential liability is limited to the amount paid for the stock and who cannot be charged additional funds to pay the issuer's debts. • Stock issued in the United States is usu. nonassessable. [Cases: Corporations 78, 175. C.J.S. Corporations §§ 188, 192, 316.]

noncumulative preferred stock.Preferred stock that does not have to be paid dividends that are in arrears. • Once a periodic dividend is omitted, it will not be paid. — Also termed noncumulative stock. [Cases: Corporations 156. C.J.S. Corporations § 158.]

nonparticipating preferred stock.Preferred stock that does not give the shareholder the right to additional earnings — usu. surplus common-stock dividends — beyond those stated in the preferred contract. [Cases: Corporations 156. C.J.S. Corporations § 158.]

nonvoting stock.Stock that has no voting rights under most situations. [Cases: Corporations 197. C.J.S. Corporations §§ 373, 375–378.]

no-par stock.Stock issued without a specific value assigned to it. • For accounting purposes, it is given a legal or stated value that has little or no connection to the stock's actual value. — Sometimes shortened to no par. — Also termed no-par-value stock.

outstanding stock.Stock that is held by investors and has not been redeemed by the issuing corporation. — Also termed outstanding capital stock; shares outstanding.

participating preferred stock.Preferred stock whose holder is entitled to receive stated dividends and to share with the common shareholders in any additional distributions of earnings. [Cases: Corporations 156. C.J.S. Corporations § 158.]

participation stock.Stock permitting the holder to participate in profits and surplus. [Cases: Corporations 154.1.]

par-value stock.Stock originally issued for a fixed value derived by dividing the total value of capital stock by the number of shares to be issued. • The par value does not bear a necessary relation to the actual stock value because surplus plays a role in the valuation. [Cases: Corporations 62. C.J.S. Corporations §§ 126, 128, 148–151.]

penny stock.An equity security that is not traded in established markets, represents no tangible assets, or has average revenues less than required for trading on an exchange. • Typically, a penny stock is highly speculative and can be purchased for less than \$5 a share.

performance stock.See glamour stock.

phantom stock. Imaginary stock that is credited to a corporate executive account as part of the executive's compensation package. See PHANTOM STOCK PLAN. [Cases: Corporations 308(1). C.J.S. Corporations §§ 490, 530–531, 533, 536.]

preferred stock. A class of stock giving its holder a preferential claim to dividends and to corporate assets upon liquidation but that usu. carries no voting rights. — Also termed preference shares. Cf. common stock. [Cases: Corporations 156. C.J.S. Corporations § 158.]

premium stock. Stock that carries a premium for trading, as in the case of short-selling.

prior preferred stock. Preferred stock that has preference over another class of preferred stock from the same issuer. • The preference usu. relates to dividend payments or claims on assets. [Cases: Corporations 156. C.J.S. Corporations § 158.]

public stock. 1. See public security under SECURITY. 2. Stock of a publicly traded corporation.

reacquired stock. See treasury stock.

redeemable stock. Preferred stock that can be called by the issuing corporation and retired. [Cases: Corporations 68. C.J.S. Corporations §§ 177, 180–183.]

registered stock. See registered security under SECURITY.

restricted stock. See restricted security under SECURITY.

retired stock. See treasury stock.

special stock. Hist. Corporate stock that guarantees investors an annual dividend and gives them creditor status to the extent that dividends have become payable. • In contrast, preferred-stock holders' claims for dividends payable are secondary to creditors' claims. Special stock was statutorily authorized only in Massachusetts.

subscribed stock. A stockholder's equity account showing the capital that will be contributed when the subscription price is collected. See SUBSCRIPTION (2). [Cases: Corporations 88.]

tainted stock. Stock owned or transferred by a person disqualified from serving as a plaintiff in a derivative action. • A good-faith transferee is also disqualified from filing a derivative action. [Cases: Corporations 207. C.J.S. Corporations §§ 402–404.]

treasury stock. Stock issued by a company but then reacquired and either canceled or held. • Some states have eliminated this classification and treat such stock as if it is authorized but unissued. — Also termed treasury security; reacquired stock; retired stock. [Cases: Corporations 72. C.J.S. Corporations § 146–147.]

unissued stock. Stock that is authorized by the corporate charter but not yet distributed.

unlisted stock. See unlisted security under SECURITY.

volatile stock. Stock subject to wide and rapid fluctuations in price. — Also termed yo-yo stock.

voting stock. Stock that entitles the holder to vote in the corporation's election of directors and on other matters that are put to a vote. — Also termed voting security. [Cases: Corporations 197. C.J.S. Corporations §§ 373, 375–378.]

watered stock. Stock issued for less than par value. [Cases: Corporations 99. C.J.S. Corporations §§ 163, 169.]

“The term ‘watered stock’ is a colorful common law phrase describing the situation where shareholders receive shares without paying as much for them as the law requires.... Much of the early common law relating to watered shares concerned the liability of shareholders receiving watered shares to pay the additional consideration needed to ‘squeeze out the water.’ ... [It now] seems clear that a shareholder is liable to the corporation if he or she pays less for the shares than the consideration fixed by the directors, and this liability is measured by the difference between the fixed consideration and the amount actually paid.” Robert W. Hamilton, *The Law of Corporations in a Nutshell* 120–21 (3d ed. 1991).

whisper stock. The stock of a company that is rumored to be the target of a takeover attempt.

yo-yo stock. See volatile stock.

STOCK ACQUISITION

stock acquisition. See SHARE ACQUISITION.

STOCK-APPRECIATION RIGHT

stock-appreciation right. (usu. pl.) A right, typically granted in tandem with a stock option, to be paid the option value (usu. in cash) when exercised along with the simultaneous cancellation of the option. — Abbr. SAR. [Cases: Corporations 116. C.J.S. Corporations §§ 233–240, 242.]

STOCK ASSOCIATION

stock association. See joint-stock company under COMPANY.

STOCK ATTRIBUTION

stock attribution. See ATTRIBUTION.

STOCK BAILOUT

stock bailout. A stock redemption in the form of a preferred stock dividend.

STOCK/BOND POWER

stock/bond power. See STOCK POWER.

STOCK BONUS PLAN

stock bonus plan. A special type of profit-sharing plan in which the distribution of benefits is in the form of the employer-company's own stock. [Cases: Corporations 308(1). C.J.S. Corporations §§ 490, 530–531, 533, 536.]

STOCKBROKER

stockbroker. One who buys or sells stock as agent for another. — Also termed account executive; account representative. [Cases: Brokers 2.C.J.S. Brokers §§ 2–5.]

STOCK CERTIFICATE

stock certificate. An instrument evidencing ownership of shares of stock. — Also termed certificate of stock; share certificate. [Cases: Corporations 94. C.J.S. Corporations § 172.]

face-amount certificate. 1. A certificate, investment contract, or other security representing an obligation by its issuer to pay a stated or determinable sum, at a fixed or determinable date or dates more than 24 months after the date of issuance, in consideration of the payment of periodic installments of a stated or determinable amount. — Also termed face-amount certificate of the installment type. 2. A security representing a similar obligation on the part of the issuer of a face-amount certificate, the consideration for which is the payment of a single lump sum. — Also termed fully paid face-amount certificate. See 15 USCA § 80a-2(a)(15).

periodic-payment-plan certificate. A certificate, investment contract, or other security providing for a series of periodic payments by the holder and representing an undivided interest in certain specified securities or in a unit or fund of securities purchased wholly or partly with the proceeds of those payments. • The term also includes any security whose issuer is also issuing the certificates described above and whose holder has substantially the same rights and privileges as those holders have upon completing the periodic payments for which the securities provide. See 15 USCA § 80a-2(a)(27).

STOCK CLEARING

stock clearing. The actual exchange of money and stock between buyer and seller, typically performed by a clearing corporation.

STOCK CLEARING CORPORATION

stock clearing corporation. A New York Stock Exchange subsidiary that is a central agency for securities deliveries and payments between member firms.

STOCK CONTROL

stock control. A system of inventory management by which a business maintains perpetual records of its inventory.

STOCK CORPORATION

stock corporation. See CORPORATION.

STOCK DIVIDEND

stock dividend. See DIVIDEND.

STOCK EXCHANGE

stock exchange. See SECURITIES EXCHANGE.

STOCKHOLDER

stockholder. See SHAREHOLDER.

STOCKHOLDER DERIVATIVE SUIT

stockholder derivative suit. See DERIVATIVE ACTION(1).

STOCKHOLDER OF RECORD

stockholder of record. The person who is listed in the issuer's books as the owner of stock on the record date. — Also termed holder of record; owner of record; record owner. See record date under DATE. [Cases: Corporations 128.1.]

STOCKHOLDERS' EQUITY

stockholders' equity. See OWNERS' EQUITY.

STOCKHOLDER'S LIABILITY

stockholder's liability. See shareholder's liability under LIABILITY.

STOCK INSURANCE COMPANY

stock insurance company. See INSURANCE COMPANY.

STOCK IN TRADE

stock in trade. 1. The inventory carried by a retail business for sale in the ordinary course of business. 2. The tools and equipment owned and used by a person engaged in a trade. 3. The equipment and other items needed to run a business.

STOCK ISSUE

stock issue. See ISSUE(2).

STOCKJOBBER

stockjobber. See JOBBER(2).

STOCKJOBING

stockjobbing, n. The business of dealing in stocks or shares; esp., the buying and selling of stocks and bonds by jobbers who operate on their own account. — Also termed stockjobbery.

STOCK-LAW DISTRICT

stock-law district. See DISTRICT.

STOCK LIFE-INSURANCE COMPANY

stock life-insurance company. See INSURANCE COMPANY.

STOCK MANIPULATION

stock manipulation. See MANIPULATION.

STOCK MARKET

stock market. See MARKET(5), (6).

STOCK MERGER

stock merger. See MERGER.

STOCK NOTE

stock note. See NOTE(1).

STOCK OPTION

stock option. 1. An option to buy or sell a specific quantity of stock at a designated price for a specified period regardless of shifts in market value during the period. [Cases: Corporations 116. C.J.S. Corporations §§ 233–240, 242.] 2. An option that allows a corporate employee to buy shares of corporate stock at a fixed price or within a fixed period. • Such an option is usu. granted as a form of compensation and can qualify for special tax treatment under the Internal Revenue Code. — Also termed (in sense 2) employee stock option; incentive stock option (ISO).

nonqualified stock option. A stock-option plan that does not receive capital-gains tax treatment, thus allowing a person to buy stock for a period (often ten years) at or below the market price. — Abbr. NQSO. [Cases: Internal Revenue 3596.]

qualified stock option. A now-rare stock-option plan that allows a person to buy stock for a period (often five years) at the market price, the stock being subject to capital-gains tax treatment. [Cases: Internal Revenue 3602. C.J.S. Internal Revenue § 315.]

STOCK-OPTION CONTRACT

stock-option contract. See CONTRACT.

STOCK-PARKING

stock-parking, n. See PARKING(2).

STOCK POWER

stock power. A power of attorney permitting a person, other than the owner, to transfer ownership of a security to a third party. — Also termed stock/bond power. [Cases: Corporations 126. C.J.S. Corporations § 229.]

STOCK-PURCHASE PLAN

stock-purchase plan. An arrangement by which an employer corporation allows employees to purchase shares of the corporation's stock. [Cases: Corporations 116. C.J.S. Corporations §§ 233–240, 242.]

STOCK REDEMPTION

stock redemption. See REDEMPTION(3).

STOCK REPURCHASE

stock repurchase. See REDEMPTION(3).

STOCK-REPURCHASE PLAN

stock-repurchase plan. A program by which a corporation buys back its own shares in the open market, usu. when the corporation believes the shares are undervalued. [Cases: Corporations 376. C.J.S. Corporations §§ 561–563.]

STOCK RIGHT

stock right. See SUBSCRIPTION RIGHT.

STOCKS

stocks, n. A punishment device consisting of two boards that together form holes for trapping an offender's feet and hands. — Formerly also termed cippi. Cf. BILBOES(1); PILLORY.

STOCK SPLIT

stock split. The issuance of two or more new shares in exchange for each old share without changing the proportional ownership interests of each shareholder. • For example, a 3-for-1 split would give an owner of 100 shares a total of 300 shares, or 3 shares for each share previously owned. A stock split lowers the price per share and thus makes the stock more attractive to potential investors. — Also termed share split. [Cases: Corporations 66. C.J.S. Corporations §§ 177–179.]

reverse stock split. A reduction in the number of a corporation's shares by calling in all outstanding shares and reissuing fewer shares having greater value. [Cases: Corporations 68. C.J.S. Corporations §§ 177, 180–183.]

STOCK SUBSCRIPTION

stock subscription. See SUBSCRIPTION(2).

STOCK SWAP

stock swap. See SWAP.

STOCK-TRANSFER AGENT

stock-transfer agent. See AGENT(2).

STOCK-TRANSFER TAX

stock-transfer tax. See TAX.

STOCK WARRANT

stock warrant.See WARRANT(4).

STOLEN PROPERTY

stolen property.Goods acquired by larceny, robbery, or theft. [Cases: Larceny 4; Robbery 4. C.J.S. Robbery §§ 6–8, 79.]

STONEWALL

stonewall,vb. To persistently refuse to cooperate in an investigation; esp., to refuse to testify or to hand over requested material until every available legal challenge has been exhausted. — stonewalling,n.

STOOL PIGEON

stool pigeon.Slang. 1. An informant, esp. a police informant. 2. A person who acts as a decoy, esp. on behalf of a gambler or swindler, or for the police to help make an arrest. — Also termed (in sense 1) rat; (in sense 2) capper.

STOP

stop,n. Under the Fourth Amendment, a temporary restraint that prevents a person from walking away. [Cases: Arrest 63.5. C.J.S. Arrest §§ 38–42.]

STOP AND FRISK

stop and frisk,n. A police officer's brief detention, questioning, and search of a person for a concealed weapon when the officer reasonably suspects that the person has committed or is about to commit a crime. • The stop and frisk, which can be conducted without a warrant or probable cause, was held constitutional by the Supreme Court in *Terry v. Ohio*, 392 U.S. 1, 88 S.Ct. 1868 (1968). — Also termed investigatory stop; Terry stop; field stop; investigatory defense. See REASONABLE SUSPICION. [Cases: Arrest 63.5. C.J.S. Arrest §§ 38–42.]

STOPGAP TAX

stopgap tax.See TAX.

STOPGAP ZONING

stopgap zoning.See interim zoning under ZONING.

STOP-LIMIT ORDER

stop-limit order.See stop order under ORDER(8).

STOP-LIST

stop-list.Antitrust. An illegal means by which manufacturers sometimes attempt to enforce price maintenance, by having suppliers agree among themselves not to supply any party who competes actively and breaks anticompetitive price “rules.”

STOP-LOSS INSURANCE

stop-loss insurance. See INSURANCE.

STOP-LOSS ORDER

stop-loss order. See stop order under ORDER(8).

STOP-NOTICE STATUTE

stop-notice statute. A law providing an alternative to a mechanic's lien by allowing a contractor, supplier, or worker to make a claim against the construction lender and, in some instances, the owner for a portion of the undisbursed construction-loan proceeds. See mechanic's lien under LIEN. [Cases: Mechanics' Liens 113, 115. C.J.S. Mechanics' Liens §§ 117, 277.]

STOP ORDER

stop order. 1. ORDER(8). 2. An SEC order that suspends a registration statement containing false, incomplete, or misleading information. [Cases: Securities Regulation 25.16. C.J.S. Securities Regulation § 85.] 3. A bank customer's order instructing the bank not to honor one of the customer's checks. — Also termed (in sense 3) stop-payment order. [Cases: Banks and Banking 139. C.J.S. Banks and Banking §§ 326, 353–355, 455.]

STOPPAGE

stoppage, n. 1. An obstruction or hindrance to the performance of some act < stoppage of goods or persons in transit for inspection >. 2. Civil law. SETOFF < stoppage in pay for money owed >.

STOPPAGE IN TRANSITU

stoppage in transitu (in tran-si-t[y]oo or tranz-i-t[y]oo). The right of a seller of goods to regain possession of those goods from a common carrier under certain circumstances, even though the seller has already parted with them under a contract for sale. • This right traditionally applies when goods are consigned wholly or partly on credit from one person to another, and the consignee becomes bankrupt or insolvent before the goods arrive — in which event the consignor may direct the carrier to deliver the goods to someone other than the consignee (who can no longer pay for them). — Also termed stoppage in transit. [Cases: Sales 289–299. C.J.S. Sales §§ 325–326, 333–338.]

STOP-PAYMENT ORDER

stop-payment order. See STOP ORDER(3).

STORE

store, n. 1. A place where goods are deposited to be purchased or sold. 2. (usu. pl.) A supply of articles provided for the subsistence and accommodation of a ship's crew and passengers. 3. A place where goods or supplies are stored for future use; a warehouse.

public store. A government warehouse administratively maintained, as for the storage of imported goods or military supplies.

store,vb. To keep (goods, etc.) in safekeeping for future delivery in an unchanged condition.

STORED-VALUE CARD

stored-value card.A device that provides access to a specified amount of funds for making payments to others, is the only means of routine access to the funds, and does not have an associated account in the name of the holder. • Typically, a consumer pays a bank or merchant money in exchange for a stored-value card; the consumer uses the card rather than paper currency to purchase goods and services. — Also termed smart card; prepaid card; value-added card.

STORE-RECEIVER EXEMPTION

store-receiver exemption.See AIKEN EXEMPTION.

STOUTHRIEF

stouthrief.Scots law. Robbery that takes place in or near one's dwelling, but is not coupled with housebreaking.

STOWAGE

stowage (stoh-ij).Maritime law. 1. The storing, packing, or arranging of cargo on a vessel to protect the goods from friction, bruising, or water damage during a voyage. • The bill of lading will often prescribe the method of stowage to be used. [Cases: Shipping 110. C.J.S. Shipping §§ 326, 328.] 2. The place (such as a ship's hull) where goods are stored. [Cases: Shipping 16, 123. C.J.S. Shipping §§ 21–26, 326.] 3. The goods so stored. 4. A fee paid for the storage of goods; a storage fee.

STOWAWAY

stowaway. A person who hides on board an outgoing or incoming vessel or aircraft to obtain free passage. 18 USCA § 2199. [Cases: Aviation 17; Criminal Law 97(3). C.J.S. Aeronautics and Aerospace §§ 284, 286–288; Criminal Law § 164.]

STR

STR.abbr.SUSPICIOUS-TRANSACTION REPORT.

STRADDLE

straddle,n. In securities and commodities trading, a situation in which an investor holds contracts to buy and to sell the same security or commodity, thus ensuring a loss on one of the contracts. • The aim of this strategy is to defer gains and use losses to offset other taxable income. — Also termed spread eagle; combination. — straddle,vb.

STRAIGHT ANNUITY

straight annuity.See ANNUITY.

STRAIGHT BANKRUPTCY

straight bankruptcy.See CHAPTER7 (2).

STRAIGHT BILL OF LADING

straight bill of lading. See BILL OF LADING.

STRAIGHT DEDUCTIBLE

straight deductible. See DEDUCTIBLE.

STRAIGHT LETTER OF CREDIT

straight letter of credit. See LETTER OF CREDIT.

STRAIGHT LIFE ANNUITY

straight life annuity. See nonrefund annuity under ANNUITY.

STRAIGHT LIFE INSURANCE

straight life insurance. See whole life insurance under LIFE INSURANCE.

STRAIGHT-LINE DEPRECIATION METHOD

straight-line depreciation method. See DEPRECIATION METHOD.

STRAIGHT-LINE INTEREST

straight-line interest. See simple interest under INTEREST(3).

STRAIGHT MORTGAGE

straight mortgage. See MORTGAGE.

STRAIGHT SENTENCE

straight sentence. See determinate sentence under SENTENCE.

STRAIGHT-TERM MORTGAGE

straight-term mortgage. See interest-only mortgage under MORTGAGE.

STRAIGHT UP

straight up. See S.U.

STRAIGHT VOTING

straight voting. See noncumulative voting under VOTING.

STRAIN THEORY

strain theory. The theory that people commit crimes to alleviate stress created by the disjunction between their station in life and the station to which society has conditioned them to aspire. Cf. CONTROL THEORY; RATIONAL-CHOICE THEORY ; ROUTINE-ACTIVITIES THEORY.

STRAMINEUS HOMO

stramineus homo (str<<schwa>>-min-ee-<<schwa>>s hoh-moh). [Latin "man of straw"] See STRAW MAN.

STRAND

strand,n. A shore or bank of an ocean, lake, river, or stream.

STRANDING

stranding,n. Maritime law. A ship's drifting, driving, or running aground on a strand. • The type of stranding that occurs determines the method of apportioning the liability for any resulting losses. [Cases: Salvage 9, 30. C.J.S. Salvage §§ 12, 81.]

accidental stranding.Stranding as a result of natural forces, such as wind and waves. See general average, particular average under AVERAGE. — Also termed involuntary stranding.

“Damage to a vessel from involuntary stranding or wreck, and the cost of repairs, are particular average only. Where, however, the ship and cargo are exposed to a common peril by the accidental stranding, the expenses of unloading and taking care of the cargo, rescuing the vessel, reloading the cargo, and other expenses other than repairs requisite to enable the vessel to proceed on the voyage, are brought into general average, provided the vessel and cargo were saved by the same series of measures during the continuance of the common peril which created the joint necessity for the expenses.” 70 Am. Jur. 2d Shipping § 961, at 1069 (1987).

voluntary stranding.Stranding to avoid a more dangerous fate or for fraudulent purposes.

“The loss occurring when a ship is voluntarily run ashore to avoid capture, foundering, or shipwreck is to be made good by general average contribution, if the ship is afterwards recovered so as to be able to perform its voyage, as such a claim is clearly within the rule that whatever is sacrificed for the common benefit of the associated interests shall be made good by all the interests exposed to the common peril which were saved from the common danger by the sacrifice A vessel cannot, however, claim contribution founded on even a voluntary stranding made necessary by ... unseaworthiness or the negligence of those in charge, except in pursuance of a valid agreement to that effect.” 70 Am. Jur. 2d Shipping § 961, at 1069 (1987).

STRANGER

stranger. 1. One who is not party to a given transaction; esp., someone other than a party or the party's employee, agent, tenant, or immediate family member. [Cases: Contracts 185. C.J.S. Contracts §§ 610–612, 619–620.] 2. One not standing toward another in some relation implied in the context; esp., one who is not in privity. 3. A person who voluntarily pays another person's debt even though the payor cannot be held liable for the debt and the payor's property is not affected by the creditor's rights. • Subrogation does not apply to a stranger if the debtor did not agree to or assign subrogation rights.

STRANGER IN BLOOD

stranger in blood. 1. One not related by blood, such as a relative by affinity. 2. Any person not within the consideration of natural love and affection arising from a relationship.

STRATAGEM

stratagem. A trick or deception to obtain an advantage, esp. in a military conflict.

STRATEGIC ALLIANCE

strategic alliance. A coalition formed by two or more persons in the same or complementary businesses to gain long-term financial, operational, or marketing advantages without jeopardizing competitive independence <through their strategic alliance, the manufacturer and distributor of a co-developed product shared development costs>. Cf. ALLIANCE(1); JOINT VENTURE; PARTNERSHIP.

STRATEGIC NATIONAL STOCKPILE

Strategic National Stockpile. A national repository of medicines and healthcare supplies maintained jointly by the U.S. Department of Homeland Security and the U.S. Department of Health and Human Services to respond to public-health emergencies. • Created as the National Pharmaceutical Stockpile in 1999, the agency caches antibiotics, chemical antidotes, antitoxins, life-support medications, IV administration, airway maintenance supplies, and medical supplies. — Abbr. SNS.

STRATOCRACY

stratocracy (str<<schwa>>-tok-r<<schwa>>-see). A military government.

STRATOR

strator (stray-t<<schwa>>r). Hist. A surveyor of the highways.

STRAW BAIL

straw bail. See bail common under BAIL(4).

STRAW BOND

straw bond. See BOND(2).

STRAW MAN

straw man. 1. A fictitious person, esp. one that is weak or flawed. 2. A tenuous and exaggerated counterargument that an advocate puts forward for the sole purpose of disproving it. — Also termed straw-man argument. 3. A third party used in some transactions as a temporary transferee to allow the principal parties to accomplish something that is otherwise impermissible. Cf. DUMMY. 4. A person hired to post a worthless bail bond for the release of an accused. — Also termed stramineus homo. See MEN OF STRAW.

STRAW POLL

straw poll. A nonbinding vote, taken as a way of informally gauging support or opposition but usu. without a formal motion or debate.

STRAY REMARKS

stray remarks. Employment law. Statements to or about an employee by a coworker or supervisor, concerning the employee's race, sex, age, national origin, or other status, that are either objectively or subjectively offensive, but that do not represent harassment or discrimination by the employer because of (1) their sporadic, unsystematic, and unofficial nature, (2) the circumstances in which they were made, or (3) their not showing any intention to hamper the employee's continued employment. — Also termed stray comments. [Cases: Civil Rights 1147, 1543. C.J.S. Civil Rights §§ 29, 144, 170.]

STREAM

stream. Anything liquid that flows in a line or course; esp., a current of water consisting of a bed, bank, and watercourse, usu. emptying into other bodies of water but not losing its character even if it breaks up or disappears. [Cases: Waters and Water Courses 38. C.J.S. Waters §§ 3–8, 91.]

private stream. A watercourse, the bed, channel, or waters of which are exclusively owned by private parties.

STREAM-OF-COMMERCE THEORY

stream-of-commerce theory. 1. The principle that a state may exercise personal jurisdiction over a defendant if the defendant places a product in the general marketplace and the product causes injury or damage in the forum state, as long as the defendant also takes other acts to establish some connection with the forum state, as by advertising there or by hiring someone to serve as a sales agent there. *Asahi Metal Indus. Co., Ltd. v. Superior Court of Cal.*, 480 U.S. 102, 107 S.Ct. 1026 (1987). [Cases: Corporations 665(1); Courts 12(2.25); Federal Courts 76, 81. C.J.S. Courts § 44.] 2. The principle that a person who participates in placing a defective product in the general marketplace is strictly liable for harm caused by the product. Restatement (Second) of Torts § 402A (1979). [Cases: Products Liability 23.1.]

STREET

street. A road or public thoroughfare used for travel in an urban area, including the pavement, shoulders, gutters, curbs, and other areas within the street lines. [Cases: Municipal Corporations 658. C.J.S. Municipal Corporations §§ 1451–1452.]

“Strictly speaking, a ‘street’ is a public thoroughfare in an urban community such as a city, town, or village, and the term is not ordinarily applicable to roads and highways outside of municipalities. Although a street, in common parlance, is equivalent to a highway, it is usually specifically denominated by its own proper appellation.... Whether a particular highway is to be regarded as a ‘street’ within the meaning of that term as used in a statute must, of course, be resolved by construction.” 39 Am. Jur. 2d Highways, Streets, and Bridges § 8, at 588–89 (1999).

paper street. A thoroughfare that appears on plats, subdivision maps, and other publicly filed documents, but that has not been completed or opened for public use. [Cases: Municipal Corporations 646. C.J.S. Municipal Corporations § 1422.]

STREET CRIME

street crime. See CRIME.

STREET GANG

street gang. See GANG.

STREET NAME

street name. A brokerage firm's name in which securities owned by another are registered. • A security is held by a broker in street name (at the customer's request) to simplify trading because no signature on the stock certificate is required. A street name may also be used for securities purchased on margin. The word "street" in this term is a reference to Wall Street.

STREET TIME

street time. See TIME.

STREPITUS JUDICIALIS

strepitus judicialis (strep-<<schwa>>-t<<schwa>>s joo-dish-ee-ay-lis), n. [Law Latin] Hist. Disruptive behavior in court.

STRICT

strict, adj. 1. Narrow; restricted <strict construction>. 2. Rigid; exacting <strict statutory terms>. 3. Severe <strict punishment>. 4. Absolute; requiring no showing of fault <strict liability>.

STRICT CONSTRUCTION

strict construction. See CONSTRUCTION.

STRICT CONSTRUCTIONISM

strict constructionism, n. The doctrinal view of judicial construction holding that judges should interpret a document or statute (esp. one involving penal sanctions) according to its literal terms, without looking to other sources to ascertain the meaning. — Also termed strict construction; literal canon; literal rule; textualism. [Cases: Contracts 143(1); Statutes 235, 241(1). C.J.S. Contracts §§ 302–303; Statutes § 376.] — strict constructionist, n.

STRICT FORECLOSURE

strict foreclosure. See FORECLOSURE.

STRICTI JURIS

stricti juris (strik-tIjoor-is). [Latin] 1. Of strict right of law; according to the exact law, without extension or enhancement in interpretation. • This term was often applied to servitudes because they are a restriction on the free exercise of property rights. 2. Roman law. (Of a contract) required to be interpreted strictly on its terms, regardless of circumstances. See BONA FIDES(2).

STRICT INTERPRETATION

strict interpretation. See INTERPRETATION.

STRICTISSIMI JURIS

strictissimi juris (strik-tis-<<schwa>>-mljoor-is). [Latin] Of the strictest right or law; to be interpreted in the strictest manner. • This term was usu. applied to certain statutes, esp. those imposing penalties or restraining natural liberties.

STRICT LIABILITY

strict liability. See LIABILITY.

STRICT-LIABILITY CRIME

strict-liability crime. See CRIME.

STRICT-LIABILITY OFFENSE

strict-liability offense. See OFFENSE(1).

STRICTO JURE

stricto jure (strik-toh joor-ee). [Latin] In strict law.

STRICT PRODUCTS LIABILITY

strict products liability. See PRODUCTS LIABILITY.

STRICT SCRUTINY

strict scrutiny. Constitutional law. The standard applied to suspect classifications (such as race) in equal-protection analysis and to fundamental rights (such as voting rights) in due-process analysis. • Under strict scrutiny, the state must establish that it has a compelling interest that justifies and necessitates the law in question. See COMPELLING-STATE-INTEREST TEST; SUSPECT CLASSIFICATION; FUNDAMENTAL RIGHT. Cf. INTERMEDIATE SCRUTINY; RATIONAL-BASIS TEST. [Cases: Constitutional Law 213.1(1), 252.5. C.J.S. Constitutional Law §§ 714–715, 718, 953, 966–967, 980.]

STRICT SETTLEMENT

strict settlement. See SETTLEMENT(1).

STRICT TEST

strict test. Evidence. The principle that disclosure of a privileged document, even when inadvertent, results in a waiver of the attorney–client privilege regarding the document, unless all possible precautions were taken to protect the document from disclosure. Cf. LENIENT TEST; HYDRAFLOW TEST. [Cases: Witnesses 219(3).]

STRICTUM JUS

strictum jus (strik-t<<schwa>>m j<<schwa>>s). See JUS STRICTUM.

STRICT UNDERWRITING

strict underwriting. See standby underwriting under UNDERWRITING.

STRIKE

strike, n. 1. An organized cessation or slowdown of work by employees to compel the employer to meet the employees' demands; a concerted refusal by employees to work for their employer, or to work at their customary rate of speed, until the employer grants the concessions that they seek. — Also termed walkout. Cf. LOCKOUT; BOYCOTT; PICKETING. [Cases: Labor Relations 290. C.J.S. Labor Relations §§ 273–274, 277–278.]

ca'canny strike (kah-kan-ee or kaw-). A strike in which the workers remain on the job but work at a slower pace to reduce their output.

economic strike. A strike resulting from an economic dispute with the employer (such as a wage dispute); a dispute for reasons other than unfair labor practices. • An employer can permanently replace an economic striker but cannot prevent the worker from coming back to an unreplaced position simply because the worker was on strike.

general strike. A strike organized to affect an entire industry.

illegal strike. 1. A strike using unlawful procedures. 2. A strike to obtain unlawful objectives, as in a strike to force an employer to stop doing business with a particular company.

jurisdictional strike. A strike resulting from a dispute between members of different unions over work assignments.

organizational strike. See recognition strike.

outlaw strike. See wildcat strike.

quickie strike. See wildcat strike.

recognition strike. A strike by workers seeking to force their employer to acknowledge the union as their collective-bargaining agent. • After the National Labor Relations Act was passed in 1935, recognition strikes became unnecessary. Under the Act, the employer is required to recognize an NLRB-certified union for bargaining purposes. — Also termed organizational strike.

secondary strike. A strike against an employer because that employer has business dealings with another employer directly involved in a dispute with the union. See secondary boycott under BOYCOTT; secondary picketing under PICKETING.

sit-down strike. A strike in which employees occupy the workplace but do not work. See SIT-IN.

sympathy strike. A strike by union members who have no grievance against their own employer but who want to show support for another union involved in a labor dispute.

whipsaw strike. A strike against some but not all members of a multiemployer association, called for the purpose of pressuring all the employees to negotiate a labor contract. • Employers

whose workers are not on strike have the right to lock out employees to exert counterpressure on the union.

wildcat strike.A strike not authorized by a union or by a collective-bargaining agreement. — Also termed outlaw strike; quickie strike.

2. The removal of a prospective juror from the jury panel <a peremptory strike>. See CHALLENGE(2). [Cases: Jury 83–142. C.J.S. Juries §§ 225, 248, 269–271, 344, 354–444, 446–489.] 3. A failure or disadvantage, as by a criminal conviction <a strike on one's record>.4.Parliamentary law. A form of the motion to amend by deleting one or more words. See amendment by striking out under AMENDMENT(3).

strike,vb.1. (Of an employee or union) to engage in a strike <the flight attendants struck to protest the reduction in benefits>.2. To remove (a prospective juror) from a jury panel by a peremptory challenge or a challenge for cause <the prosecution struck the panelist who indicated an opposition to the death penalty>. See peremptory challenge under CHALLENGE(2). [Cases: Jury 83–142. C.J.S. Juries §§ 225, 248, 269–271, 344, 354–444, 446–489.] 3. To expunge, as from a record <motion to strike the prejudicial evidence>. [Cases: Federal Civil Procedure 2018.] 4.Parliamentary law. To amend by deleting one or more words. See amendment by striking out under AMENDMENT(3). — Also termed (in sense 4) strike out.

STRIKEBREAKER

strikebreaker. See SCAB.

STRIKE DOWN

strike down.To invalidate (a statute); to declare void.

STRIKE FUND

strike fund.A union fund that provides benefits to its members who are on strike, esp. for subsistence while the members are not receiving wages.

STRIKE OFF

strike off. 1. (Of a court) to order (a case) removed from the docket. 2. (Of an auctioneer) to announce, usu. by the falling of the hammer, that an item has been sold.

STRIKE OUT

strike out.See STRIKE(4).

STRIKE PRICE

strike price.See PRICE.

STRIKE SUIT

strike suit.See SUIT.

STRIKING A JURY

striking a jury. The selecting of a jury out of all the candidates available to serve on the jury; esp., the selecting of a special jury. See struck jury under JURY. [Cases: Jury 71. C.J.S. Juries §§ 346–347.]

STRIKING OFF THE ROLL

striking off the roll. See DISBARMENT.

STRIKING PRICE

striking price. See strike price under PRICE.

STRING OF TITLE

string of title. See CHAIN OF TITLE(1).

STRIP

strip, n. 1. The act of separating and selling a bond's coupons and corpus separately. 2. The act of a tenant who, holding less than the entire fee in land, spoils or unlawfully takes something from the land. [Cases: Landlord and Tenant 55(2). C.J.S. Landlord and Tenant § 261.]

STRIP (strip).abbr.SEPARATE TRADING OF REGISTERED INTEREST AND PRINCIPAL OF SECURITIES .

STRIPPED MORTGAGE-BACKED SECURITY

stripped mortgage-backed security. See SECURITY.

STRIPPER WELL

stripper well. See WELL.

STRIP SEARCH

strip search. See SEARCH.

STRONG-ARM CLAUSE

strong-arm clause. A provision of the Bankruptcy Code allowing a bankruptcy trustee to avoid a security interest that is not perfected when the bankruptcy case is filed. 11 USCA § 544(a)(1). [Cases: Bankruptcy 2571–2588, 2704, 2705. C.J.S. Bankruptcy §§ 110, 121, 123–125, 127, 129–132, 134, 158.]

STRONGLY CORROBORATED

strongly corroborated. (Of testimony) supported from independent facts and circumstances that are powerful, satisfactory, and clear to the court and jury.

STRONG MARK

strong mark. See strong trademark under TRADEMARK.

STRONG MARKET

strong market. See bull market under MARKET.

STRONG TRADEMARK

strong trademark. See TRADEMARK.

STRUCK JURY

struck jury. See JURY.

STRUCK OFF

struck off. 1. Removed from an active docket, usu. because of a want of prosecution or jurisdiction. 2. BrE. Removed from the register of qualified persons and, in the case of a professional, forbidden to practice.

STRUCTURAL ALTERATION

structural alteration. See ALTERATION(1).

STRUCTURAL TAKEOVER DEFENSE

structural takeover defense. See TAKEOVER DEFENSE.

STRUCTURAL UNEMPLOYMENT

structural unemployment. See UNEMPLOYMENT.

STRUCTURE

structure. 1. Any construction, production, or piece of work artificially built up or composed of parts purposefully joined together <a building is a structure>. 2. The organization of elements or parts <the corporate structure>. 3. A method of constructing parts <the loan's payment structure was a financial burden>.

STRUCTURED SECURITY

structured security. See SECURITY.

STRUCTURED SETTLEMENT

structured settlement. See SETTLEMENT(2).

STUDENT-BENEFIT THEORY

student-benefit theory. A principle that allows state funds to be provided to private-school pupils if the allotment can be justified as benefiting the child. • The Supreme Court upheld a Louisiana law that allowed the purchase of textbooks for all children throughout the state — even those in private schools — under this theory. *Cochran v. Louisiana State Bd. of Educ.*, 281 U.S. 370, 50 S.Ct. 335 (1930). — Also termed child-benefit theory.

STUDY FURLOUGH

study furlough. See study release under RELEASE.

STUDY RELEASE

study release. See RELEASE.

STUFF GOWN

stuff gown. 1. The professional robe worn by barristers of the outer bar who have not been appointed Queen's Counsel. 2. A junior barrister. Cf. SILK GOWN .

STULTIFY

stultify, vb. 1. To make (something or someone) appear stupid or foolish <he stultified opposing counsel's argument>. 2. To testify about one's own lack of mental capacity. 3. To contradict oneself, as by denying what one has already alleged.

STULTILOQUIUM

stultiloquium (st<<schwa>>l-ti-loh-kwee-<<schwa>>m). [fr. Latin stultus "foolish" + loqui "to speak"] Hist. A frivolous pleading punishable by fine. • This may have been the origin of the beaupleader. See BEAUPLEADER.

STUMPAGE

stumpage (st<<schwa>>mp-ij). 1. The timber standing on land. 2. The value of the standing timber. 3. A license to cut the timber. [Cases: Logs and Logging 4. C.J.S. Logs and Logging § 26.] 4. The fee paid for the right to cut the timber. [Cases: Logs and Logging 1–4. C.J.S. Logs and Logging §§ 2, 6–26.]

STUPRUM

stuprum (st[y]oo-pr<<schwa>>m), n. [Latin] Roman & civil law. Disgrace by unchastity; a man's illegal sexual intercourse with a woman, usu. a virgin or widow, or with a male (pederasty). Pl. *stupra*.

"The law refers to stuprum and adultery indiscriminately and with rather a misuse of terms. But properly speaking adultery is committed with a married woman, the name being derived from children conceived by another (*alter*); stuprum, however, is committed against a virgin or a widow; the Greeks call it corruption." Digest of Justinian 48.5.6.1 (Papinian, *De Adulteriis* 1).

STV

STV. See single transferable vote under VOTE(1).

STYLE

style, n. 1. A case name or designation <the style of the opinion is *Connor v. Gray*>. — Also termed title. Cf. CAPTION(1). 2. Scots law. A form of writ or deed used in conveyancing. • A book of styles is essentially a formbook; a typical Scottish example is John Hendry's *Styles of Deeds and Instruments* (2d ed. 1862).

STYLIZED DRAWING

stylized drawing. See special-form drawing under DRAWING.

S.U.

s.u.abbr. Straight up. • When a prosecutor writes this on a defendant's file, it usu. means that the prosecutor plans to try the case — that is, not enter into a plea bargain.

SUABLE

suable, adj. 1. Capable of being sued <a suable party>. [Cases: Action 14. C.J.S. Actions § 64.] 2. Capable of being enforced <a suable contract>. — suability, n.

SUA POTESTAS

sua potestas (s[y]oo-*<<schwa>>* p*<<schwa>>*-tes-t*<<schwa>>*s or -tas). [Latin] Hist. The natural power that one has over oneself.

SUAPTE NATURA

suapte natura (s[y]oo-ap-tee n*<<schwa>>*-t[y]oor-*<<schwa>>*). [Latin] In its own nature — as in *suapte natura sterilia* (“barren of its own nature”).

SUA SPONTE

sua sponte (s[y]oo-*<<schwa>>* spon-tee). [Latin “of one's own accord; voluntarily”] Without prompting or suggestion; on its own motion <the court took notice sua sponte that it lacked jurisdiction over the case>.

SUB

sub (s*<<schwa>>*b). [Latin] Under; upon.

sub. See subsidiary corporation under CORPORATION.

SUBAGENT

subagent. See AGENT(2).

SUBALTERN

subaltern (s*<<schwa>>*b-awl-t*<<schwa>>*rn), n. An inferior or subordinate officer.

SUBASSIGNEE

subassignee. See ASSIGNEE.

SUB BALLIVUS

sub ballivus (s*<<schwa>>*b b*<<schwa>>*-ll-v*<<schwa>>*s), n. [Law Latin] Hist. An undersheriff; a sheriff's deputy. See BAILIWICK.

SUBCHAPTER-C CORPORATION

subchapter-C corporation. See C corporation under CORPORATION.

SUBCHAPTER-S CORPORATION

subchapter-S corporation. See S corporation under CORPORATION.

SUB COLORE JURIS

sub colore juris (s<<schwa>>b k<<schwa>>-lor-ee joor-is). [Latin] Under color of right; under an appearance of right.

SUB COLORE OFFICII

sub colore officii (s<<schwa>>b k<<schwa>>-lor-ee <<schwa>>-fish-ee-I). [Law Latin] Hist. Under color of office.

SUBCOMBINATION CLAIM

subcombination claim. See PATENT CLAIM.

SUBCOMMITTEE

subcommittee. See COMMITTEE.

SUB CONDITIONE

sub conditione (s<<schwa>>b k<<schwa>>n-dish-ee-oh-nee). [Law Latin] Under condition.
• This term creates a condition in a deed.

SUBCONTRACT

subcontract. See CONTRACT.

SUBCONTRACTOR

subcontractor. One who is awarded a portion of an existing contract by a contractor, esp. a general contractor. • For example, a contractor who builds houses typically retains subcontractors to perform specialty work such as installing plumbing, laying carpet, making cabinetry, and landscaping — each subcontractor is paid a somewhat lesser sum than the contractor receives for the work. [Cases: Contracts 177. C.J.S. Contracts § 363.]

SUB CURA MARITI

sub cura mariti (s<<schwa>>b kyoor-<<schwa>> m<<schwa>>-rĪ-tĪ). [Law Latin] Hist. Under the care of one's husband.

SUB CURA UXORIS

sub cura uxoris (s<<schwa>>b kyoor-<<schwa>> <<schwa>>k-sor-is). [Law Latin] Hist. Under the care of one's wife.

SUB CURIA

sub curia (s<<schwa>>b kyoor-ee-<<schwa>>). [Latin] Under law.

SUB DISJUNCTIONE

sub disjunctione (s<<schwa>>b dis-j<<schwa>>ngk-shee-oh-nee). [Latin] In the alternative.

SUBDITUS

subditus (s<<schwa>>b-d<<schwa>>-t<<schwa>>s). [Latin] Hist. Someone under another's power; a vassal.

SUBDIVISION

subdivision,n.1. The division of a thing into smaller parts. 2. A parcel of land in a larger development. — subdivide,vb.

illegal subdivision.The division of a tract of land into smaller parcels in violation of local subdivision regulations, as when a developer begins laying out streets, installing sewer and utility lines, and constructing houses without the authorization of the local planning commission. [Cases: Zoning and Planning 372. C.J.S. Zoning and Land Planning § 191.]

legal subdivision.The governmentally approved division of a tract of land into smaller parcels using ordinary and legally recognized methods for surveying and platting land and publicly recording the results. [Cases: Zoning and Planning 245, 381.5. C.J.S. Zoning and Land Planning § 101.]

SUBDIVISION EXACTION

subdivision exaction.A charge that a community imposes on a subdivider as a condition for permitting recordation of the subdivision map and sale of the subdivided parcels. [Cases: Zoning and Planning 382.4.]

SUBDIVISION MAP

subdivision map.A map that shows how a parcel of land is to be divided into smaller lots, and generally showing the layout and utilities. [Cases: Zoning and Planning 29.5, 245. C.J.S. Zoning and Land Planning §§ 21, 101.]

SUB DOMINO

sub domino (s<<schwa>>b dom-<<schwa>>-noh). [Law Latin] Hist. Under a lord.

SUBFEUDUM

subfeudum (s<<schwa>>b-fyoo-d<<schwa>>m). [Law Latin] Hist. A subfee.

SUBINFEUDATE

subinfeudate (s<<schwa>>b-in-fyoo-dayt), vb. Hist. (Of a subvassal) to grant land to another, who then holds the land as the grantor's vassal rather than as the vassal of the grantor's superior. — Also termed subinfeud (s<<schwa>>b-in-fyood).

“[A] more common method of obtaining the annual quota of knights was to subinfeudate portions of the baronial lands to individual knights in exchange for their obligations to spend a fixed portion of time annually in the king's or baron's service. A knight who so received a portion

of a baron's land would hold of his baron in much the same way as the baron held of the king.” Thomas F. Bergin & Paul G. Haskell, Preface to *Estates in Land and Future Interests* 4 (2d ed. 1984).

SUBINFEUDATION

subinfeudation (s<<schwa>>b-in-fyoo-day-sh<<schwa>>n), n. Hist. The system under which the tenants in a feudal system granted smaller estates to their tenants, who in turn did the same from their pieces of land. • As this system proceeded down the social scale, the lords were deprived of their feudal profits, as a result of which the system was suppressed by the statute *Quia Emptores* in 1290. Instead of subinfeudation, alienation in the modern sense was introduced. Cf. INFEUDATION; SUPERINFEUDATION.

“The first step taken in mitigation of the rigors of the law of feuds, and in favor of voluntary alienations, was the countenance given to the practice of subinfeudations. They were calculated to elude the restraint upon alienation, and consisted in carving out portions of the fief to be held of the vassal by the same tenure with which he held of the chief lord of the fee. The alienation prohibited by the feudal law, all over Europe, was the substitution of a new feudatory in the place of the old one; but subinfeudation was a feoffment by the tenant to hold of himself. The purchaser became his vassal, and the vendor still continued liable to the chief lord for all the feudal obligations. Subinfeudations were encouraged by the subordinate feudatories, because they contributed to their own power and independence; but they were found to be injurious to the fruits of tenure, such as reliefs, marriages and wardships, belonging to the paramount lords.” 4 James Kent, *Commentaries on American Law* *443–44 (George Comstock ed., 11th ed. 1866).

SUBINFEUDATORY

subinfeudatory (s<<schwa>>b-in-fyoo-d<<schwa>>-tor-ee), n. A tenant holding lands by subinfeudation.

SUBJACENT

subjacent (s<<schwa>>b-jay-s<<schwa>>nt), adj. Located underneath or below <the land's subjacent support>.

SUBJACENT SUPPORT

subjacent support. See SUPPORT(4).

SUBJECT

subject, adj. Referred to above; having relevance to the current discussion < the subject property was then sold to Smith>.

subject, n. 1. One who owes allegiance to a sovereign and is governed by that sovereign's laws <the monarchy's subjects>.

“Speaking generally, we may say that the terms subject and citizen are synonymous. Subjects and citizens are alike those whose relation to the state is personal and not merely territorial,

permanent and not merely temporary. This equivalent, however, is not absolute. For in the first place, the term subject is commonly limited to monarchical forms of government, while the term citizen is more specially applicable in the case of republics. A British subject becomes by naturalisation a citizen of the United States of America or of France. In the second place, the term citizen brings into prominence the rights and privileges of the status, rather than its correlative obligations, while the reverse is the case with the term subject. Finally it is to be noticed that the term subject is capable of a different and wider application, in which it includes all members of the body politic, whether they are citizens (i.e., subjects *stricto sensu*) or resident aliens. All such persons are subjects, all being subject to the power of the state and to its jurisdiction, and as owing to it, at least temporarily, fidelity and obedience." John Salmond, *Jurisprudence* 133 (Glanville L. Williams ed., 10th ed. 1947).

liege subject. See natural-born subject.

natural-born subject. A person born within the dominion of a monarchy, esp. England. — Also termed liege subject. Cf. NATIONAL.

2. The matter of concern over which something is created <the subject of the statute>. — Also termed (in sense 2) subject matter.

SUBJECTION

subjection. 1. The act of subjecting someone to something <their subjection to torture was unconscionable>. 2. The condition of a subject in a monarchy; the obligations surrounding such a person <a subject, wherever residing, owes fidelity and obedience to the Crown, while an alien may be released at will from all such ties of subjection>. 3. The condition of being subject, exposed, or liable; liability <the defendants' subjection to the plaintiffs became clear shortly after the trial began>. — Also termed (in sense 3) liability; susceptibility.

SUBJECTIVE

subjective, adj. 1. Based on an individual's perceptions, feelings, or intentions, as opposed to externally verifiable phenomena <the subjective theory of contract — that the parties must have an actual meeting of the minds — is not favored by most courts>. 2. Personal; individual <subjective judgments about popular music>. Cf. OBJECTIVE.

SUBJECTIVE ETHICS

subjective ethics. See MORAL RELATIVISM.

SUBJECTIVE IMPOSSIBILITY

subjective impossibility. See IMPOSSIBILITY.

SUBJECTIVE MEANING

subjective meaning. See MEANING.

SUBJECTIVE METHOD

subjective method. See SHERMAN–SORRELLS DOCTRINE.

SUBJECTIVE NOVATION

subjective novation. See NOVATION.

SUBJECTIVE STANDARD

subjective standard. See STANDARD.

SUBJECTIVE THEORY OF CONTRACT

subjective theory of contract. The doctrine (now largely outmoded) that a contract is an agreement in which the parties have a subjective meeting of the minds. — Often shortened to subjective theory. See MEETING OF THE MINDS. Cf. OBJECTIVE THEORY OF CONTRACT. [Cases: Contracts 15. C.J.S. Contracts §§ 35–36, 38.]

SUBJECT MATTER

subject matter. 1. The issue presented for consideration; the thing in which a right or duty has been asserted; the thing in dispute; SUBJECT(2). See CORPUS(1). 2. PATENTABLE SUBJECT MATTER. — Sometimes written (as a noun) subject-matter. — subject-matter, adj.

SUBJECT-MATTER JURISDICTION

subject-matter jurisdiction. See JURISDICTION.

SUBJECT-MATTER TEST

subject-matter test. A method of determining whether an employee's communication with a corporation's lawyer was made at the direction of the employee's supervisors and in the course and scope of the employee's employment, so as to be protected under the attorney–client privilege, despite the fact that the employee is not a member of the corporation's control group. *Harper & Row Pubs., Inc. v. Decker*, 423 F.2d 487 (7th Cir. 1970), *aff'd per curiam* by equally divided Court, 400 U.S. 348, 91 S.Ct. 479 (1971). — Also termed Decker test. Cf. CONTROL-GROUP TEST. [Cases: Witnesses 199(2). C.J.S. Witnesses § 325.]

SUBJECT-MATTER WAIVER

subject-matter waiver. See WAIVER(1).

SUBJECT OF AN ACTION

subject of an action. The right or property at issue in a lawsuit; the basis of a legal claim. Cf. object of an action under OBJECT(2).

SUBJECT OF A RIGHT

subject of a right. 1. The owner of a right; the person in whom a legal right is vested. 2. OBJECT OF A RIGHT.

SUBJECT TO LIABILITY

subject to liability,adj. (Of a person) susceptible to a lawsuit that would result in an adverse judgment; specif., having engaged in conduct that would make the actor liable for another's injury because the actor's conduct is the legal cause of the injury, the injured party having no disability for bringing the lawsuit.

SUBJECT TO OPEN

subject to open.Denoting the future interest of a class of people when this class is subject to a possible increase or decrease in number.

SUB JUDICE

sub judice (s<<schwa>>b joo-di-see also suub yoo-di-kay), adv.[Latin “under a judge”] Before the court or judge for determination; at bar <in the case sub judice, there have been no out-of-court settlements>. • Legal writers sometimes use “case sub judice” where “the present case” would be more comprehensible.

SUBJUGATION

subjugation. See DEBELLATIO.

SUBLEASE

sublease,n. A lease by a lessee to a third party, conveying some or all of the leased property for a shorter term than that of the lessee, who retains a reversion in the lease. — Also termed subtenancy; derivative lease; and (esp. in England) underlease. [Cases: Landlord and Tenant 80.C.J.S. Landlord and Tenant § 46.] — sublease, sublet,vb.

SUBLESSEE

sublessee. A third party who receives by lease some or all of the leased property from a lessee. — Also termed subtenant; (esp. in England) undertenant. [Cases: Landlord and Tenant 80. C.J.S. Landlord and Tenant § 46.]

SUBLESSOR

sublessor. A lessee who leases some or all of the leased property to a third party. — Also termed (esp. in England) underlessor. [Cases: Landlord and Tenant 80. C.J.S. Landlord and Tenant § 46.]

SUBLICENSE

sublicense. A license granting a portion or all of the rights granted to the licensee under an original license.

SUBMARINE PATENT

submarine patent.See PATENT(3).

SUBMISSION

submission,n.1. A yielding to the authority or will of another <his resistance ended in an

about-face: complete submission>.2. A contract in which the parties agree to refer their dispute to a third party for resolution <in their submission to arbitration, they referred to the rules of the American Arbitration Association>. [Cases: Arbitration 11.5–17. C.J.S. Arbitration §§ 7, 9, 14–15, 17–24, 26, 47–57, 184.] 3. An advocate's argument <neither the written nor the oral submissions were particularly helpful>. — submit,vb.

SUBMISSION BOND

submission bond.See BOND(2).

SUBMISSION DATE

submission date.See DATE.

SUBMISSION OF CONTROVERSY

submission of controversy.A statutory action in which the parties submit their dispute to a court that has jurisdiction, agree on and sign a statement of facts, swear that the controversy is real, and swear that the suit is brought in good faith.

SUBMISSION TO A FINDING

submission to a finding.The admission to facts sufficient to warrant a finding of guilt. — Also termed admission to sufficient facts.

SUBMISSION TO THE JURY

submission to the jury.The process by which a judge gives a case to the jury for its consideration and verdict, usu. after all evidence has been presented, arguments have been completed, and jury instructions have been given.

SUBMIT

submit,vb. To end the presentation of further evidence in (a case) and tender a legal position for decision <case submitted, Your Honor>.

SUB MODO

sub modo (s<<schwa>>b moh-doh). [Latin] Subject to conditions or qualifications <the riparian landowner enjoys the property sub modo, i.e., subject to the right of the public to reserve enough space for levees, public roads, and the like>.

SUBMORTGAGE

submortgage. A mortgage created when a person holding a mortgage as security for a loan procures another loan from a third party and pledges the mortgage as security; a loan to a mortgagee who puts up the mortgage as collateral or security for the loan.

SUB NOMINE

sub nomine (s<<schwa>>b nom-<<schwa>>-nee). [Latin] Under the name. • This phrase, typically in abbreviated form, is often used in a case citation to indicate that there has been a name

change from one stage of the case to another, as in *Guernsey Memorial Hosp. v. Secretary of Health and Human Servs.*, 996 F.2d 830 (6th Cir. 1993), rev'd sub nom. *Shalala v. Guernsey Memorial Hosp.*, 514 U.S. 87, 115 S.Ct. 1232 (1995). — Abbr. sub nom.

SUBNOTATION

subnotation. RESCRIPT(3).

SUBORDINATE

subordinate (s<<schwa>>-bor-d<<schwa>>-nit), adj. 1. Placed in or belonging to a lower rank, class, or position <a subordinate lien>. 2. Subject to another's authority or control <a subordinate lawyer>.

subordinate (s<<schwa>>-bor-d<<schwa>>-nayt), vb. To place in a lower rank, class, or position; to assign a lower priority to <subordinate the debt to a different class of claims>.

SUBORDINATED BOND

subordinated bond. See junior bond under BOND(3).

SUBORDINATE DEBENTURE

subordinate debenture. See DEBENTURE.

SUBORDINATE DEBT

subordinate debt. See DEBT.

SUBORDINATE LEGISLATION

subordinate legislation. See LEGISLATION.

SUBORDINATE OFFICER

subordinate officer. See OFFICER(1).

SUBORDINATE POLITICAL POWER

subordinate political power. See POLITICAL POWER.

SUBORDINATION

subordination, n. 1. The act or an instance of moving something (such as a right or claim) to a lower rank, class, or position <subordination of a first lien to a second lien>. [Cases: Secured Transactions 147. C.J.S. Secured Transactions § 108.] 2. Parliamentary law. The status and relation of a lower-ranking governing document to a higher-ranking one. • A higher-ranking document supersedes and controls a subordinate document if there is any inconsistency between them. See governing document under DOCUMENT. — subordinate, adj.

SUBORDINATION AGREEMENT

subordination agreement. See AGREEMENT.

SUBORDINATION CLAUSE

subordination clause.1. In a governing document, a clause that explicitly subjects its provisions to those in a higher-ranking document. 2. A covenant in a junior mortgage enabling the first lien to keep its priority in case of renewal or refinancing. [Cases: Mortgages 159. C.J.S. Mortgages §§ 204, 207, 213, 215.]

SUBORN

suborn (s<<schwa>>-born), vb.1. To induce (a person) to commit an unlawful or wrongful act, esp. in a secret or underhanded manner. 2. To induce (a person) to commit perjury. 3. To obtain (perjured testimony) from another. — subornation (s<<schwa>>b-or-nay-sh<<schwa>>n), n. — suborner (s<<schwa>>-bor-n<<schwa>>r), n.

SUBORNATION OF PERJURY

subornation of perjury.The crime of persuading another to commit perjury. — Sometimes shortened to subornation. [Cases: Perjury 13. C.J.S. Perjury §§ 53–54.]

SUBPARAGRAPH FORM

subparagraph form.A style of legal drafting that uses an indented subparagraph for each enumerated item; esp., a style of drafting patent claims in this form. — Also termed tabular form. Cf. COLON–SEMICOLON FORM; OUTLINE FORM; SINGLE-PARAGRAPH FORM.

SUBPARTNERSHIP

subpartnership. See PARTNERSHIP.

SUB PEDE SIGILLI

sub pede sigilli (s<<schwa>>b pee-dee si-jil-I). [Latin] Under the foot of the seal.

SUBPENA

subpena. See SUBPOENA.

SUBPERMITTEE

subpermittee. See PERMITTEE.

SUBPOENA

subpoena (s<<schwa>>-pee-n<<schwa>>), n.[Latin “under penalty”] A writ commanding a person to appear before a court or other tribunal, subject to a penalty for failing to comply. — Also spelled subpena. [Cases: Witnesses 7. C.J.S. Witnesses §§ 20–22, 25.] Pl. subpoenas.

alias subpoena (ay-lee-<<schwa>>s s<<schwa>>-pee-n<<schwa>>). A subpoena issued after an initial subpoena has failed.

deposition subpoena. 1. A subpoena issued to summon a person to make a sworn statement in a time and place other than a trial. 2. In some jurisdictions, a subpoena duces tecum.

subpoena ad testificandum (s<<schwa>>-pee-n<<schwa>> ad tes-t<<schwa>>-fi-kan-d<<schwa>>m). [Law Latin] A subpoena ordering a witness to appear and give testimony. [Cases: Witnesses 7. C.J.S. Witnesses §§ 20–22, 25.]

subpoena duces tecum (s<<schwa>>-pee-n<<schwa>> d[y]oo-seez tee-k<<schwa>>m alsodoo-s<<schwa>>z tay-k<<schwa>>m). [Law Latin] A subpoena ordering the witness to appear and to bring specified documents, records, or things. — Also termed deposition subpoena duces tecum. [Cases: Witnesses 16. C.J.S. Witnesses §§ 21, 32–52.]

subpoena, vb. 1. To call before a court or other tribunal by subpoena <subpoena the material witnesses>. [Cases: Witnesses 7. C.J.S. Witnesses §§ 20–22, 25.] 2. To order the production of (documents or other things) by subpoena duces tecum <subpoena the corporate records>. — Also spelled subpena. [Cases: Witnesses 16. C.J.S. Witnesses §§ 21, 32–52.]

SUBPOENAL

subpoenal (s<<schwa>>-pee-n<<schwa>>l), adj. Required or done under penalty, esp. in compliance with a subpoena.

SUB POTESTATE

sub potestate (s<<schwa>>b poh-tes-tay-tee). [Latin] Under the power of another, as in a child or other person not sui juris. Cf. SUI JURIS.

SUB POTESTATE PARENTIS

sub potestate parentis (s<<schwa>>b poh-tes-tay-tee p<<schwa>>-ren-tis). [Latin] Hist. Under the protection of a parent.

SUB POTESTATE VIRI

sub potestate viri. Hist. (Of a wife) under the protection of a husband.

SUBREPTIO

subreptio (s<<schwa>>b-rep-shee-oh), n. [Latin “surreptitious removal”] Roman law. 1. Theft. 2. The obtaining of a grant from the emperor under false pretenses. — Also termed (in French law) subreption. Pl. subreptiones (s<<schwa>>b-rep-shee-oh-nee-z).

SUBREPTIONE VEL OBREPTIONE

subreptione vel obreptione (s<<schwa>>b-rep-shee-oh-nee vel ob-rep-shee-oh-nee), adv. [Latin] Hist. By deceit or surprise.

SUBROGATE

subrogate (s<<schwa>>b-r<<schwa>>-gayt), vb. To substitute (a person) for another regarding a legal right or claim. [Cases: Subrogation 1. C.J.S. Subrogation §§ 2–15, 19, 91.]

SUBROGATION

subrogation (s<<schwa>>b-r<<schwa>>-gay-sh<<schwa>>n), n. 1. The substitution of one

party for another whose debt the party pays, entitling the paying party to rights, remedies, or securities that would otherwise belong to the debtor. • For example, a surety who has paid a debt is, by subrogation, entitled to any security for the debt held by the creditor and the benefit of any judgment the creditor has against the debtor, and may proceed against the debtor as the creditor would. [Cases: Subrogation 1, 33. C.J.S. Subrogation §§ 2–15, 19, 91.] 2. The equitable remedy by which such a substitution takes place. 3. The principle under which an insurer that has paid a loss under an insurance policy is entitled to all the rights and remedies belonging to the insured against a third party with respect to any loss covered by the policy. See EQUITY OF SUBROGATION; ANTISUBROGATION RULE. [Cases: Insurance 3509, 3513.]

“Subrogation is equitable assignment. The right comes into existence when the surety becomes obligated, and this is important as affecting priorities; but such right of subrogation does not become a cause of action until the debt is fully paid. Subrogation entitles the surety to use any remedy against the principal which the creditor could have used, and in general to enjoy the benefit of any advantage that the creditor had, such as a mortgage, lien, power to confess judgment, to follow trust funds, to proceed against a third person who has promised either the principal or the creditor to pay the debt.” Laurence P. Simpson, *Handbook on the Law of Suretyship* 205 (1950).

“Subrogation simply means substitution of one person for another; that is, one person is allowed to stand in the shoes of another and assert that person's rights against the defendant. Factually, the case arises because, for some justifiable reason, the subrogation plaintiff has paid a debt owed by the defendant.” Dan B. Dobbs, *Law of Remedies* § 4.3, at 404 (2d ed. 1993).

conventional subrogation. Subrogation that arises by contract or by an express act of the parties. [Cases: Subrogation 27. C.J.S. Subrogation §§ 4–5, 22.]

legal subrogation. Subrogation that arises by operation of law or by implication in equity to prevent fraud or injustice. • Legal subrogation usu. arises when (1) the paying party has a liability, claim, or fiduciary relationship with the debtor, (2) the party pays to fulfill a legal duty or because of public policy, (3) the paying party is a secondary debtor, (4) the paying party is a surety, or (5) the party pays to protect its own rights or property. — Also termed equitable subrogation. [Cases: Subrogation 1–25. C.J.S. Subrogation §§ 2–16, 18–19, 23–63, 68–76, 83–86, 88–91.]

SUBROGATION CLAUSE

subrogation clause. Oil & gas. A provision in an oil-and-gas lease permitting the lessee to pay taxes, mortgages, or other encumbrances on the leased property and to recover those payments out of future proceeds under the lease.

SUBROGATIVE

subrogative (s<<schwa>>b-r<<schwa>>-gay-tiv), adj. Of or relating to subrogation <subrogative rights>. — Also termed subrogatory; subrogational.

SUBROGEE

subrogee (s<<schwa>>b-r<<schwa>>-jee). One who is substituted for another in having a

right, duty, or claim. • An insurance company frequently becomes a subrogee after paying a policy claim, as a result of which it is then in a position to sue a tortfeasor who injured the insured or otherwise caused harm.

SUBROGOR

subrogor (s<<schwa>>b-r<<schwa>>-gor). One who allows another to be substituted for oneself as creditor, with a transfer of rights and duties.

SUB ROSA

sub rosa (s<<schwa>>b roh-z<<schwa>>), adj.[Latin “under the rose”] Hist. Confidential; secret; not for publication.

SUB SALVO ET SECURO CONDUCTU

sub salvo et securo conductu (s<<schwa>>b sal-voh et si-kyoor-oh k<<schwa>>n-d<<schwa>>k-t[y]oo). [Law Latin] Hist. Under safe and secure conduct. • This phrase was used in writs of habeas corpus.

SUBSCRIBED CAPITAL

subscribed capital.See CAPITAL.

SUBSCRIBED STOCK

subscribed stock.See STOCK.

SUBSCRIBING WITNESS

subscribing witness.See WITNESS.

SUBSCRIPTIO

subscriptio (s<<schwa>>b-skrip-shee-oh), n.[Latin] Roman law. 1. A signature, esp. a name written under or at the bottom of a document to authenticate it; an imperial rescript. 2. A signature to a will, required in certain cases in addition to the seals of witnesses. Pl. subscriptions (s<<schwa>>b-skrip-shee-oh-neeZ).

SUBSCRIPTION

subscription,n.1. The act of signing one's name on a document; the signature so affixed. 2.Securities. A written contract to purchase newly issued shares of stock or bonds. — Also termed (in connection with stock) stock subscription. [Cases: Corporations 75.1.] 3. An oral or a written agreement to contribute a sum of money or property, gratuitously or with consideration, to a specific person or for a specific purpose. — Also termed subscription contract. 4.RESCRIPT(3). [Cases: Subscriptions 1.C.J.S. Subscriptions § 2.] — subscribe,vb. — subscriber,n.

SUBSCRIPTION CONTRACT

subscription contract.See SUBSCRIPTION(3).

SUBSCRIPTION LIST

subscription list. An enumeration of subscribers to an agreement, periodical, or service.

SUBSCRIPTION PRICE

subscription price. The price at which investors can buy shares in a new stock offering before the shares are offered to the public. [Cases: Corporations 75, 158. C.J.S. Corporations §§ 133–137, 184, 205, 209–211.]

SUBSCRIPTION PRIVILEGE

subscription privilege. See PREEMPTIVE RIGHT.

SUBSCRIPTION RIGHT

subscription right. A certificate evidencing a shareholder's right (known as a preemptive right) to purchase newly issued stock before the stock is offered to the public. • Subscription rights have a market value and are actively traded because they allow the holder to purchase stock at favorable prices. — Also termed stock right. See PREEMPTIVE RIGHT. [Cases: Corporations 78, 158. C.J.S. Corporations §§ 133–137, 188, 192.]

SUBSCRIPTION WARRANT

subscription warrant. See WARRANT(4).

SUBSCRIPTOR

subscriptor (s<<schwa>>b-skrip-tor or -t<<schwa>>r), n. [Latin] Roman law. 1. A person who made or signed a written accusation of crime against a particular person. 2. The witness to a will. Pl. subscriptores.

SUBSELLIA

subsellia (s<<schwa>>b-sel-ee-<<schwa>>), n. [Latin fr. sub “under” + sella “seat”] Roman law. Lower seats in a court, usu. occupied by the parties or their witnesses, as distinguished from the seat of the tribunal.

SUBSEQUENT

subsequent, adj. (Of an action, event, etc.) occurring later; coming after something else.

SUBSEQUENT-ADVANCE RULE

subsequent-advance rule. Bankruptcy. The principle that a preferential transfer by the debtor will not be avoided or rescinded by the debtor's bankruptcy trustee if (1) the creditor extended new value to the debtor after receiving the preferential transfer, (2) the new value is unsecured, and (3) the new value remains unpaid after its transfer. 11 USCA § 547(c)(4). [Cases: Bankruptcy 2613(4).]

SUBSEQUENT CREDITOR

subsequent creditor. See CREDITOR.

SUBSEQUENTE COPULA

subsequente copula (s<<schwa>>b-si-kwen-tee kop-y<<schwa>>-l<<schwa>>). [Law Latin] Hist. Carnal intercourse having followed.

SUBSEQUENT NEGLIGENCE

subsequent negligence. See NEGLIGENCE.

SUBSEQUENT-NEGLIGENCE DOCTRINE

subsequent-negligence doctrine. See LAST-CLEAR-CHANCE DOCTRINE.

SUBSEQUENT REMEDIAL MEASURE

subsequent remedial measure. (usu. pl.) Evidence. An action taken after an event, which, if taken before the event, would have reduced the likelihood of the event's occurrence. • Evidence of subsequent remedial measures is not admissible to prove negligence, but it may be admitted to prove ownership, control, feasibility, or the like. Fed. R. Evid. 407. [Cases: Evidence 219.10. C.J.S. Evidence § 387.]

SUBSERVANT

subservant. See subagent under AGENT(2).

SUBSIDENCE

subsidence (s<<schwa>>b-sId-<<schwa>>n[t]s), n. Any movement of the soil from its natural position; esp., a sinking of soil.

SUBSIDIARIE

subsidiarie (s<<schwa>>b-sid-ee-air-ee-ee). [Law Latin] Scots law. Subsidiarily.

SUBSIDIARY

subsidiary (s<<schwa>>b-sid-ee-er-ee), adj. Subordinate; under another's control. See subsidiary corporation under CORPORATION.

subsidiary, n. See subsidiary corporation under CORPORATION.

SUBSIDIARY CORPORATION

subsidiary corporation. See CORPORATION.

SUBSIDIARY MERGER

subsidiary merger. See triangular merger under MERGER.

SUBSIDIARY MOTION

subsidiary motion. See MOTION(2).

SUBSIDY

subsidy (s<<schwa>>b-s<<schwa>>-dee), n.1. A grant, usu. made by the government, to any enterprise whose promotion is considered to be in the public interest. • Although governments sometimes make direct payments (such as cash grants), subsidies are usu. indirect. They may take the form of research-and-development support, tax breaks, provision of raw materials at below-market prices, or low-interest loans or low-interest export credits guaranteed by a government agency. — Also termed grant. [Cases: United States 82(1). C.J.S. United States §§ 155, 158.] 2. A specific financial contribution by a foreign government or public entity conferring a benefit on exporters to the United States. • Such a subsidy is countervailable under 19 USCA §§ 1671, 1677. [Cases: Customs Duties 21.5(2).]

countervailable subsidy (kown-t<<schwa>>r-vayl-<<schwa>>-b<<schwa>>l). A foreign government's subsidy on the manufacture of goods exported to another country, giving rise to the importing country's entitlement to impose a countervailing duty on the goods if their import caused or threatens to cause material injury to domestic industry. See countervailing duty under DUTY(4). [Cases: Customs Duties 21.5(2).]

3.Int'l law. Financial assistance given by one nation to another to preserve the receiving nation's neutrality or to support it in a war, even if the donor nation does not directly participate. — subsidize,vb.

SUB SIGILLO

sub sigillo (s<<schwa>>b si-jil-oh). [Latin “under the seal (of confession)”] Hist. In the strictest confidence.

SUB SILENTIO

sub silentio (s<<schwa>>b si-len-shee-oh). [Latin] Under silence; without notice being taken; without being expressly mentioned (such as precedent sub silentio).

SUBSISTENCE

subsistence. Support; means of support. See NECESSARIES.

SUB SPE RECONCILIATIONIS

sub spe reconciliationis (s<<schwa>>b spee rek-<<schwa>>n-sil-ee-ay-shee-oh-nis). [Latin] Hist. Under the hope of reconciliation.

SUBSTANCE

substance. 1. The essence of something; the essential quality of something, as opposed to its mere form <matter of substance>.2. Any matter, esp. an addictive drug <illegal substance> <abuse of a substance>.

SUBSTANCE-ABUSE EVALUATION AND TREATMENT

substance-abuse evaluation and treatment.A drug offender's court-ordered participation in a

drug rehabilitation program. • This type of treatment is esp. common in DUI cases. — Abbr. SAET.

SUBSTANTIAL-CAPACITY TEST

substantial-capacity test.Criminal law. The Model Penal Code's test for the insanity defense, stating that a person is not criminally responsible for an act if, as a result of a mental disease or defect, the person lacks substantial capacity either to appreciate the criminality of the conduct or to conform the conduct to the law. • This test combines elements of both the McNaghten rules and the irresistible-impulse test by allowing consideration of both volitional and cognitive weaknesses. This test was formerly used by the federal courts and many states, but since 1984 many jurisdictions (including the federal courts) — in response to the acquittal by reason of insanity of would-be presidential assassin John Hinckley — have narrowed the insanity defense and adopted a new test resembling the McNaghten rules, although portions of the substantial-capacity test continue to be used. Model Penal Code § 4.01. — Also termed Model Penal Code test; MPC test; American Law Institute test; ALI test. See INSANITY DEFENSE. [Cases: Criminal Law 48.]

SUBSTANTIAL-CERTAINTY TEST

substantial-certainty test.Copyright. The test for deciding whether a second work was copied from the first. • The question is whether a reasonable observer would conclude with substantial certainty that the second work is a copy. [Cases: Copyrights and Intellectual Property 53(1).]

SUBSTANTIAL CHANGE IN CIRCUMSTANCES

substantial change in circumstances.See CHANGE IN CIRCUMSTANCES.

SUBSTANTIAL-COMPLIANCE RULE

substantial-compliance rule.See SUBSTANTIAL-PERFORMANCE DOCTRINE.

SUBSTANTIAL-CONTINUITY DOCTRINE

substantial-continuity doctrine.A principle for holding a successor corporation liable for the acts of its predecessor corporation, if the successor maintains the same business as the predecessor, with the same employees, doing the same jobs, for the same supervisors, under the same working conditions, and using the same production processes to produce the same products for the same customers. — Also termed continuity-of-enterprise doctrine. Cf. MERE-CONTINUATION DOCTRINE. [Cases: Corporations 445.1. C.J.S. Corporations § 657.]

SUBSTANTIAL DAMAGES

substantial damages.See DAMAGES.

SUBSTANTIAL EQUIVALENT

substantial equivalent.Patents. The same essential thing as the patented item, so that if two devices perform substantially the same function in substantially the same way to achieve the same result, they are equivalent even though they differ in name, form, or shape. — Also termed substantial equivalent of a patented device. [Cases: Patents 237. C.J.S. Patents §§ 425–426.]

SUBSTANTIAL ERROR

substantial error. See ERROR(2).

SUBSTANTIAL EVIDENCE

substantial evidence. See EVIDENCE.

SUBSTANTIAL-EVIDENCE JURISDICTION

substantial-evidence jurisdiction. See significant-connection jurisdiction under JURISDICTION.

SUBSTANTIAL-EVIDENCE RULE

substantial-evidence rule. The principle that a reviewing court should uphold an administrative body's ruling if it is supported by evidence on which the administrative body could reasonably base its decision. [Cases: Administrative Law and Procedure 791. C.J.S. Public Administrative Law and Procedure §§ 213, 237–238.]

SUBSTANTIAL-FACTOR TEST

substantial-factor test. Torts. The principle that causation exists when the defendant's conduct is an important or significant contributor to the plaintiff's injuries. Cf. BUT-FOR TEST. [Cases: Negligence 380.]

SUBSTANTIAL JUSTICE

substantial justice. See JUSTICE(1).

SUBSTANTIALLY JUSTIFIED

substantially justified. (Of conduct, a position, etc.) having a reasonable basis in law and in fact. • Under the Equal Access to Justice Act, a prevailing party in a lawsuit against the government will be unable to recover its attorney's fees if the government's position is substantially justified. [Cases: United States 147(10).]

SUBSTANTIAL NEW QUESTION OF PATENTABILITY

substantial new question of patentability. Patents. The statutory threshold required for the Commissioner for Patents to order that a patent's validity be reexamined. • The U.S. Patent and Trademark Office is not authorized to reopen an examination based solely on prior art and issues that came up during the original examination. 35 USCA §§ 303–304. [Cases: Patents 136. C.J.S. Patents § 238.]

SUBSTANTIAL NONINFRINGEMENT USE

substantial noninfringing use. See COMMERCIALLY SIGNIFICANT NONINFRINGEMENT USE.

SUBSTANTIAL PERFORMANCE

substantial performance.See PERFORMANCE.

SUBSTANTIAL-PERFORMANCE DOCTRINE

substantial-performance doctrine.The rule that if a good-faith attempt to perform does not precisely meet the terms of an agreement or statutory requirements, the performance will still be considered complete if the essential purpose is accomplished, subject to a claim for damages for the shortfall. • Under the Uniform Probate Code, a will that is otherwise void because some formality has not been followed may still be valid under the substantial-performance doctrine. But this rule is not widely followed. — Also termed substantial-compliance rule. Cf. PERFECT-TENDER RULE. [Cases: Contracts 294. C.J.S. Contracts §§ 433, 589.]

“There has arisen in the United States an indefinite doctrine sometimes referred to as that of substantial performance. It is a doctrine that deals not with performance of a duty as a discharge thereof but with performance by the plaintiff as a condition precedent to the active duty of performance by the defendant. Where a defendant is sued for non-performance he cannot avoid paying damages by showing that he substantially performed or came near performing or gave something equally good; but he can always successfully defend if in fact some condition precedent to his own duty has not been fulfilled by the plaintiff.” William R. Anson, *Principles of the Law of Contract* 422 (Arthur L. Corbin ed., 3d Am. ed. 1919).

SUBSTANTIAL POSSESSION

substantial possession.See *pedis possessio* under POSSESSIO.

SUBSTANTIAL RIGHT

substantial right.See RIGHT.

SUBSTANTIAL SIMILARITY

substantial similarity.See SIMILARITY.

SUBSTANTIAL-STEP TEST

substantial-step test.Criminal law. The Model Penal Code's test for determining whether a person is guilty of attempt, based on the extent of the defendant's preparation for the crime, the criminal intent shown, and any statements personally made that bear on the defendant's actions. Model Penal Code § 5.01(1)(c). See ATTEMPT. [Cases: Criminal Law 44. C.J.S. Criminal Law §§ 114–123.]

SUBSTANTIATE

substantiate,vb. To establish the existence or truth of (a fact, etc.), esp. by competent evidence; to verify.

SUBSTANTIVE CONSOLIDATION

substantive consolidation.See CONSOLIDATION.

SUBSTANTIVE CRIME

substantive crime. See substantive offense under OFFENSE(1).

SUBSTANTIVE DUE PROCESS

substantive due process. See DUE PROCESS.

SUBSTANTIVE EVIDENCE

substantive evidence. See EVIDENCE.

SUBSTANTIVE EXAMINATION

substantive examination. Patents. A patent examiner's in-depth study of a patent application to determine whether a patent should be granted.

SUBSTANTIVE FELONY

substantive felony. See substantive offense under OFFENSE(1).

SUBSTANTIVE LAW

substantive law (s<<schwa>>b-st<<schwa>>n-tiv). The part of the law that creates, defines, and regulates the rights, duties, and powers of parties. Cf. PROCEDURAL LAW.

“So far as the administration of justice is concerned with the application of remedies to violated rights, we may say that the substantive law defines the remedy and the right, while the law of procedure defines the modes and conditions of the application of the one to the other.” John Salmond, *Jurisprudence* 476 (Glanville L. Williams ed., 10th ed. 1947).

SUBSTANTIVE MAIN MOTION

substantive main motion. See original main motion under MOTION(2).

SUBSTANTIVE MOTION

substantive motion. See original main motion under MOTION(2).

SUBSTANTIVE OFFENSE

substantive offense. See OFFENSE(1).

SUBSTANTIVE RIGHT

substantive right. See RIGHT.

SUBSTANTIVE RULE

substantive rule. See LEGISLATIVE RULE.

SUBSTANTIVE UNCONSCIONABILITY

substantive unconscionability. See UNCONSCIONABILITY.

SUBSTITUTE

substitute,n.1. One who stands in another's place <a substitute for a party>. See SUBSTITUTION OF PARTIES; SUBROGATION. 2.Civil law. A person named in a will as heir to an estate after the estate has been held and then passed on by another specified person (called the institute). See INSTITUTE(5).3.Parliamentary law. A form of the motion to amend by replacing one or more words with others. See amendment by substituting under AMENDMENT(3).4.Scots law. A deputy. — substitute,vb.

SUBSTITUTE AMENDMENT

substitute amendment.See AMENDMENT(3).

SUBSTITUTE APPLICATION

substitute application.See PATENT APPLICATION.

SUBSTITUTED AGREEMENT

substituted agreement.See NOVATION.

SUBSTITUTED BASIS

substituted basis.See BASIS.

SUBSTITUTED COMPLAINT

substituted complaint.See amended complaint under COMPLAINT.

SUBSTITUTED CONTRACT

substituted contract.See CONTRACT.

SUBSTITUTED EXECUTOR

substituted executor.See EXECUTOR.

SUBSTITUTED-JUDGMENT DOCTRINE

substituted-judgment doctrine.A principle that allows a surrogate decision-maker to attempt to establish, with as much accuracy as possible, what decision an incompetent patient would make if he or she were competent to do so. • The standard of proof is by clear and convincing evidence. Generally, the doctrine is used for a person who was once competent but no longer is. — Also termed doctrine of substituted judgment. Cf. FAITH-HEALING EXEMPTION; medical neglect under NEGLIGENCE. [Cases: Health 910.]

SUBSTITUTE DRAWING

substitute drawing.See DRAWING.

SUBSTITUTED SERVICE

substituted service.See SERVICE(2).

SUBSTITUTE GIFT

substitute gift. See GIFT.

SUBSTITUTE INFORMATION IN LIEU OF INDICTMENT

substitute information in lieu of indictment. See INFORMATION.

SUBSTITUTE OBLIGATION

substitute obligation. See OBLIGATION.

SUBSTITUTE SPECIFICATION

substitute specification. See SPECIFICATION.

SUBSTITUTIO HEREDIS

substitutio heredis (s<<schwa>>b-st<<schwa>>-t[y]oo-shee-oh h<<schwa>>-ree-dis). [Latin] Roman law. 1. SUBSTITUTION(3). 2. SUBSTITUTION(4).

SUBSTITUTION

substitution. 1. A designation of a person or thing to take the place of another person or thing. 2. The process by which one person or thing takes the place of another person or thing. [Cases: Federal Civil Procedure 351; Parties 57. C.J.S. Parties §§ 76–78.] 3. Parliamentary law. An amendment by replacing one or more words with others. See amendment by substituting under AMENDMENT(3). 4. Roman law. The nomination of a person to take the place of a previously named heir who has refused or failed to accept an inheritance. — Also termed common substitution; vulgar substitution. 5. Roman law. The nomination of a person to take the place of, or to succeed, a descendant who is under the age of puberty and in the potestas of the testator, if the descendant has died before reaching puberty. • This type of substitution was known as a pupillary substitution. If a descendant of any age failed to take by reason of lunacy, the substitution was known as an exemplary substitution or quasi-pupillary substitution. 6. Roman law. A testator's designation of a person to whom the property was to be given by the person named as heir, or by the heir of that person. — Also termed fideicommissary substitution. See FIDEICOMMISSUM. 7. Civil law. The designation of a person to succeed another as beneficiary of an estate, usu. involving a fideicommissum. — Also termed fideicommissary substitution. [Cases: Wills 553. C.J.S. Wills §§ 1071, 1076.]

prohibited substitution. Louisiana law. The designation of a person who is not a trustee to take full ownership of property and deliver it to another designated person at death. • The first donee is called the institute, the second the substitute. See INSTITUTE(5); SUBSTITUTE(2).

SUBSTITUTIONAL

substitutional, adj. Capable of taking or supplying the position of another < substitutional executor> < substitutional issue>. — Also termed substitutionary.

SUBSTITUTIONAL GIFT

substitutional gift. See substitute gift under GIFT.

SUBSTITUTIONAL LEGACY

substitutional legacy. See LEGACY.

SUBSTITUTIONAL REMEDY

substitutional remedy.

SUBSTITUTIONARY

substitutionary. See SUBSTITUTIONAL.

SUBSTITUTIONARY EVIDENCE

substitutionary evidence. See secondary evidence under EVIDENCE.

SUBSTITUTIONARY REMEDY

substitutionary remedy. See REMEDY.

SUBSTITUTION-OF-JUDGMENT DOCTRINE

substitution-of-judgment doctrine. Administrative law. The standard for reviewing an agency's decision, by which a court uses its own independent judgment in interpreting laws and administrative regulations — rather than deferring to the agency — when the agency's interpretation is not instructive or the regulations do not involve matters requiring the agency's expertise. [Cases: Administrative Law and Procedure 760, 784, 796. C.J.S. Public Administrative Law and Procedure §§ 230, 242, 244.]

SUBSTITUTION OF PARTIES

substitution of parties. The replacement of one litigant by another because of the first litigant's death, incompetency, transfer of interest, or, when the litigant is a public official, separation from office.

SUBSTRACTION

subtraction (s<<schwa>>b-strak-sh<<schwa>>n), n. The secret misappropriation of property, esp. from a decedent's estate.

SUBSUME

subsume (s<<schwa>>b-s[y]oom), vb. To judge as a particular instance governed by a general principle; to bring (a case) under a broad rule. — subsumption (s<<schwa>>b-s<<schwa>>mp-sh<<schwa>>n), n.

SUB SUO PERICULO

sub suo periculo (s<<schwa>>b s[y]oo-oh p<<schwa>>-rik-[y]<<schwa>>-loh). [Law Latin] Hist. At his own risk.

SUBSURETY

subsurety (s<<schwa>>b-shuur[-<<schwa>>]-tee). A person whose undertaking is given as additional security, usu. conditioned not only on nonperformance by the principal but also on nonperformance by an earlier promisor as well; a surety with the lesser liability in a subsuretyship. [Cases: Principal and Surety 191. C.J.S. Principal and Surety §§ 259–262, 265, 290.]

SUBSURETYSHIP

subsuretyship (s<<schwa>>b-shuur[-<<schwa>>]-tee-ship). The relation between two (or more) sureties, in which a principal surety bears the burden of the whole performance that is due from both sureties; a relationship in which one surety acts as a surety for another. [Cases: Principal and Surety 191. C.J.S. Principal and Surety §§ 259–262, 265, 290.]

SUBSURFACE INTEREST

subsurface interest. 1. A landowner's right to the minerals and water below the property. [Cases: Mines and Minerals 47; Waters and Water Courses 100–101. C.J.S. Mines and Minerals §§ 140, 142; Waters §§ 92, 193–197, 199–206.] 2. A similar right held by another through grant by, or purchase from, a landowner. Cf. SURFACE INTEREST; MINERAL INTEREST .

SUBTENANCY

subtenancy. See SUBLEASE.

SUBTENANT

subtenant. See SUBLESSEE.

SUBTERFUGE

subterfuge (s<<schwa>>b-t<<schwa>>r-fyooj). A clever plan or idea used to escape, avoid, or conceal something <a subterfuge to avoid liability under a statute>.

SUBTERFUGE ARREST

subterfuge arrest. See ARREST.

SUBTERRANEAN WATER

subterranean water. See WATER.

SUBTRACTION

subtraction. 1. The process of deducting one number from another number to determine the difference. 2. Hist. The act of neglecting a duty or service that one party owes to another, esp. one that arises out of land tenure.

“Subtraction, which is the fifth species of injuries affecting a man's real property, happens, when any person who owes any suit, duty, custom, or service to another, withdraws or neglects to perform it. It differs from a disseisin, in that this is committed without any denial of the right, consisting merely in non-performance; that strikes at the very title of the party injured, and amounts to an ouster or actual dispossession. Subtraction however, being clearly an injury, is

remediable by due course of law: but the remedy differs according to the nature of the services; whether they be due by virtue of any tenure, or by custom only.” 3 William Blackstone, Commentaries on the Laws of England 230 (1768).

SUBTRACTION OF CONJUGAL RIGHTS

subtraction of conjugal rights.Hist. The act of a husband and wife unlawfully living apart.

SUBTRAHEND

subtrahend (s<<schwa>>b-tr<<schwa>>-hend). In a mathematical equation, the amount subtracted from another number (the minuend) to arrive at a remainder or balance. • The term is used in law in a variety of accounting contexts. Cf. MINUEND.

SUBURBANI

suburbani (s<<schwa>>b-<<schwa>>r-bay-nl), n.[Latin] Hist. Husbandmen.

SUBVENTION

subvention (s<<schwa>>b-ven-sh<<schwa>>n). A grant of financial aid or assistance; a subsidy. [Cases: United States 82. C.J.S. United States § 155.]

SUBVERSION

subversion. The process of overthrowing, destroying, or corrupting <subversion of legal principles> <subversion of the government>.

“Subversion can succeed where diplomacy has failed. Subversion exceeds the bounds of diplomacy in that it employs methods which diplomacy abhors; it does not wince at assassination, riot, pillage, and arson, if it believes these to be useful in the attainment of its ends. Subversion is a form of war. It may include the use of propaganda ... to sway the thinking and action of influential social groups, especially attempting to discredit the leadership of the target area, labeling it as the ‘tool’ of ... any convenient target for emotional hatred. By inflaming passion, the purveyors of violent propaganda can stir up peaceful citizens so that in minutes they are transformed into a terrifying mob. The art of subversion has developed the technique of the manipulation of mobs to a high degree.” T. Wyckoff, War by Subversion, 59 S. Atlantic Q. 36 (1960).

“Prior to World War II, subversive activities were thought to cover cases where states attempted to achieve certain political ends of fomenting civil strife in another state or by supporting rebellion against the legally established government of another state by giving to the rebels supplies of personnel, training facilities, war materials, or munitions and by engaging in hostile propaganda against the victim state and its government.... By the beginning of World War II, the concept of subversion had been expanded to include the attempt of one state to weaken or overthrow the government of another by means of infiltration of its governmental apparatus with conspirators who strongly opposed the domestic policy of their own government and willingly served as clandestine instruments in the conduct of an alien state's foreign policy. But with increased militancy of modern ideologies, ... subversive activities are no longer seen in many

quarters as advancing the foreign policy of a nation or nations, but rather are thought to advance universal human values, i.e., the specific ideological theory adhered to." Ann Van Wynen Thomas & A.J. Thomas Jr., *The Concept of Aggression in International Law* 72–73 (1972).

"Today, the term subversion designates all illegal activities, whether direct or indirect, overt or covert, conducted under the auspices of a state and designed to overthrow the established government or vitally disrupt the public order of another state. Subversion combines psychological, political, social, and economic actions, as well as active military or paramilitary operations, and it is generally a sustained, long-run, intermeshed, and coordinated process. Consequently, it is usually impossible to place acts of subversion into neat little categorical definitions. Subversion, being a technique of opportunity, is successful mainly in areas where social and political revolution is at least incipient." *Id.* 80–81.

SUBVERSIVE ACTIVITIES CONTROL ACT OF 1950

Subversive Activities Control Act of 1950. See MCCARRAN ACT.

SUBVERSIVE ACTIVITY

subversive activity. A pattern of acts designed to overthrow a government by force or other illegal means.

SUBVERSIVE PROPAGANDA

subversive propaganda. See PROPAGANDA.

SUCCESSFUL PARTY

successful party. See prevailing party under PARTY(2).

SUCCESSIO

successio (s<<schwa>>k-sesh-ee-oh), n. [Latin] Roman law. A succession to something, as to an estate by will or by the laws of intestacy.

SUCCESSIO IN UNIVERSUM JUS

successio in universum jus (s<<schwa>>k-ses[h]-ee-oh in yoo-ni-v<<schwa>>r-s<<schwa>>m j<<schwa>>s). [Latin "succession to universal right"] Roman law. The succession on death to the entirety of a deceased person's assets and liabilities. See hereditas jacens under HEREDITAS.

SUCCESSION

succession, n. 1. The act or right of legally or officially taking over a predecessor's office, rank, or duties. 2. The acquisition of rights or property by inheritance under the laws of descent and distribution; DESCENT (1). [Cases: Descent and Distribution 1–43. C.J.S. Conflict of Laws §§ 71, 84; Descent and Distribution §§ 1–49; Right of Privacy and Publicity § 42.] — succeed, vb.

hereditary succession. See intestate succession.

intestate succession. 1. The method used to distribute property owned by a person who dies without a valid will. 2. Succession by the common law of descent. — Also termed hereditary succession; descent and distribution. See DESCENT(1). Cf. testate succession. [Cases: Descent and Distribution 20–43. C.J.S. Descent and Distribution §§ 23–49.]

irregular succession. Succession by special laws favoring certain persons or the state, rather than heirs (such as testamentary heirs) under the ordinary laws of descent. [Cases: Descent and Distribution 1. C.J.S. Descent and Distribution §§ 1–5.]

legal succession. The succession established by law, usu. in favor of the nearest relation of a deceased person.

lucrative succession. Scots law. See PRAECEPTIO HAEREDITATIS.

natural succession. Succession between natural persons, as in descent on the death of an ancestor. [Cases: Descent and Distribution 20–43. C.J.S. Descent and Distribution §§ 23–49.]

testamentary succession. Civil law. Succession resulting from the designation of an heir in a testament executed in the legally required form. [Cases: Descent and Distribution 44. C.J.S. Descent and Distribution § 50.]

testate succession. The passing of rights or property by will. Cf. intestate succession. [Cases: Wills 1. C.J.S. Wills §§ 1, 3, 174.]

universal succession. Succession to an entire estate of another at death. • This type of succession carries with it the predecessor's liabilities as well as assets. Originally developed by Roman law and later continued by civil law, this concept has now been widely adopted as an option endorsed and authorized by the Uniform Probate Code. La. Civ. Code art. 3506(28).

vacant succession. Civil law. 1. A succession that fails either because there are no known heirs or because the heirs have renounced the estate. 2. An estate that has suffered such a failure. See ESCHEAT.

3. The right by which one group, in replacing another group, acquires all the goods, movables, and other chattels of a corporation. [Cases: Corporations 445.1. C.J.S. Corporations § 657.] 4. The continuation of a corporation's legal status despite changes in ownership or management. — Also termed artificial succession. [Cases: Corporations 1.1. C.J.S. Corporations § 2.]

perpetual succession. The continuous succession of a corporation — despite changes in shareholders and officers — for as long as the corporation legally exists. [Cases: Corporations 36. C.J.S. Corporations § 52.]

“As a general rule, the words ‘perpetual succession,’ as used in charters, often in connection with a further provision limiting the period of corporate existence to a certain number of years, mean nothing more than that the corporation shall have continuous and uninterrupted succession so long as it shall continue to exist as a corporation, and are not intended to define its duration.” 18 Am. Jur. 2d Corporations § 69, at 883 (1985).

SUCCESSIONAL

successional,adj. Of or relating to acquiring rights or property by inheritance under the laws of descent and distribution.

SUCCESSION DUTY

succession duty.See DUTY(4).

SUCCESSION TAX

succession tax.See inheritance tax (1) under TAX.

SUCCESSIO PRAEDILECTA

successio praedilecta (s<<schwa>>k-ses[h]-ee-oh pree-di-lek-t<<schwa>>). [Law Latin] Hist. A preferred succession; a succession that the testator prefers.

SUCCESSIVE

successive,adj.1.Archaic. (Of an estate) hereditary. 2. (Of persons, things, appointments, etc.) following in order; consecutive.

SUCCESSIVE POLYGAMY

successive polygamy.See POLYGAMY(2).

SUCCESSIVE TORTFEASORS

successive tortfeasors.See TORTFEASOR.

SUCCESSIVE-WRIT DOCTRINE

successive-writ doctrine.Criminal procedure. The principle that a second or supplemental petition for a writ of habeas corpus may not raise claims that were heard and decided on the merits in a previous petition. Cf. ABUSE-OF-THE-WRIT DOCTRINE E.

SUCCESSOR

successor. 1. A person who succeeds to the office, rights, responsibilities, or place of another; one who replaces or follows a predecessor. 2. A corporation that, through amalgamation, consolidation, or other assumption of interests, is vested with the rights and duties of an earlier corporation. [Cases: Corporations 445.1, 589–590. C.J.S. Corporations §§ 657, 809–810.]

particular successor.Civil law. One who succeeds to rights and obligations that pertain only to the property conveyed.

singular successor.One who succeeds to a former owner's rights in a single piece of property.

statutory successor.One who succeeds to the assets of a corporation upon its dissolution; specif., the person to whom all corporate assets pass upon a corporation's dissolution according to the statute of the state of incorporation applicable at the time of the dissolution. See Restatement (Second) of Conflict of Laws § 388 cmt. a (1971). [Cases: Corporations 619. C.J.S. Corporations §§ 863–865.]

universal successor. 1. One who succeeds to all the rights and powers of a former owner, as with an intestate estate or an estate in bankruptcy. 2.Louisiana law. An heir or legatee who succeeds in the entire estate of the deceased or a specified portion of it, rather than by particular title as legatee of a specific thing. • A universal successor succeeds in all of the decedent's rights and charges, whereas the particular legatee succeeds only to the rights and charges pertaining to the bequeathed thing. La. Civ. Code art. 3506(28).

SUCCESSOR AGENT

successor agent.See AGENT(2).

SUCCESSOR FIDUCIARY

successor fiduciary.See FIDUCIARY.

SUCCESSOR GUARDIAN

successor guardian.See GUARDIAN.

SUCCESSOR IN INTEREST

successor in interest.One who follows another in ownership or control of property. • A successor in interest retains the same rights as the original owner, with no change in substance.

SUCCESSOR TITULO LUCRATIVO POST CONTRACTUM DEBITUM

successor titulo lucrativo post contractum debitum (s<<schwa>>k-ses-or [or -<< schwa>>r] tich-<<schwa>>-loh loo-kr<<schwa>>-tI-voh pohst k<<schwa>>n-trak-t<<schwa>>m deb-i-t<<schwa>>m). [Law Latin] Hist. A successor under a lucrative title after debt has been contracted.

SUCCESSOR TRUSTEE

successor trustee.See TRUSTEE(1).

SUCESIÓN LEGÍTIMA

sucesión legítima (soo-se-syon lay-hee-tee-mah).Spanish law. The process of regular inheritance, the rules of which may not be altered by will. See *Ortiz De Rodriguez v. Vivoni*, 201 U.S. 371, 376–77, 26 S.Ct. 475, 476 (1906).

SUCH

such,adj.1. Of this or that kind <she collects a variety of such things>.2. That or those; having just been mentioned <a newly discovered Fabergé egg will be on auction next week; such egg is expected to sell for more than \$500,000>.

SUDDEN-AND-ACCIDENTAL POLLUTION EXCLUSION

sudden-and-accidental pollution exclusion.See pollution exclusion under EXCLUSION(3).

SUDDEN-DEATH JURISDICTION

sudden-death jurisdiction. Wills & estates. A jurisdiction in which a will once revoked cannot be revived, and instead must be reexecuted. See REVIVAL(2).

SUDDEN-EMERGENCY DOCTRINE

sudden-emergency doctrine. See EMERGENCY DOCTRINE(1).

SUDDEN HEAT

sudden heat. See HEAT OF PASSION.

SUDDEN HEAT AND PASSION

sudden heat and passion. See HEAT OF PASSION.

SUDDEN HEAT OF PASSION

sudden heat of passion. See HEAT OF PASSION.

SUDDEN-ONSET RULE

sudden-onset rule. The principle that medical testimony is unnecessary to prove causation of the obvious symptoms of an injury that immediately follows a known traumatic incident. [Cases: Damages 185(1). C.J.S. Damages §§ 308–310.]

SUDDEN PASSION

sudden passion. See HEAT OF PASSION.

SUDDEN-PERIL DOCTRINE

sudden-peril doctrine. See EMERGENCY DOCTRINE(1).

SUE

sue, vb. To institute a lawsuit against (another party).

SUE-AND-LABOR CLAUSE

sue-and-labor clause. Marine insurance. A provision establishing that the marine insurer will cover the costs incurred by the insured in protecting the covered property from damage or minimizing actual damages to the property. • The clause generally requires the insurer to “sue and labor” to protect the insured party's interests. — Also termed rescue clause. [Cases: Insurance 2195, 2245(2). C.J.S. Insurance §§ 1118, 1215.]

“Some insurance today is written against ‘all risks’ Besides the perils clause ... recovery under the policy can be had on the entirely separate ‘sue and labor’ clause Under this clause, the underwriter may become liable for certain charges incurred by the assured in caring for the insured property, whether or not there is any actual loss or damage. Where sue-and-labor charges are incurred and loss also occurs, the underwriter may become liable for more than the policy amount, which limits only a claim for loss of or damage to the goods or vessel.” Grant Gilmore & Charles L. Black Jr., *The Law of Admiralty* § 2-10, at 75 (2d ed. 1975).

SUE FACTS

sue facts. Facts that determine whether a party should bring a lawsuit; esp., facts determining whether a shareholder-derivative action should be instituted under state law.

SUE OUT

sue out, vb. To apply to a court for the issuance of (a court order or writ).

SUERTE

suerte (swer-t<<schwa>>). Spanish law. 1. Chance; destiny; fate. 2. Land within a municipality's boundaries, reserved for cultivating or planting because of its proximity to water. • This term appears in the caselaw of states that were formerly Spanish or Mexican possessions.

SUFFER

suffer, vb. 1. To experience or sustain physical or emotional pain, distress, or injury <suffer grievously><suffer damages>. [Cases: Damages 31, 49.10, 50.10. C.J.S. Damages §§ 92, 95, 98–104; Torts §§ 67–79, 82–83.] 2. To allow or permit (an act, etc.) <to suffer a default>.

SUFFERANCE

sufferance (s<<schwa>>f-<<schwa>>r-<<schwa>>nts ors<<schwa>>f-r<<schwa>>nts). 1. Toleration; passive consent. 2. The state of one who holds land without the owner's permission. See tenancy at sufferance under TENANCY. 3. A license implied from the omission to enforce a right.

SUFFERANCE WHARVES

sufferance wharves. Hist. English law. Wharves designated by the Commissioner of the Customs to receive goods before any duties must be paid.

SUFFERENTIA PACIS

sufferentia pacis (s<<schwa>>f-<<schwa>>-ren-shee-<<schwa>> pay-sis), n. [Latin] A grant of peace; a truce; an armistice.

SUFFERING A RECOVERY

suffering a recovery. Hist. A conveyer's act of allowing, for the purposes of a conveyance, a fictitious action to be brought by the conveyee and a judgment to be recovered for the land in question.

SUFFICIENCY OF DISCLOSURE

sufficiency of disclosure. See ADEQUACY OF DISCLOSURE.

SUFFICIENCY-OF-EVIDENCE TEST

sufficiency-of-evidence test. Criminal procedure. 1. The guideline for a grand jury considering whether to indict a suspect: if all the evidence presented were uncontradicted and

unexplained, it would warrant a conviction by the fact-trier. [Cases: Indictment and Information 10.2. C.J.S. Indictments and Informations § 21.] 2. A standard for reviewing a criminal conviction on appeal, based on whether enough evidence exists to justify the fact-trier's finding of guilt beyond a reasonable doubt. — Also termed sufficiency-of-the-evidence test. [Cases: Criminal Law 1159.2(7).]

SUFFICIENT

sufficient,adj. Adequate; of such quality, number, force, or value as is necessary for a given purpose <sufficient consideration> <sufficient evidence>.

SUFFICIENT CAUSE

sufficient cause. 1. See good cause under CAUSE(2).2.PROBABLE CAUSE.

SUFFICIENT CONSIDERATION

sufficient consideration.See CONSIDERATION(1).

SUFFICIENT EVIDENCE

sufficient evidence.See satisfactory evidence under EVIDENCE.

SUFFRAGAN

suffragan (s<<schwa>>-f-r<<schwa>>-g<<schwa>>n). A titular bishop ordained to assist a bishop of the diocese in the church business; a deputy or assistant bishop. • Suffragans were originally appointed only to replace absent bishops and were called chorepiscopi (“bishops of the county”), as distinguished from the regular bishops of the city or see.

SUFFRAGE

suffrage (s<<schwa>>-f-rij).1. The right or privilege of casting a vote at a public election. — Also termed right to vote. [Cases: Elections 1.C.J.S. Elections §§ 1(1, 10), 2.]

“In the United States suffrage is a privilege, franchise or trust conferred by the people upon such persons as it deems fittest to represent it in the choice of magistrates or in the performance of political duties which it would be inexpedient or inconvenient for the people to perform in a body. The person upon whom the franchise is conferred is called an elector or voter. No community extends suffrage to all persons, but places such restrictions upon it as may best subserve the ends of government.” George W. McCrary, *A Treatise on the American Law of Elections* § 1, at 2 (Henry L. McCune ed., 4th ed. 1897).

2. A vote; the act of voting.

SUFFRAGIUM

suffragium (s<<schwa>>-fray-jee-<<schwa>>m), n.[Latin] Roman law. 1. A vote; the right to vote. 2. A recommendation of someone for a special privilege or office.

SUGGESTED RETAIL PRICE

suggested retail price. See PRICE.

SUGGESTIBILITY

suggestibility, n. The readiness with which a person accepts another's suggestion. — suggestible, adj.

SUGGESTIO FALSI

suggestio falsi (s<<<schwa>>g-jes-tee-oh fal-sIorfawl-sI). [Latin] A false representation or misleading suggestion. Cf. SUPPRESSIO VERI.

SUGGESTION

suggestion, n. 1. An indirect presentation of an idea <the client agreed with counsel's suggestion to reword the warranty>. 2. Procedure. A statement of some fact or circumstance that will materially affect the further proceedings in the case <suggestion for rehearing en banc>. 3. Archaic. Wills & estates. UNDUE INFLUENCE. — suggest (for senses 1 & 2), vb.

SUGGESTION OF BANKRUPTCY

suggestion of bankruptcy. A pleading by which a party notifies the court that the party has filed for bankruptcy and that, because of the automatic stay provided by the bankruptcy laws, the court cannot take further action in the case. [Cases: Bankruptcy 3418. C.J.S. Bankruptcy § 102.]

SUGGESTION OF DEATH

suggestion of death. A pleading filed by a party, or the party's representatives, by which the court is notified that a party to a suit has died. [Cases: Parties 61. C.J.S. Parties §§ 80–83.]

SUGGESTION OF ERROR

suggestion of error. An objection made by a party to a suit, indicating that the court has committed an error or that the party wants a rehearing of a particular issue. [Cases: Appeal and Error 758, 829; Criminal Law 1133. C.J.S. Appeal and Error §§ 612–613, 676; Criminal Law § 1702.]

SUGGESTION ON THE RECORD

suggestion on the record. A formal written or oral statement informing the court of an important fact that may require a stay of proceedings or affect the court's decision. • Suggestions on the record include suggestion of bankruptcy, suggestion of death, and suggestion of error.

SUGGESTIVE INTERROGATION

suggestive interrogation. See LEADING QUESTION.

SUGGESTIVE MARK

suggestive mark. See suggestive trademark under TRADEMARK.

SUGGESTIVE NAME

suggestive name. See suggestive trademark under TRADEMARK.

SUGGESTIVE QUESTION

suggestive question. See LEADING QUESTION.

SUGGESTIVE TRADEMARK

suggestive trademark. See TRADEMARK.

SUI

sui. See SUI HEREDES.

SUICIDE

suicide, n. 1. The act of taking one's own life. — Also termed self-killing; self-destruction; self-slaughter; self-murder; felony-de-se; death by one's own hand. [Cases: Suicide 1. C.J.S. Suicide §§ 2–5, 11.]

assisted suicide. The intentional act of providing a person with the medical means or the medical knowledge to commit suicide. — Also termed assisted self-determination; (when a doctor provides the means) physician-assisted suicide. Cf. EUTHANASIA. [Cases: Suicide 3. C.J.S. Suicide §§ 8–12.]

attempted suicide. An unsuccessful suicidal act. [Cases: Suicide 2. C.J.S. Suicide § 6–7.]

physician-assisted suicide. See assisted suicide.

police-assisted suicide. See suicide-by-cop.

suicide-by-cop. Slang. A form of suicide in which the suicidal person intentionally engages in life-threatening behavior to induce a police officer to shoot the person. • Frequently, the decedent attacks the officer or otherwise threatens the officer's life, but occasionally a third person's life is at risk. A suicide-by-cop is distinguished from other police shootings by three elements. The person must: (1) evince an intent to die; (2) consciously understand the finality of the act; and (3) confront a law-enforcement official with behavior so extreme that it compels that officer to act with deadly force. — Also termed police-assisted suicide; victim-precipitated homicide.

2. A person who has taken his or her own life. — Also termed felo-de-se; felon-de-se; felon of oneself. — suicidal, adj.

SUICIDE CLAUSE

suicide clause. Insurance. A life-insurance-policy provision either excluding suicide as a covered risk or limiting the insurer's liability in the event of a suicide to the total premiums paid. [Cases: Insurance 2434. C.J.S. Insurance §§ 989–991, 1178–1179.]

SUICIDE LETTER OF CREDIT

suicide letter of credit. See clean letter of credit under LETTER OF CREDIT.

SUI GENERIS

sui generis (s[y]oo-Ior-soo-ee jen-*<<schwa>>-ris*). [Latin “of its own kind”] Of its own kind or class; unique or peculiar. • The term is used in intellectual-property law to describe a regime designed to protect rights that fall outside the traditional patent, trademark, copyright, and trade-secret doctrines. For example, a database may not be protected by copyright law if its content is not original, but it could be protected by a *sui generis* statute designed for that purpose.

SUI HEREDES

sui heredes (s[y]oo-I h*<<schwa>>-ree-deez*). [Latin] Roman law. One's own heirs. — Also spelled *sui haeredes*. — Often shortened to *sui*. See **SUUS HERES** .

“If a man died without a will, his property went to his *sui heredes* (own heirs, direct heirs), that is, to the persons who were previously under his potestas, but were released from it by his death. If he had adopted as son a person not connected with him by birth, that person was included among the *sui heredes*; on the other hand, a son by birth whom he had emancipated was ... excluded from the *sui heredes*....” James Hadley, *Introduction to Roman Law* 134 (1881).

SUI JURIS

sui juris (s[y]oo-Ior-soo-ee joor-is). [Latin “of one's own right; independent”] 1. Of full age and capacity. 2. Possessing full social and civil rights. 3. Roman law. Of or relating to anyone of any age, male or female, not in the potestas of another, and therefore capable of owning property and enjoying private-law rights. • As a status, it was not relevant to public law.

SUI POTENS

sui potens (s[y]oo-Ipoh-tenz). [Latin] Hist. Able to do something, as in to enter a contract.

SUIT

suit. Any proceeding by a party or parties against another in a court of law; **CASE**(1). — Also termed lawsuit; suit at law. See **ACTION**(4).

ancillary suit (an-s*<<schwa>>-ler-ee*). An action, either at law or in equity, that grows out of and is auxiliary to another suit and is filed to aid the primary suit, to enforce a prior judgment, or to impeach a prior decree. — Also termed ancillary bill; ancillary proceeding; ancillary process. [Cases: Federal Courts 20.1.]

blackmail suit. A suit filed by a party having no genuine claim but hoping to extract a favorable settlement from a defendant who would rather avoid the expense and inconvenience of litigation.

class suit. See **CLASS ACTION**.

derivative suit. See **DERIVATIVE ACTION**(1).

frivolous suit. A lawsuit having no legal basis, often filed to harass or extort money from the defendant. [Cases: Action 8; Costs 2; Federal Civil Procedure 2767. C.J.S. Actions §§ 34–35,

37; Costs §§ 2–3, 8–9.]

official-capacity suit.A lawsuit that is nominally against one or more individual state employees but that has as the real party in interest the state or a local government. Cf. personal-capacity suit.

personal-capacity suit.An action to impose personal, individual liability on a government officer. Cf. official-capacity suit.

petitory suit.See petitory action under ACTION(4).

plenary suit (plee-n<<schwa>>-ree or plen-<<schwa>>-ree). An action that proceeds on formal pleadings under rules of procedure. Cf. summary proceeding under PROCEEDING.

strike suit.A suit (esp. a derivative action), often based on no valid claim, brought either for nuisance value or as leverage to obtain a favorable or inflated settlement. [Cases: Corporations 214.]

suit at law.A suit conducted according to the common law or equity, as distinguished from statutory provisions. • Under the current rules of practice in federal and most state courts, the term civil action embraces an action both at law and in equity. Fed. R. Civ. P. 2. See action at law under ACTION(4).

suit in equity.A civil suit stating an equitable claim and asking for an exclusively equitable remedy. — Also termed action in equity.

suit of a civil nature.A civil action. See civil action under ACTION(4).

SUITABLE

suitable,adj. (Of goods, etc.) fit and appropriate for their intended purpose.

SUITAS

suitas (s[y]oo-<<schwa>>-tas), n.[Law Latin] The status of a proper heir.

SUIT FOR EXONERATION

suit for exoneration.A suit in equity brought by a surety to compel the debtor to pay the creditor. • If the debtor has acted fraudulently and is insolvent, a suit for exoneration may include further remedies to ensure that the debtor's assets are applied equitably to the debtor's outstanding obligations. — Also termed suit to compel payment. [Cases: Principal and Surety 179. C.J.S. Principal and Surety § 227.]

SUIT MONEY

suit money.Attorney's fees and court costs allowed or awarded by a court; esp., in some jurisdictions, a husband's payment to his wife to cover her reasonable attorney's fees in a divorce action. [Cases: Divorce 221.C.J.S. Divorce §§ 343–344.]

SUITOR

suitor. 1. A party that brings a lawsuit; a plaintiff or petitioner. 2. An individual or company that seeks to take over another company.

SUITORS' DEPOSIT ACCOUNT

Suitors' Deposit Account. An account consisting of suitors' fees paid in the Court of Chancery that, by the Chancery Act of 1872, were to be invested in government securities bearing interest at 2% per annum on behalf of the investing suitor, unless the suitor directed otherwise.

SUITORS' FEE FUND

Suitors' Fee Fund. Hist. A fund consisting largely of fees generated by the Court of Chancery out of which the court officers' salaries and expenses were paid. • In 1869 the fund was transferred to the Commissioners for the Reduction of the National Debt.

SUIT PAPERS

suit papers. See COURT PAPERS.

SUITPRO LAESIONE FIDEI

suit pro laesione fidei (proh lee-zhee-oh-nee fi-dee-I), n. [Latin "for injury to faith"] Hist. Eccles. law. A suit in ecclesiastical court for spiritual offenses against conscience, nonpayment of debts, or a breach of contract, esp. an oral contract made by oath.

SUITS IN ADMIRALTY ACT

Suits in Admiralty Act. A 1920 federal law giving injured parties the right to sue the government in admiralty. 46 USCA app. §§ 741–752. [Cases: United States 78(7).]

SUIT TO COMPEL PAYMENT

suit to compel payment. See SUIT FOR EXONERATION.

SULING

suling. See SWOLING.

SUM

sum. 1. A quantity of money. 2. English law. A legal summary or abstract; a compendium; a collection. • Several treatises are called sums.

SUM CERTAIN

sum certain. 1. Any amount that is fixed, settled, or exact. 2. Commercial law. In a negotiable instrument, a sum that is agreed on in the instrument or a sum that can be ascertained from the document. [Cases: Bills and Notes 157. C.J.S. Bills and Notes; Letters of Credit § 135.]

SUMMA INJURIA

summa injuria (s<<schwa>>m-<<schwa>> in-joor-ee-<<schwa>>). [Latin] The greatest injury or injustice.

SUMMA NECESSITATE

summa necessitate (s<<schwa>>m<<schwa>> ni-ses-<<schwa>>-tay-tee). [Latin] Hist. In extreme necessity. See NECESSITY.

SUMMA POTESTAS

summa potestas (s<<schwa>>m<<schwa>> p<<schwa>>-tes-t<<schwa>>s), n.[Latin “sum or totality of power”] The final authority or power in government.

SUMMARY

summary,adj.1. Short; concise <a summary account of the events on March 6>.2. Without the usual formalities; esp., without a jury <a summary trial>.3. Immediate; done without delay <the new weapon was put to summary use by the military>. — summarily (s<<schwa>>m<<schwa>>r<<schwa>>-lee or s<<schwa>>-mair-<<schwa>>-lee), adv.

summary,n.1. An abridgment or brief. 2. A short application to a court without the formality of a full proceeding.

SUMMARY ADJUDICATION

summary adjudication.See partial summary judgment under SUMMARY JUDGMENT.

SUMMARY CONVICTION

summary conviction.See CONVICTION.

SUMMARY COURT-MARTIAL

summary court-martial.See COURT-MARTIAL.

SUMMARY DISPOSITION

summary disposition.See SUMMARY JUDGMENT.

SUMMARY EVICTION

summary eviction.See EVICTION.

SUMMARY JUDGMENT

summary judgment.A judgment granted on a claim or defense about which there is no genuine issue of material fact and upon which the movant is entitled to prevail as a matter of law. • The court considers the contents of the pleadings, the motions, and additional evidence adduced by the parties to determine whether there is a genuine issue of material fact rather than one of law. This procedural device allows the speedy disposition of a controversy without the need for trial. Fed. R. Civ. P. 56. — Also termed summary disposition; judgment on the pleadings. See JUDGMENT. [Cases: Federal Civil Procedure 2461–2559; Judgment 178–190. C.J.S. Copyrights and Intellectual Property § 81; Judgments §§ 243–274; Libel and Slander; Injurious Falsehood § 184.]

partial summary judgment. A summary judgment that is limited to certain issues in a case and that disposes of only a portion of the whole case. — Also termed summary adjudication. [Cases: Federal Civil Procedure 2557; Judgment 181(14). C.J.S. Judgments § 246.]

SUMMARY-JUDGMENT MOTION

summary-judgment motion. See MOTION FOR SUMMARY JUDGMENT.

SUMMARY JURISDICTION

summary jurisdiction. See JURISDICTION.

SUMMARY JURY TRIAL

summary jury trial. See TRIAL.

SUMMARY OF ARGUMENT

summary of argument. 1. SUMMARY OF THE ARGUMENT. 2. PRELIMINARY STATEMENT.

SUMMARY OF COMMENTARY ON CURRENT ECONOMIC CONDITIONS

Summary of Commentary on Current Economic Conditions by Federal Reserve District. See BEIGE BOOK.

SUMMARY OFFENSE

summary offense. 1. OFFENSE(1). 2. MISDEMEANOR(1).

SUMMARY OF THE ARGUMENT

summary of the argument. The part of a brief, esp. an appellate brief, in which the advocate condenses the argument to a précis or synopsis, directing the court to the heart of the argument on each point. • A summary typically runs from one to four pages. — Also termed summary of argument.

“A summary of the argument, suitably paragraphed. The summary should be a clear and concise condensation of the argument made in the body of the brief; mere repetition of the headings under which the argument is arranged is not sufficient.” Sup. Ct. R. 24.1(h).

SUMMARY OF THE INVENTION

summary of the invention. Patents. In a U.S. patent application, the section that describes the nature, operation, and purpose of the invention in enough detail that the examiner and anyone searching the patent literature for prior art can understand the unique character of the invention. [Cases: Patents 99. C.J.S. Patents § 139.]

SUMMARY PLAN DESCRIPTION

summary plan description. Under ERISA, an outline of an employee benefit plan, containing such information as the identity of the plan administrator, the requirements for eligibility and

participation in the plan, circumstances that may result in disqualification or denial of benefits, and the identity of any insurers responsible for financing or administering the plan. • A summary plan description must generally be furnished to all employee-benefit-plan participants and beneficiaries. 29 USCA § 1022. — Abbr. SPD. [Cases: Pensions 47. C.J.S. Pensions and Retirement Plans and Benefits §§ 31–33.]

SUMMARY PROCEDURE

summary procedure. See SHOW-CAUSE PROCEEDING.

SUMMARY PROCEEDING

summary proceeding. See PROCEEDING.

SUMMARY PROCESS

summary process. See PROCESS.

SUMMARY TRIAL

summary trial. See summary proceeding under PROCEEDING.

SUMMATION

summation. See CLOSING ARGUMENT.

SUMMER ASSOCIATE

summer associate. See CLERK(4).

SUMMER CLERK

summer clerk. See CLERK(4).

SUMMING UP

summing up. 1. CLOSING ARGUMENT. 2. English law. A judge's review of the key points of evidence presented in a case and instructions to the jury on the law it is to apply to the evidence. • The judge's summing up follows the advocates' closing speeches. — sum up, vb.

SUMMO JURE

summo jure (s<<schwa>>m-oh joor-ee). [Latin] Hist. In the highest right.

SUMMON

summon, vb. To command (a person) by service of a summons to appear in court. — Also termed summons. [Cases: Witnesses 7. C.J.S. Witnesses §§ 20–22, 25.]

SUMMONEAS

summoneas (s<<schwa>>-moh-nee-<<schwa>>s), n. [Law Latin “you are to summon”] Hist. A writ ordering a party to appear in court.

SUMMONER

summoner.Hist. A petty officer charged with summoning parties to appear in court. See NUNTIUS(3).

“But process, as we are now to consider it, is the method taken by the law to compel a compliance with the original writ, of which the primary step is by giving the party notice to obey it. This notice is given ... by summons; which is a warning to appear in court ... given to the defendant by two of the sheriff's messengers called summoners, either in person or left at his house or land.” 3 William Blackstone, Commentaries on the Laws of England 279 (1768).

SUMMONITIO

summonitio (s<<schwa>>m-<<schwa>>-nish-ee-oh), n.[Law Latin fr. Latin summonere “to summon”] Hist. A summons.

SUMMONITORES SCACCARII

summonitores scaccarii (s<<schwa>>m-<<schwa>>n-<<schwa>>-tor-eez sk<<schwa>>-kair-ee-I). [Law Latin] Hist. Exchequer officers who assisted in revenue collections by summoning defaulters to court.

SUMMONS

summons,n.1. Formerly, a writ directing a sheriff to summon a defendant to appear in court. 2. A writ or process commencing the plaintiff's action and requiring the defendant to appear and answer. [Cases: Federal Civil Procedure 401; Process 7. C.J.S. Process §§ 2, 12.] 3. A notice requiring a person to appear in court as a juror or witness. [Cases: Witnesses 7. C.J.S. Witnesses §§ 20–22, 25.] 4.English law. The application to a common-law judge upon which an order is made. Pl. summonses.

alias summons.A second summons issued after the original summons has failed for some reason. [Cases: Process 45. C.J.S. Process §§ 24, 49.]

John Doe summons. 1. A summons to a person whose name is unknown at the time of service. [Cases: Federal Civil Procedure 401; Process 28. C.J.S. Process § 13.] 2.Tax. A summons from the Internal Revenue Service to a third party to provide information on an unnamed, unknown taxpayer with potential tax liability. — Also termed third-party record-custodian summons. [Cases: Internal Revenue 4493–4517. C.J.S. Internal Revenue §§ 618–630.]

judgment summons.A process used by a judgment creditor to start an action against a judgment debtor to enforce the judgment.

short summons.A summons having a response time less than that of an ordinary summons, usu. served on a fraudulent or nonresident debtor. [Cases: Process 33. C.J.S. Process §§ 16–17.]

third-party record-custodian summons. See John Doe summons.

summons,vb.1.SUMMON. 2. To request (information) by summons.

“The horrible expression ‘summonsed for an offence’ (turning the noun ‘summons’ into a verb) has now become accepted usage, but ‘summoned’ remains not only allowable but preferable.” Glanville Williams, *Learning the Law* 15 n.28 (11th ed. 1982).

SUMMUM BONUM

summum bonum (s<<schwa>>m-<<schwa>>m boh-n<<schwa>>m alsosuum-uum baw-nuum). [Latin] The greatest good.

SUMMUM JUS

summum jus (s<<schwa>>m-<<schwa>>m j<<schwa>>s). [Latin] The highest law.

SUMNER

sumner (s<<schwa>>m-n<<schwa>>r), n. Hist. A summoning officer, esp. in an ecclesiastical court. See SUMMONER.

SUM-OF-THE-YEARS'-DIGITS DEPRECIATION METHOD

sum-of-the-years'-digits depreciation method. See DEPRECIATION METHOD.

SUM PAYABLE

sum payable. An amount due; esp., the amount for which the maker of a negotiable instrument becomes liable and must tender in full satisfaction of the debt.

SUMPTUARY LAW

sumptuary law (s<<schwa>>mp-choo-er-ee). 1. A statute, ordinance, or regulation that limits the expenditures that people can make for personal gratification or ostentatious display. 2. More broadly, any law whose purpose is to regulate conduct thought to be immoral, such as prostitution, gambling, or drug abuse.

SUNDAY-CLOSING LAW

Sunday-closing law. See BLUE LAW.

SUNDAY LAW

Sunday law. See BLUE LAW.

SUNDRIES

sundries (s<<schwa>>n-dreez). Miscellaneous items that may be considered together, without being separately specified or identified.

SUNDRY

sundry (s<<schwa>>n-dree), adj. Separate; diverse; various.

SUNK COST

sunk cost. See COST(1).

SUNNA

sunna. See FEMALE GENITAL MUTILATION.

SUNSET LAW

sunset law. A statute under which a governmental agency or program automatically terminates at the end of a fixed period unless it is formally renewed. [Cases: Administrative Law and Procedure 128.]

SUNSHINE COMMITTEE

sunshine committee. An official or quasi-official committee whose proceedings and work are open to public access. [Cases: Administrative Law and Procedure 124. C.J.S. Public Administrative Law and Procedure § 19.]

SUNSHINE LAW

sunshine law. A statute requiring a governmental department or agency to open its meetings or its records to public access. — Also termed open-meeting law; public-meeting law; open-door law. [Cases: Administrative Law and Procedure 124; Records 50–68. C.J.S. Public Administrative Law and Procedure § 19; Records §§ 93–131.]

SUO NOMINE

suo nomine (s[y]oo-oh nom-<<schwa>>-nee). [Latin] In one's own name.

SUO PERICULO

suo periculo. See SUB SUO PERICULO.

SUP

SUP. abbr. SPECIAL-USE PERMIT.

SUP. CIT.

sup. cit. abbr. SUPRA CITATUM.

SUP. CT.

sup. ct. abbr. SUPREME COURT.

SUPER

super (s[y]oo-p<<schwa>>r). [Latin] Above; over; higher.

SUPER ALIQUAM PARTEM FUNDI

super aliquam partem fundi (s[y]oo-p<<schwa>>r al-i-kwam pahr-tem f<<schwa>>n-d I). [Law Latin] Hist. Upon any part of the land.

SUPER ALTUM MARE

super altum mare (s[y]oo-p<<schwa>>r al-t<<schwa>>m mair-ee ormahr-ee). [Latin] On the high sea.

SUPER ATTENTATIS AUT INNOVATIS LITE DEPENDENTE

super attentatis aut innovatis lite dependente (s[y]oo-p<<schwa>>r a-ten-tay-tis awt in-<<schwa>>-vay-tis II-tee dee-pen-den-tee). [Law Latin] Hist. Concerning those things allegedly due during the pendency of the case.

SUPERCARGO

supercargo. Maritime law. A person specially employed and authorized by a cargo owner to sell cargo that has been shipped and to purchase returning cargo, at the best possible prices; the commercial or foreign agent of a merchant.

“Supercargoes are persons employed by commercial companies or by private merchants to take charge of the cargoes they export to foreign countries, to sell them there to the best advantage, and to purchase proper commodities to relade the ships on their return home. They usually go out with the ships on board of which the goods are embarked, and return home with them, and in this they differ from factors who live abroad The supercargo is the agent of the owners, and disposes of the cargo and makes purchases under their general instructions on his own responsibility.” 70 Am. Jur. 2d Shipping § 886, at 1025 (1987).

SUPERDUCTIO

superductio (s[y]oo-p<<schwa>>r-d<<schwa>>k-shee-oh), n. [Latin] Roman law. The obliteration of part of a will or other document by writing over something erased within it. Pl. superductiones (s[y]oo-p<<schwa>>r-d<<schwa>>k-shee-oh-nee-z).

SUPER EISDEM DEDUCTIS

super eisdem deductis (s[y]oo-p<<schwa>>r ee-is-d<<schwa>>m di-d<<schwa>>k-tis). [Law Latin] Hist. Upon the same grounds.

SUPERFEUDATION

superfeudation. See SUPERINFEUDATION.

SUPERFICIARIUS

superficiarius (s[y]oo-p<<schwa>>r-fish-ee-air-ee-<<schwa>>s), n. [Latin] Roman law. A person who had a hereditary and alienable right to a building on municipal or other public land, subject to the payment of an annual rent. • In classical law this right was extended to private land. Cf. EMPHYTEUSIS.

SUPERFICIES

superficies (s[y]oo-p<<schwa>>r-fish-ee-eez or -fish-eez), n. [Latin “surface”] Roman & civil law. 1. The surface of the ground. 2. An improvement that stands on the surface of the ground, such as a building, other construction, trees, plants, or crops. 3. The right of a superficiarius. See

SUPERFICIARIUS.**SUPERFUND**

Superfund. 1. The program that funds and administers the cleanup of hazardous-waste sites through a trust fund (financed by taxes on petroleum and chemicals and a new tax on corporations) created to pay for cleanup pending reimbursement from the liable parties. [Cases: Environmental Law 437.] 2. The popular name for the act that established this program — the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). See CERCLA.

SUPERINFEUDATION

superinfederation.Hist. The granting of one or more feuds out of a feudal estate. — Also termed superfeudation. Cf. SUBINFEUDATION.

“Whatever may be the proper view of its origin and legal nature, the best mode of vividly picturing to ourselves the feudal organisation is to begin with the basis, to consider the relation of the tenant to the patch of soil which created and limited his services — and then to mount up, through narrowing circles of super-feudation, till we approximate to the apex of the system.” Henry S. Maine, *Ancient Law* 88 (17th ed. 1901).

SUPERINSTITUTION

superinstitution.Eccles. law. The investiture of one person in an office that already has an incumbent, as when two individuals claim a benefice by adverse titles.

SUPERINTENDENT

superintendent. A person with the power to direct activities; a manager.

SUPERINTENDING CONTROL

superintending control.See CONTROL.

SUPERIOR

superior,adj. (Of a rank, office, power, etc.) higher; elevated; possessing greater power or authority; entitled to exert authority or command over another <superior estate> <superior force> <superior agent>. — superior,n.

SUPERIOR AGENT

superior agent.See high-managerial agent under AGENT(2).

SUPERIOR COMMISSIONED OFFICER

superior commissioned officer.See OFFICER(2).

SUPERIOR COURT

superior court.See COURT.

SUPERIOR FELLOW SERVANT

superior fellow servant. See FELLOW SERVANT.

SUPERIOR FORCE

superior force. 1. FORCE MAJEURE. 2. ACT OF GOD. 3. VIS MAJOR.

SUPERIOR KNOWLEDGE

superior knowledge. See KNOWLEDGE.

SUPERIOR SERVANT

superior servant. See superior fellow servant under FELLOW SERVANT.

SUPERIOR-SERVANT DOCTRINE

superior-servant doctrine. See FELLOW-SERVANT RULE.

SUPERJURARE

superjurare (s[y]oo-p<<schwa>>r-juu-rair-ee). [Latin “to swear”] Hist. To swear too strenuously. • This describes the situation in which an obviously guilty criminal attempted to avoid conviction by producing oaths of several parties but was convicted by an overwhelming number of witnesses.

SUPER JURE NATURAE ALENDI LIBEROS

super jure naturae alendi liberos (s[y]oo-p<<schwa>>r joor-ee n<<schwa>>-tyoor-ee <<schwa>>-len-dlib-<<schwa>>r-ohs). [Law Latin] Hist. On the ground of natural law, obligating persons to support their children.

SUPERLIEN

superlien. A government's lien that is imposed on a property whose condition violates environmental and public-health and public-safety rules and that has priority over all other liens, so that the government can recover public funds spent on cleanup operations. • A statutory lien is superior to all existing liens and all later-filed liens on the same property. Superliens are sometimes granted to a state's environmental-protection agency. Several states — including Arkansas, Connecticut, Massachusetts, New Hampshire, New Jersey, and Tennessee — have enacted statutes creating superliens on property owned by a party responsible for environmental cleanup. See LIEN.

SUPERMAJORITY

supermajority. See MAJORITY.

SUPERNUMERARII

supernumerarii (s[y]oo-p<<schwa>>r-n[y]oo-m<<schwa>>-rair-ee-I), n. [Latin “persons above the number”] Roman law. Officials beyond the permitted number; esp., advocates who were unregistered and not attached to a particular bar. Cf. STATUTI.

SUPERNUMERARY WITNESS

supernumerary witness. See WITNESS.

SUPERONERATIO

superoneratio (s[y]oo-p<<schwa>>r-on-<<schwa>>-ray-shee-oh). [Law Latin] Hist. 1. The act or practice of surcharging a common. 2. The placement of more cattle on a common than is allowed; overstocking.

SUPERONERATIONE PASTURAE

superoneratione pasturae. See DE SUPERONERATIONE PASTURAE.

SUPERPLUSAGIUM

superplusagium (s[y]oo-p<<schwa>>r-pl<<schwa>>-say-jee-<<schwa>>m), n. [Law Latin] Hist. A surplus; a remainder.

SUPER PRAEROGATIVA REGIS

super praerogativa regis (s[y]oo-p<<schwa>>r pri-rog-<<schwa>>-tī-v<<schwa>>-ree-jis), n. [Law Latin] Hist. A writ against the king's tenant's widow for remarrying without royal permission.

SUPERPRIORITY

superpriority. Bankruptcy. The special priority status granted by the court to a creditor for extending credit to a debtor or trustee that cannot obtain unsecured credit from a willing lender. • This priority may be either an administrative claim outranking other administrative claims or, if certain statutory requirements are met, a security interest in property. 11 USCA § 364(c)(1). [Cases: Bankruptcy 3036. C.J.S. Bankruptcy §§ 201–202.]

SUPERSEDE

supersede, vb. 1. To annul, make void, or repeal by taking the place of <the 1996 statute supersedes the 1989 act>. 2. To invoke or make applicable the right of supersedeas against (an award of damages) <what is the amount of the bond necessary to supersede the judgment against her?>. [Cases: Appeal and Error 458, 460. C.J.S. Appeal and Error §§ 408–411.] — supersession (for sense 1), n.

SUPERSEDEAS

supersedeas (soo-p<<schwa>>r-seed-ee-<<schwa>>s), n. [Latin “you shall desist”] 1. A writ or bond that suspends a judgment creditor's power to levy execution, usu. pending appeal. — Also termed writ of supersedeas. 2. See supersedeas bond under BOND(2). [Cases: Appeal and Error 458; Execution 158(2); Supersedeas 1. C.J.S. Appeal and Error §§ 408, 411; Executions §§ 155–156.] Pl. supersedeases (soo-p<<schwa>>r-see-dee-<<schwa>>s-iz).

SUPERSEDEAS BOND

supersedeas bond. See BOND(2).

SUPERSEDERE

supersedere (s[y]oo-p<<schwa>>r-s<<schwa>>-deer-ee). [Law Latin] Hist. SIST.

“When creditors voluntarily agree to supersede or sist diligence against their debtor for a certain period, such an agreement is called a supersedere; and the same name is given to any judicial act by which creditors are restrained from doing diligence. A creditor who commits a breach of the supersedere, whether it be voluntary or judicial, is liable to the debtor in damages.” John Trayner, Trayner's Latin Maxims 591 (4th ed. 1894).

SUPERSEDING CAUSE

superseding cause. See CAUSE(1).

SUPER STATUTO

super statuto (s[y]oo-p<<schwa>>r st<<schwa>>-t[y]oo-toh), n. [Law Latin] Hist. A writ against tenants-in-chief who transferred their land without the king's permission in violation of the Statute of Westminster II, chs. 12 & 13.

SUPER STATUTO DE ARTICULIS CLERI

super statuto de articulis cleri (s[y]oo-p<<schwa>>r st<<schwa>>-t[y]oo-toh dee ahr-tik-y<<schwa>>-lis kleeer-I), n. [Law Latin] Hist. A writ against a sheriff who unlawfully distrains goods.

SUPER STATUTO FACTO POUR SENESCHAL ET MARSHAL DE ROY

super statuto facto pour seneschal et marshal de roy (s[y]oo-p<<schwa>>r st<<schwa>>-t[y]oo-toh fak-toh poor sen-<<schwa>>-shahl ay mahr-[-<<schwa>>-]shahl d<<schwa>> roy), n. [Law Latin] Hist. A writ to restrain the court of the Marshalsea from interfering in matters outside its jurisdiction.

SUPER STATUTO VERSUS SERVANTES ET LABORATOIRES

super statuto versus servantes et laboratores (s[y]oo-p<<schwa>>r st<<schwa>>-t [y]oo-toh v<<schwa>>r-s<<schwa>>s s<<schwa>>r-van-teez et lab-<<schwa>>r-<<schwa>>-tor-eez), n. [Law Latin] Hist. 1. A writ against someone who employs laborers who unlawfully left former employments. 2. A writ against a person who refused to work at the required wage.

SUPERSTITIOUS USE

superstitious use. See USE(1).

SUPERVENING CAUSE

supervening cause. See intervening cause under CAUSE(1).

SUPERVENING IMPOSSIBILITY

supervening impossibility. See IMPOSSIBILITY.

SUPERVENING NEGLIGENCE

supervening negligence. See subsequent negligence under NEGLIGENCE.

SUPERVENING-NEGLIGENCE DOCTRINE

supervening-negligence doctrine. See LAST-CLEAR-CHANCE DOCTRINE.

SUPERVISED VISITATION

supervised visitation. See VISITATION.

SUPERVISION

supervision, n. The act of managing, directing, or overseeing persons or projects. — supervise, vb. — supervisory (soo-p<<schwa>>r-vI-z<<schwa>>-ree), adj.

SUPERVISION ORDER

supervision order. See ORDER(2).

SUPERVISOR

supervisor, n. 1. One having authority over others; a manager or overseer. • Under the National Labor Relations Act, a supervisor is any individual having authority to hire, transfer, suspend, lay off, recall, promote, discharge, discipline, and handle grievances of other employees, by exercising independent judgment. 2. The chief administrative officer of a town or county. [Cases: Counties 41. C.J.S. Counties § 64.] — supervisory (soo-p<<schwa>>r-vI-zor-ee-<<schwa>>l), adj.

SUPERVISORY AUTHORITY

supervisory authority. Military law. An officer who, exercising general court-martial jurisdiction, reviews summary and special court-martial trial records after the convening authority has reviewed them. [Cases: Military Justice 1380. C.J.S. Military Justice §§ 434, 438.]

SUPERVISORY CONTROL

supervisory control. The control exercised by a higher court over a lower court, as by prohibiting the lower court from acting extrajudicially and by reversing its extrajudicial acts. See MANDAMUS. [Cases: Courts 207.]

SUPINE NEGLIGENCE

supine negligence. See advertent negligence under NEGLIGENCE.

SUPLANTING LIMITATION

supplanting limitation. See LIMITATION.

SUPPLEMENTAL

supplemental,adj. Supplying something additional; adding what is lacking < supplemental rules>.

SUPPLEMENTAL AFFIDAVIT

supplemental affidavit.See AFFIDAVIT.

SUPPLEMENTAL AGREEMENT

supplemental agreement.See side agreement under AGREEMENT.

SUPPLEMENTAL BILL

supplemental bill.See BILL(2).

SUPPLEMENTAL BILL IN THE NATURE OF BILL OF REVIEW

supplemental bill in the nature of bill of review.See bill in the nature of a bill of review under BILL(2).

SUPPLEMENTAL CLAIM

supplemental claim.See CLAIM(4).

SUPPLEMENTAL COMPLAINT

supplemental complaint.See COMPLAINT.

SUPPLEMENTAL DECLARATION

supplemental declaration.Patents. A sworn document, filed after the U.S. Patent and Trademark Office allows a patent's issuance. See PATENT APPLICATION .

SUPPLEMENTAL JURISDICTION

supplemental jurisdiction.See JURISDICTION.

SUPPLEMENTAL-NEEDS TRUST

supplemental-needs trust.See TRUST.

SUPPLEMENTAL PLEADING

supplemental pleading.See PLEADING(1).

SUPPLEMENTAL REGISTER

supplemental register.Trademarks. A roll of trademarks that are ineligible for listing on the Principal Register because they are not distinctive. • Marks on the supplemental list are not protected by trademark law, except to the extent that the listing may bar the registration of similar marks. The listing may be required, however, for a mark to be registered in other countries. 15 USCA § 1091. — Also termed secondary register. [Cases: Trade Regulation 151. C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 147, 153.]

SUPPLEMENTAL RULES FOR CERTAIN MARITIME AND ADMIRALTY CLAIMS

Supplemental Rules for Certain Maritime and Admiralty Claims. A supplement to the Federal Rules of Civil Procedure, setting out procedures for suits in admiralty and maritime law.

SUPPLEMENTAL SECURITY INCOME

Supplemental Security Income. A welfare or needs-based program providing monthly income to the aged, blind, or disabled. • It is authorized by the Social Security Act. — Abbr. SSI. [Cases: Social Security and Public Welfare 135, 140.5, 175. C.J.S. Social Security and Public Welfare §§ 36–38, 42, 48–49, 58–59, 61, 95.]

SUPPLEMENTAL SURETY

supplemental surety. See SURETY.

SUPPLEMENTARY PROCEEDING

supplementary proceeding. See PROCEEDING.

SUPPLENDO VICES

supplendo vices (s<<schwa>>-plen-doh vI-seez). [Law Latin] Hist. By supplying the place.

SUPPLETORY OATH

suppletory oath (s<<schwa>>p-l<<schwa>>-tor-ee). See OATH.

SUPPLIANT

suppliant (s<<schwa>>p-lee-<<schwa>>nt). One who humbly requests something; specif., the actor in a petition of right.

SUPPLICATIO

supplicatio (s<<schwa>>p-li-kay-shee-oh), n. [Latin] Roman law. 1. A petition to the emperor requesting him to decide a case, not already before a court, in first instance or, sometimes, to reopen a case in which no appeal is normally allowed.

“Another mode was *supplicatio*, petition to the Emperor by a private person, not allowed when the question was already before a court or had been decided and not properly appealed. It was mainly used to bring matters before the Emperor or his delegate, in first instance, where for any reason it was unlikely that justice would be done, e.g. where the claimant was humble and the opponent a ‘*potentior*,’ or where the claimant was of too high rank to go before the ordinary court, or the decision was of an unappealable magistrate.” W.W. Buckland, *Elementary Principles of the Roman Private Law* 671 (1912).

2. A petition for a pardon on a first offense. 3. Hist. A pleading similar to a rejoinder. Pl. *supplicationes* (s<<schwa>>p-li-kay-shee-oh-nee-z).

SUPPLICAVIT

supplicavit (s<<schwa>>p-li-kay-vit).Hist. A writ issued by the King's Bench or Chancery for taking sureties of the peace, obligating a person to be on good behavior for a specified period.

- It is commonly directed to the justices of the peace who are hesitant to intervene in their judicial capacities. See surety of the peace under SURETY.

“Any justices of the peace, by virtue of their commission, or those who are ex officio conservators of the peace ... may demand such security according to their own discretion: or it may be granted at the request of any subject, upon due cause shewn Or, if the justice is averse to act, it may be granted by a mandatory writ, called a supplicavit, issuing out of the court of king's bench or chancery; which will compel the justice to act, as a ministerial and not as a judicial officer” 4 William Blackstone, Commentaries on the Laws of England 250 (1769).

SUPPLICIUM

supplicium (s<<schwa>>-plish-ee-<<schwa>>m), n.[Latin “atonement”] Roman law. A punishment. • Ultimum supplicium is the death penalty.

SUPPLIER

supplier,n.1. A person engaged, directly or indirectly, in the business of making a product available to consumers.

“The supplier may be the seller, the manufacturer, or anyone else in the chain who makes the product available to the consumer.” 1 Julian B. McDonnell & Elizabeth J. Coleman, Commercial and Consumer Warranties ¶ 6.06 [2], at 6-33 (1991).

2. A person who gives possession of a chattel for another's use or allows someone else to use or occupy it while it is in the person's possession or control.

SUPPLIES

supplies,n.1. Means of provision or relief; stores available for distribution. 2. In parliamentary proceedings, the annual grant voted on by the House of Commons for maintaining the Crown and various public services.

SUPPLY

supply,n. The amount of goods produced or available at a given price.

aggregate supply.The total amount of goods and services generated in an economy during a specific period.

SUPPLY CURVE

supply curve.A line on a price-output graph showing the relationship between a good's price and the quantity supplied at a given time.

SUPPORT

support,n.1. Sustenance or maintenance; esp., articles such as food and clothing that allow one to live in the degree of comfort to which one is accustomed. See MAINTENANCE;

NECESSARIES.

“Generally speaking, the words ‘support’ and ‘maintenance’ are used synonymously to refer to food, clothing and other conveniences, and shelter, including, in some cases, medicines, medical care, nursing care, funeral services, education, and reasonable personal care, and the courtesies and kindness usually obtaining between individuals that have the same ties of blood in families of similar station as the contracting parties.” 73 Am.Jur.2d Support of Persons § 1, at 880–81 (2d ed. 1974).

2. One or more monetary payments to a current or former family member for the purpose of helping the recipient maintain an acceptable standard of living. — Also termed (in both senses) reasonable support. See ALIMONY. Cf. NONSUPPORT; MAINTENANCE(5).

child support. See CHILD SUPPORT.

family support. See FAMILY SUPPORT.

3. Basis or foundation. 4. The bracing of land so that it does not cave in because of another landowner's actions. — support, vb.

lateral support. Support by the land that lies next to the land under consideration. — Also termed easement of natural support. [Cases: Adjoining Landowners 2. C.J.S. Adjoining Landowners §§ 9–10, 14.]

subjacent support. Support by the earth that lies underneath the land under consideration.

SUPPORT AGREEMENT

support agreement. Oil & gas. A contract between people or entities in the oil-and-gas industry to promote exploratory operations. • Generally, one party agrees to contribute money or property to another if the other will drill a well on leases that it holds and provide the contributing party with information from tests conducted. For the contributing party, a support agreement is a purchase of geological or technological information. For the party receiving the support, the contribution lessens the cost or the risk of drilling operations. — Also termed contribution agreement. See DRY-HOLE AGREEMENT ; BOTTOM-HOLE AGREEMENT; ACREAGE-CONTRIBUTION AGREEMENT.

SUPPORT DEED

support deed. See DEED.

SUPPORT OBLIGATION

support obligation. A secondary obligation or letter-of-credit right that supports the payment or performance of an account, chattel paper, general intangible, document, healthcare-insurance receivable, instrument, or investment property. UCC § 9-102(a)(77).

SUPPORT ORDER

support order. A court decree requiring a party (esp. one in a divorce or paternity proceeding)

to make payments to maintain a child or spouse, including medical, dental, and educational expenses. [Cases: Child Custody 1–992; Divorce 208, 230. C.J.S. Divorce §§ 315, 320–331, 336–339, 369, 394–400, 422–426, 481–487; Parent and Child §§ 55–155, 157, 203, 321–325, 377.]

foreign support order. An out-of-state support order. [Cases: Child Custody 500–531; Divorce 388. C.J.S. Divorce § 809; Parent and Child §§ 122–128, 130–135, 139.]

SUPPORT PRICE

support price. See PRICE.

SUPPORT TRUST

support trust. See TRUST.

SUPPOSITION

supposition (s<<schwa>>p-<<schwa>>-zish-<<schwa>>n), n. An assumption that something is true, without proof of its veracity; the act of supposing. — suppose, vb. — supposable, adj.

SUPPRESS

suppress, vb. To put a stop to, put down, or prohibit; to prevent (something) from being seen, heard, known, or discussed <the defendant tried to suppress the incriminating evidence>. — suppression, n. — suppressible, suppressive, adj.

SUPPRESSION HEARING

suppression hearing. See HEARING.

SUPPRESSION OF EVIDENCE

suppression of evidence. 1. A trial judge's ruling that evidence offered by a party should be excluded because it was illegally acquired. [Cases: Criminal Law 394, 700; Evidence 154. C.J.S. Criminal Law §§ 486, 490, 510, 770, 1233, 1236; Evidence §§ 252–258.] 2. The destruction of evidence or the refusal to give evidence at a criminal proceeding. • This is usu. considered a crime. See OBSTRUCTION OF JUSTICE. 3. The prosecution's withholding from the defense of evidence that is favorable to the defendant. [Cases: Criminal Law 700.]

SUPPRESSIO VERI

suppressio veri (s<<schwa>>-pres[h]-ee-oh veer-I). [Latin] Suppression of the truth; a type of fraud. Cf. SUGGESTIO FALSI.

SUPRA

supra (s[y]oo-pr<<schwa>>). [Latin “above”] Earlier in this text; used as a citational signal to refer to a previously cited authority. Cf. INFRA.

SUPRA CITATUM<TT>

supra citatum (s[y]oo-pr<<schwa>> sI-tay-t<<schwa>>m). [Law Latin] Hist. Above cited. —
Abbr. sup. cit.

SUPRALEGAL

supralegal,adj. Above or beyond the law <a supralegal sovereign>.

SUPRANATIONAL

supranational,adj. Free of the political limitations of nations.

SUPRA PROTEST

supra protest.(Of a debt) under protest. See PROTEST(3).

SUPRA RIPARIAN

supra riparian (soo-pr<<schwa>> ri-pair-ee-<<schwa>>n or rI-). Upper riparian; higher up the stream. • This phrase describes the estate, rights, and duties of a riparian owner whose land is situated nearer the source of a stream than the land it is compared to.

SUPREMACY

supremacy. The position of having the superior or greatest power or authority.

SUPREMACY CLAUSE

Supremacy Clause.The clause in Article VI of the U.S. Constitution declaring that the Constitution, all laws made in furtherance of the Constitution, and all treaties made under the authority of the United States are the “supreme law of the land” and enjoy legal superiority over any conflicting provision of a state constitution or law. See PREEMPTION. [Cases: States 18.1. C.J.S. States § 22.]

SUPREMACY OF LAW

supremacy of law.See RULE OF LAW(2).

SUPREME

supreme,adj. (Of a court, power, right, etc.) highest; superior to all others.

SUPREME CIVIL COURT IN SCOTLAND

Supreme Civil Court in Scotland.See COURT OF SESSION(1).

SUPREME COURT

supreme court. 1. (cap.) SUPREME COURT OF THE UNITED STATES. 2. An appellate court existing in most states, usu. as the court of last resort. [Cases: Courts 91(1). C.J.S. Courts §§ 151–152, 167–168.] 3. In New York, a court of general jurisdiction with trial and appellate divisions. • The Court of Appeals is the court of last resort in New York. 4.SUPREME COURT OF JUDICATURE. [Cases: Courts 148.] — Abbr. S.C.; S.Ct.; Sup. Ct.

SUPREME COURT OF APPEALS

Supreme Court of Appeals.The highest court in West Virginia. [Cases: Courts 252.]

SUPREME COURT OF ERRORS

Supreme Court of Errors.Hist. The court of last resort in Connecticut. • The court is now called the Supreme Court.

SUPREME COURT OF JUDICATURE

Supreme Court of Judicature.The highest court in England and Wales, consisting of the High Court of Justice, the Court of Appeal, and the Crown Court. • The Supreme Court was created under the Judicature Act of 1873 that consolidated the existing superior courts, including the High Court of Chancery, the court of Queen's Bench, the court of Exchequer, the High Court of Admiralty, the court of Probate, and the London court of Bankruptcy. — Sometimes shortened to Supreme Court.

SUPREME COURT OF THE UNITED STATES

Supreme Court of the United States.The court of last resort in the federal system, whose members are appointed by the President and approved by the Senate. • The Court was established in 1789 by Article III of the U.S. Constitution, which vests the Court with the “judicial power of the United States.” — Often shortened to Supreme Court. — Also termed United States Supreme Court. [Cases: Federal Courts 441.]

SUPREME JUDICIAL COURT

Supreme Judicial Court.See COURT.

SUPREME LAW OF THE LAND

supreme law of the land. 1. The U.S. Constitution. [Cases: Constitutional Law 1.1.] 2. Acts of Congress made in accordance with the U.S. Constitution. 3.U.S. treaties. See SUPREMACY CLAUSE.

SUPREME LEGISLATION

supreme legislation.See LEGISLATION.

SUPREME POWER

supreme power.See sovereign political power under POLITICAL POWER.

SUR

sur (s<<<schwa>>r). [Law French] Hist. Upon. • This term appears in various phrases, such as sur cognizance de droit (“upon acknowledgment of right”).

SURCHARGE

surcharge,n.1. An additional tax, charge, or cost, usu. one that is excessive. 2. An additional

load or burden. 3. A second or further mortgage. 4. The omission of a proper credit on an account. 5. The amount that a court may charge a fiduciary that has breached its duty. 6. An overprint on a stamp, esp. one that changes its face value. 7. The overstocking of an area with animals. — surcharge, vb.

surcharge, vb. 1. To impose an additional (usu. excessive) tax, charge, or cost. 2. To impose an additional load or burden. 3. (Of a court) to impose a fine on a fiduciary for breach of duty. 4. To overstock (an area) with animals.

second surcharge. To overstock (a common) a second time for which a writ of second surcharge was issued.

surcharge and falsify. To scrutinize particular items in an account to show items that were not credited as required (to surcharge) and to prove that certain items were wrongly inserted (to falsify). • The courts of chancery usu. granted plaintiffs the opportunity to surcharge and falsify accounts that the defendant alleged to be settled.

SUR CUI ANTE DIVORTIUM<TT>

sur cui ante divortium (s<<schwa>>r kI [or kwIor kwee] an-tee d<<schwa>>-vor-shee-<<schwa>>m). See CUI ANTE DIVORTIUM.

SUR CUI IN VITA

sur cui in vita (s<<schwa>>r kI [or kwIor kwee] in vI-t<<schwa>>). See CUI IN VITA .

SUR DISCLAIMER

sur disclaimer. Hist. A writ brought by a lord against a tenant who has disclaimed tenure, to recover the land.

SURDUS

surdus (s<<schwa>>r-d<<schwa>>s), n. [Latin] Roman law. A deaf person. • A wholly deaf and mute person could not lawfully make a will before the time of Justinian, who modified the law.

SURETY

surety (shuur[-<<schwa>>]-tee). 1. A person who is primarily liable for the payment of another's debt or the performance of another's obligation. • Although a surety is similar to an insurer, one important difference is that a surety often receives no compensation for assuming liability. A surety differs from a guarantor, who is liable to the creditor only if the debtor does not meet the duties owed to the creditor; the surety is directly liable. Cf. GUARANTOR. [Cases: Principal and Surety 1, 65–66. C.J.S. Principal and Surety §§ 2–5, 70, 72.]

“The words surety and guarantor are often used indiscriminately as synonymous terms; but while a surety and a guarantor have this in common, that they are both bound for another person, yet there are points of difference between them which should be carefully noted. A surety is usually bound with his principal by the same instrument, executed at the same time and on the

same consideration. He is an original promisor and debtor from the beginning, and is held ordinarily to know every default of this principal. Usually the surety will not be discharged, either by the mere indulgence of the creditor to the principal, or by want of notice of the default of the principal, no matter how much he may be injured thereby. On the other hand, the contract of the guarantor is his own separate undertaking, in which the principal does not join. It is usually entered into before or after that of the principal, and is often founded on a separate consideration from that supporting the contract of the principal.” 1 George W. Brandt, *The Law of Suretyship and Guaranty* § 2, at 9 (3d ed. 1905).

“A surety, in the broad sense, is one who is liable for the debt or obligation of another, whether primarily or secondarily, conditionally or unconditionally. In other words, the term surety includes anyone who is bound on an obligation which, as between himself and another person who is bound to the obligee for the same performance, the latter obligor should discharge. In this sense, suretyship includes all accessorial obligations. By such terminology, guarantors and indorsers are kinds of sureties A surety, in the narrow sense, is one who is liable in form primarily on the debt or obligation of another. His obligation is accessorial to that of the principal debtor, but it is direct and not conditioned on the principal debtor's default. In this sense, suretyship differs from guaranty and indorsement, which are conditional, secondary obligations The word surety is in the majority of American decisions used in the narrower sense to indicate a primary obligation to pay another's debt, to distinguish it from the secondary obligation of a guarantor. This terminology has the advantage of indicating by the use of the one word ‘surety’ an obligation which is at once one to pay another's debt, but which at the same time is not conditioned upon another's default.” Laurence P. Simpson, *Handbook on the Law of Suretyship* 6, 8–9 (1950).

accommodation surety. See voluntary surety.

compensated surety. A surety who is paid for becoming obliged to the creditor; esp., one that engages in the business of executing suretyship contracts in exchange for premiums, which are determined by an actuarial computation of risks. • A bonding company is a typical example of a compensated surety. — Also termed commercial surety.

cosurety. See COSURETY.

gratuitous surety. A surety who is not compensated for becoming obliged to the creditor. • Perhaps the most common example is the parent who signs as a surety for a child.

subsurety. See SUBSURETY.

supplemental surety. A surety for a surety.

surety of the peace. Hist. A surety responsible for ensuring that a person will not commit a future offense. • It is required of one against whom there are probable grounds to suspect future misbehavior. See SUPPLICAVIT.

voluntary surety. A surety who receives no consideration for the promise to act as a surety. — Also termed accommodation surety.

2. A formal assurance; esp., a pledge, bond, guarantee, or security given for the fulfillment of

an undertaking.

SURETY AND FIDELITY INSURANCE

surety and fidelity insurance. See fidelity insurance under INSURANCE.

SURETY BOND

surety bond. See PERFORMANCE BOND.

SURETY COMPANY

surety company. See COMPANY.

SURETY INSURANCE

surety insurance. See guaranty insurance under INSURANCE.

SURETYSHIP

suretyship. 1. The legal relation that arises when one party assumes liability for a debt, default, or other failing of a second party. • The liability of both parties begins simultaneously. In other words, under a contract of suretyship, a surety becomes a party to the principal obligation. — Also termed (archaically) pledgery. [Cases: Principal and Surety 1, 65, 66. C.J.S. Principal and Surety §§ 2–5, 70, 72.] 2. The lending of credit to aid a principal who does not have sufficient credit. • The purpose is to guard against loss if the principal debtor were to default. 3. The position or status of a surety.

involuntary suretyship. A suretyship that arises incidentally, when the chief object of the contract is to accomplish some other purpose. [Cases: Principal and Surety 11. C.J.S. Principal and Surety §§ 24, 33.]

personal suretyship. A suretyship in which the surety is answerable in damages. [Cases: Principal and Surety 65. C.J.S. Principal and Surety § 70.]

real suretyship. A suretyship in which specified property can be taken, but the surety is not answerable in damages. [Cases: Principal and Surety 65. C.J.S. Principal and Surety § 70.]

suretyship by operation of law. A suretyship that the law creates when a third party promises a debtor to assume and pay the debt that the debtor owes to a creditor. [Cases: Principal and Surety 14. C.J.S. Principal and Surety § 35.]

voluntary suretyship. A suretyship in which the chief object of the contract is to make one party a surety.

SURFACE

surface. 1. The top layer of something, esp. of land. 2. Mining law. An entire portion of land, including mineral deposits, except those specifically reserved. • The meaning of the term varies, esp. when used in legal instruments, depending on the language used, the intention of the parties, the business involved, and the nature and circumstances of the transaction. 3. Mining law. The part

of the geologic section lying over the minerals in question.

SURFACE CASING

surface casing. See CASING.

SURFACE-DAMAGE CLAUSE

surface-damage clause. Oil & gas. A lease provision requiring the lessee to pay the lessor or the surface-interest owner for all or for a specified kind or degree of damage to the surface that results from oil-and-gas operations. — Also termed location-damage clause; damages clause.

SURFACE INTEREST

surface interest. Oil & gas. Every right in real property other than the mineral interest. • The surface-interest owner has the right to the surface subject to the right of the mineral-interest owner to use the surface. The surface-interest owner is entitled to whatever nonmineral substances are found in or under the soil. — Also termed surface right. Cf. MINERAL INTEREST ; SUBSURFACE INTEREST. [Cases: Mines and Minerals 55(6). C.J.S. Mines and Minerals §§ 177, 180, 182–185, 428, 434–435.]

SURFACE ISSUE

surface issue. See ISSUE(1).

SURFACE TRANSPORTATION BOARD

Surface Transportation Board. A unit in the U.S. Department of Transportation responsible for the economic regulation of interstate surface transportation, primarily railroads. • Its jurisdiction includes railroad-rate and -service issues, railroad-company mergers and related labor matters; certain truck and ocean shipping rates; certain intercity bus-company structures; and certain pipeline matters not regulated by the Federal Energy Regulatory Commission. — Abbr. STB.

SURFACE WATER

surface water. See WATER.

SURGEON GENERAL

Surgeon General. 1. The chief medical officer of the U.S. Public Health Service or of a state public-health agency. 2. The chief officer of the medical departments in the armed forces. — Abbr. SG.

SURMISE

surmise (s<<schwa>>r-mIz), n. 1. An idea based on weak evidence; conjecture. 2. Hist. A suggestion, esp. to a court. 3. Hist. Eccles. law. An allegation in the complaint. • A collateral surmise is a surmise of a fact not contained in the libel. See LIBEL(3).

SURNAME

surname. See NAME.

SURPLICE FEES

surplice fees (s<<schwa>>r-plis feez).Eccles. law. Fees paid to clergy for performing occasional duties, such as marriages, funerals, and baptisms.

SURPLUS

surplus. 1. The remainder of a thing; the residue or excess. 2. The excess of receipts over disbursements. 3. Funds that remain after a partnership has been dissolved and all its debts paid. 4. A corporation's net worth, beyond the par value of capital stock. — Also termed overplus.

accumulated surplus.Earnings in excess of a corporation's capital and liabilities.

acquired surplus.The surplus gained by the purchase of another business.

actuarial surplus.See ACTUARIAL SURPLUS.

appreciation surplus.See revaluation surplus.

appropriated surplus. 1. The portion of surplus earmarked for a specific purpose. — Also termed reserved surplus. 2. See appropriated retained earnings under EARNINGS.

capital surplus. 1. All surplus (such as paid-in surplus or donated surplus) not arising from the accumulation of profits; a company's surplus other than earned surplus, usu. created by financial reorganization or gifts. 2. See paid-in surplus.

donated surplus. 1. Assets (such as stock) contributed to a corporation. 2. The increase in the shareholders' equity account resulting from such a contribution.

earned surplus.See retained earnings under EARNINGS.

initial surplus.The surplus that appears on the financial statement at the beginning of an accounting period, but that does not reflect the operations for the statement's period.

paid-in surplus.The surplus gained by the sale, exchange, or issuance of capital stock at a price above par value. — Also termed capital surplus; premium on capital stock.

reserved surplus.See appropriated surplus (1).

restricted surplus.A surplus with a limited or restricted use; esp., the portion of retained earnings that cannot be distributed as dividends. • The restriction is usu. due to preferred dividends in arrears, a covenant in a loan agreement, or some decision of the board of directors. See retained earnings under EARNINGS.

revaluation surplus.Surplus that is gained when assets are reappraised at a higher value. — Also termed appreciation surplus.

trade surplus.The excess of merchandise exports over merchandise imports during a specific period. Cf. trade deficit under DEFICIT.

unearned surplus. Corporations. The total of amounts assigned to shares in excess of stated capital, surplus arising from a revaluation of assets above cost, and contributions other than for shares, whether from shareholders or others.

SURPLUSAGE

surplusage (s<<schwa>>r-pl<<schwa>>s-ij). 1. Redundant words in a statute or legal instrument; language that does not add meaning <the court must give effect to every word, reading nothing as mere surplusage>. [Cases: Statutes 202, 206. C.J.S. Statutes § 327.] 2. Extraneous matter in a pleading <allegations that are irrelevant to the case will be treated as surplusage>. [Cases: Indictment and Information 118. C.J.S. Indictments and Informations § 136.]

“Surplusage is to be avoided. The perfection of pleading is to combine the requisite certainty and precision with the greatest possible brevity of statement. ‘Surplusage’ ... includes matter of any description which is unnecessary to the maintenance of the action or defense. The rule requires the omission of such matter in two instances: (1) Where the matter is wholly foreign and irrelevant to the merits of the case. (2) When, though not wholly foreign, such matter need not be stated.” Benjamin J. Shipman, *Handbook of Common-Law Pleading* § 316, at 514 (Henry Winthrop Ballantine ed., 3d ed. 1923).

SURPLUS EARNINGS

surplus earnings. See EARNINGS.

SURPLUS-LINES INSURANCE

surplus-lines insurance. See INSURANCE.

SURPLUS PROFIT

surplus profit. See PROFIT(1).

SURPLUS REVENUE

surplus revenue. See appropriated retained earnings under EARNINGS.

SURPLUS WATER

surplus water. See WATER.

SURPRISE

surprise. An occurrence for which there is no adequate warning or that affects someone in an unexpected way. • In a trial, the procedural rules are designed to limit surprise — or trial by ambush — as much as possible. For example, the parties in a civil case are permitted to conduct discovery, to determine the essential facts of the case and the identities of possible witnesses, and to inspect relevant documents. At trial, if a party calls a witness who has not been previously identified, the witness's testimony may be excluded if it would unfairly surprise and prejudice the other party. And if a party has diligently prepared the case and is nevertheless taken by surprise on a material point at trial, that fact can sometimes be grounds for a new trial or for relief from the

judgment under Rules 59 and 60 of the Federal Rules of Civil Procedure.

SURREBUTTAL

surrebuttal (s<<schwa>>r-ri-b<<schwa>>t-<<schwa>>l). The response to the opposing party's rebuttal in a trial or other proceeding; a rebuttal to a rebuttal <called two extra witnesses in surrebuttal>. [Cases: Criminal Law 683; Federal Civil Procedure 2015; Trial 64. C.J.S. Criminal Law § 1219; Trial § 197.]

SURREBUTTER

surrebutter (s<<schwa>>r-ri-b<<schwa>>t-<<schwa>>r). Common-law pleading. The plaintiff's answer of fact to the defendant's rebutter. [Cases: Pleading 185.]

SURREJOINDER

surrejoinder (s<<schwa>>r-ri-joyn-d<<schwa>>r). Common-law pleading. The plaintiff's answer to the defendant's rejoinder. See REPLICATION. [Cases: Pleading 184.]

“Where the common-law system of pleading is in force, the pleadings do not terminate with the plaintiff's replication. The defendant may interpose a rejoinder to the replication, and the plaintiff a surrejoinder to the defendant's rejoinder. Then follows the rebutter, which in turn may be met by a surrebutter.” 61A Am. Jur. 2d Pleading § 193, at 192 (1981).

SURRENDER

surrender, n. 1. The act of yielding to another's power or control. 2. The giving up of a right or claim; RELEASE(1). [Cases: Release 1. C.J.S. Release §§ 2–3, 5–8, 19.] 3. The return of an estate to the person who has a reversion or remainder, so as to merge the estate into a larger estate. Cf. MERGER(4).

“Merger bears a very near resemblance, in circumstances and effect, to a surrender; but the analogy does not hold in all cases, though there is not any case in which merger will take place, unless the right of making and surrender resided in the parties between whom the merger takes place. To a surrender, it is requisite that the tenant of the particular estate should relinquish his estate in favor of the tenant of the next vested estate, in remainder or reversion. But merger is confined to the cases in which the tenant of the estate in reversion or remainder grants that estate to the tenant of the particular estate, or in which the particular tenant grants his estate to him in reversion or remainder. Surrender is the act of the party, and merger is the act of the law.” 4 James Kent, Commentaries on American Law *100 (George Comstock ed., 11th ed. 1866).

4. Commercial law. The delivery of an instrument so that the delivery releases the deliverer from all liability. [Cases: Bills and Notes 438. C.J.S. Bills and Notes; Letters of Credit §§ 240–241.] 5. A tenant's relinquishment of possession before the lease has expired, allowing the landlord to take possession and treat the lease as terminated. — Also termed (in sense 5) surrender of term. [Cases: Landlord and Tenant 109. C.J.S. Landlord and Tenant §§ 120, 123–124.] — surrender, vb.

SURRENDER BY BAIL

surrender by bail.A surety's delivery of a prisoner, who had been released on bail, into custody. [Cases: Bail 80. C.J.S. Bail; Release and Detention Pending Proceedings §§ 136–139.]

SURRENDER BY OPERATION OF LAW

surrender by operation of law.An act that is an equivalent to an agreement by a tenant to abandon property and the landlord to resume possession, as when the parties perform an act so inconsistent with the landlord–tenant relationship that surrender is presumed, or when a tenant performs some act that would not be valid if the estate continued to exist. [Cases: Landlord and Tenant 109(1). C.J.S. Landlord and Tenant §§ 121, 127.]

SURRENDER CLAUSE

surrender clause.Oil & gas. A provision commonly found in oil-and-gas leases authorizing a lessee to release its rights to all or any portion of the leased property at any time and to be relieved of further obligations on the acreage surrendered.

SURRENDEREE

surrenderee. One to whom a surrender is made. See SURRENDER.

SURRENDERER

surrenderer. See SURRENDEROR.

SURRENDER OF A CRIMINAL

surrender of a criminal.An officer's delivery of a prisoner to the authorities in the appropriate jurisdiction. See EXTRADITION; RENDITION. [Cases: Extradition and Detainers 16, 36.]

SURRENDER OF A PREFERENCE

surrender of a preference.Bankruptcy. The yielding of a voidable conveyance, transfer, assignment, or encumbrance by a creditor to the trustee as a condition of allowing the creditor's claim. [Cases: Bankruptcy 2824.C.J.S. Bankruptcy § 239.]

SURRENDER OF CHARTER

surrender of charter.Corporations. The dissolution of a corporation by a formal yielding of its charter to the state under which it was created and the subsequent acceptance of that charter by the state. [Cases: Corporations 610(1). C.J.S. Corporations §§ 835–837.]

“The surrender of a charter can be made only by some formal, solemn act of the corporation, and will be of no avail until accepted by the government. There must be the same agreement of the parties to dissolve that there was to form the compact. It is the acceptance which gives efficacy to the surrender. Consent of the state is sometimes given by general statute.” 19 Am. Jur. 2d Corporations § 2738, at 546 (1986).

SURRENDER OF COPYHOLD

surrender of copyhold.Hist. The transfer by a tenant of a copyhold estate by yielding it to the

lord in trust for the transferee according to the terms in the surrender. • In normal practice, the tenant went to the steward of the manor and delivered a rod, a glove, or other customary symbol, thereby conveying to the lord (through the steward) all interest and title to the estate, in trust, to be then granted by the lord to the transferee. See COPYHOLD.

SURRENDER OF TERM

surrender of term. See SURRENDER(5).

SURRENDEROR

surrenderor. One who surrenders; esp., one who yields up a copyhold estate for conveyance. — Also spelled surrenderer. See COPYHOLD.

SURRENDER TO USES OF WILL

surrender to uses of will. Hist. A required yielding of a copyhold interest passed by will to the will's uses. • The requirement was abolished by St. 55 Geo. 3, ch. 192.

SURRENDER VALUE

surrender value. See cash surrender value under VALUE(2).

SURREPTITIOUS

surreptitious (s<<schwa>>r-<<schwa>>p-tish-<<schwa>>s), adj. (Of conduct) unauthorized and clandestine; stealthily and usu. fraudulently done < surreptitious interception of electronic communications is prohibited under wiretapping laws>. [Cases: Telecommunications 494. C.J.S. Telegraphs, Telephones, Radio, and Television §§ 247–249, 254, 264–265.]

SURREPTITIOUS-ENTRY SEARCH WARRANT

surreptitious-entry search warrant. See covert-entry search warrant under SEARCH WARRANT.

SURREPTITIOUS-ENTRY WARRANT

surreptitious-entry warrant. See WARRANT(1).

SURROGACY

surrogacy. 1. The act of performing some function in the place of someone else. 2. The process of carrying and delivering a child for another person.

gestational surrogacy. A pregnancy in which one woman (the genetic mother) provides the egg, which is fertilized, and another woman (the surrogate mother) carries the fetus and gives birth to the child.

traditional surrogacy. A pregnancy in which a woman provides her own egg, which is fertilized by artificial insemination, and carries the fetus and gives birth to a child for another person.

SURROGACY CONTRACT

surrogacy contract. See SURROGATE-PARENTING AGREEMENT.

SURROGATE

surrogate (s<<schwa>>r-<<schwa>>-git), n.1. A substitute; esp., a person appointed to act in the place of another <in his absence, Sam's wife acted as a surrogate>. See SURROGACY; surrogate mother under MOTHER. 2. A probate judge <the surrogate held that the will was valid>. See probate judge under JUDGE. — surrogate, adj. — surrogacy (s<<schwa>>r-<<schwa>>-g<<schwa>>-see), surrogateship, n.

SURROGATE CARRIER

surrogate carrier. See surrogate mother (1) under MOTHER.

SURROGATE COURT

surrogate court. See probate court under COURT.

SURROGATE MOTHER

surrogate mother. See MOTHER.

SURROGATE PARENT

surrogate parent. 1. PARENT. 2. See surrogate mother under MOTHER.

SURROGATE-PARENTING AGREEMENT

surrogate-parenting agreement. A contract between a woman and typically an infertile couple under which the woman provides her uterus to carry an embryo throughout pregnancy; esp., an agreement between a person (the intentional parent) and a woman (the surrogate mother) providing that the surrogate mother will (1) bear a child for the intentional parent, and (2) relinquish any and all rights to the child. • If the surrogate mother is married, her husband must also consent to the terms of the surrogacy contract. The agreement usu. provides that the woman will relinquish to the couple any parental rights she may have upon the birth of the child. Complex issues arise concerning who is the parent of the resulting child: the genetic donor of egg or sperm, a spouse of either donor, the surrogate, or the person intending to care for the resulting child? American jurisdictions are split on the interpretation and enforceability of these contracts. — Also termed surrogacy contract. See surrogate mother under MOTHER; intended child under CHILD; intentional parent under PARENT. [Cases: Children Out-of-Wedlock 1; Contracts 108(2). C.J.S. Children Out-of-Wedlock §§ 2–11; Contracts §§ 269–270, 272–273, 277.]

SURROGATE'S COURT

surrogate's court. See probate court under COURT.

SURROUNDING CIRCUMSTANCES

surrounding circumstances. The facts underlying an act, injury, or transaction — usu. one at

issue in a legal proceeding.

SURSISE

sursise (s<<schwa>>r-sIz). [Law French] Hist. Neglect; omission.

SURSUM REDDERE

sursum reddere (s<<schwa>>r-s<<schwa>>m red-<<schwa>>r-ee), vb.[Law Latin] Hist. In conveyancing, to render up or surrender (property rights, etc.).

SURSUM REDDITIO

sursum redditio (s<<schwa>>r-s<<schwa>>m r<<schwa>>-dish-ee-oh). [Law Latin] Hist. In conveyancing, a surrender of an estate by mutual agreement.

SURTAX

surtax. See TAX.

SURTAX EXEMPTION

surtax exemption. 1. An exclusion of an item from a surtax. [Cases: Internal Revenue 3633. C.J.S. Internal Revenue §§ 17–18, 368, 387.] 2. An item or an amount not subject to a surtax. See surtax under TAX.

SURVEILLANCE

surveillance (s<<schwa>>r-vay-l<<schwa>>nts), n. Close observation or listening of a person or place in the hope of gathering evidence. — surveil (s<<schwa>>r-vayl), vb.

SURVEY

survey,n.1. A general consideration of something; appraisal <a survey of the situation>.2. The measuring of a tract of land and its boundaries and contents; a map indicating the results of such measurements <the lender requires a survey of the property before it will issue a loan>.

government survey.A survey made by a governmental entity of tracts of land (as of townships and sections and quarter-sections of land). — Also termed (when conducted by the federal government) congressional survey. [Cases: Municipal Corporations 42; Public Lands 23–28. C.J.S. Public Lands §§ 30–35.]

inclusive survey.A survey that includes within the described boundaries land that is owned or claimed by others and excluded from the survey's computed area.

topographical survey.A survey that determines a property's elevation above sea level.

3. A governmental department that carries out such measurements <please obtain the boundaries from survey>.4. A poll or questionnaire, esp. one examining popular opinion <the radio station took a survey of the concert audience>.5.Maritime law. A written assessment of the current condition of a vessel or cargo. — Also termed (in sense 5) survey of a vessel. [Cases: Shipping 12. C.J.S. Shipping § 12.] — survey,vb.

SURVEY OF A VESSEL

survey of a vessel. See SURVEY(5).

SURVEYOR

surveyor (s<<schwa>>r-vay-<<schwa>>r), n. One who surveys land and buildings. — surveyorship, n.

SURVEYOR OF THE PORT

surveyor of the port. Hist. A U.S. customs revenue officer appointed for each principal port of entry to oversee the inspection and valuation of imports. • The office was abolished in 1953.

SURVIVAL ACTION

survival action. A lawsuit brought on behalf of a decedent's estate for injuries or damages incurred by the decedent immediately before dying. • A survival action derives from the claim that a decedent would have had — such as for pain and suffering — if he or she had survived. In contrast is a claim that the beneficiaries may have in a wrongful-death action, such as for loss of consortium or loss of support from the decedent. Cf. WRONGFUL-DEATH ACTION . [Cases: Death 10. C.J.S. Death §§ 21, 102.]

SURVIVAL CLAUSE

survival clause. Wills & estates. A testamentary provision conditioning a bequest on a beneficiary's living for a specified period, often 60 days, after the testator's death. • If the beneficiary dies within the stated period, the testamentary gift usu. accrues to the residuary estate. — Also termed survivorship clause. Cf. SIMULTANEOUS-DEATH CLAUSE.

SURVIVAL STATUTE

survival statute. A law that modifies the common law by allowing certain actions to continue in favor of a personal representative after the death of the party who could have originally brought the action; esp., a law that provides for the estate's recovery of damages incurred by the decedent immediately before death. Cf. DEATH STATUTE. [Cases: Death 10. C.J.S. Death §§ 21, 102.]

SURVIVANCE

survivance. The right of succession (as to an office or to an estate) of a survivor named before the death of the incumbent or the holder.

SURVIVING

surviving, adj. Remaining alive; living beyond the happening of an event so as to entitle one to a distribution of property or income <surviving spouse>. See SURVIVAL ACTION.

SURVIVING CORPORATION

surviving corporation. See CORPORATION.

SURVIVING PARTNER

surviving partner. See PARTNER.

SURVIVING SPOUSE

surviving spouse. See SPOUSE.

SURVIVOR

survivor. 1. One who outlives another. 2. A trustee who administers a trust after the cotrustee has been removed, has refused to act, or has died.

SURVIVORSHIP

survivorship. 1. The state or condition of being the one person out of two or more who remains alive after the others die. 2. The right of a surviving party having a joint interest with others in an estate to take the whole. See RIGHT OF SURVIVORSHIP.

SURVIVORSHIP ANNUITY

survivorship annuity. See ANNUITY.

SURVIVORSHIP CLAUSE

survivorship clause. See SURVIVAL CLAUSE.

SURVIVORSHIP POLICY

survivorship policy. See INSURANCE POLICY.

SUSCEPTIBILITY

susceptibility. See SUBJECTION(3).

SUSPECT

suspect, n. A person believed to have committed a crime or offense.

suspect, vb. 1. To consider (something) to be probable. 2. To consider (something) possible. 3. To consider (a person) as having probably committed wrongdoing, but without certain truth.

reasonably suspect. 1. To consider (something) to be probable under circumstances in which a reasonable person would be led to that conclusion. 2. To consider (someone) as having probably committed wrongdoing under circumstances in which a reasonable person would be led to that conclusion.

SUSPECT CLASS

suspect class. A group identified or defined in a suspect classification.

SUSPECT CLASSIFICATION

suspect classification. Constitutional law. A statutory classification based on race, national origin, or alienage, and thereby subject to strict scrutiny under equal-protection analysis. • Examples of laws creating suspect classifications are those permitting only U.S. citizens to receive

welfare benefits and setting quotas for the government's hiring of minority contractors. See STRICT SCRUTINY. Cf. FUNDAMENTAL RIGHT. [Cases: Constitutional Law 213.1(1). C.J.S. Constitutional Law §§ 714–715, 718.]

quasi-suspect classification. A statutory classification based on gender or legitimacy, and therefore subject to intermediate scrutiny under equal-protection analysis. • Examples of laws creating a quasi-suspect classification are those permitting alimony for women only and providing for an all-male draft. See INTERMEDIATE SCRUTINY. [Cases: Constitutional Law 213.1(1), 224(1). C.J.S. Constitutional Law §§ 714–715, 718, 733–734, 941–944.]

SUSPEND

suspend, vb. 1. To interrupt; postpone; defer <the fire alarm suspended the prosecutor's opening statement>. 2. To temporarily keep (a person) from performing a function, occupying an office, holding a job, or exercising a right or privilege <the attorney's law license was suspended for violating the Model Rules of Professional Conduct>. [Cases: Licenses 38; Officers and Public Employees 65. C.J.S. Agriculture §§ 4.5; Architects § 10; Licenses §§ 48, 50–63; Officers and Public Employees §§ 139, 141–142.]

suspend the rules. Parliamentary law. To pass a motion that overrides an agenda or other procedural rule, for a limited time and purpose, so that the deliberative assembly may take some otherwise obstructed action.

“When a body wishes to do something that cannot be done without violating its own rules, but yet that is not in conflict with the constitution or with any controlling statutory provision, it ‘suspends the rules that interfere with’ the proposed action. Suspension differs from amendment because it is limited in scope and in time. The object of the suspension must be specified, and nothing falling outside the stated limits of the motion to suspend the rules can be done under the suspension.” National Conference of State Legislatures, *Mason's Manual of Legislative Procedure* § 279, at 211 (2000).

SUSPENDATUR PER COLLUM

suspendatur per collum (s<<schwa>>s-pen-day-t<<schwa>>r p<<schwa>>r kahl-<<schwa>>m). [Law French] Hist. Let him be hanged by the neck. • This phrase was written by a judge in the margin of the sheriff's calendar, opposite the name of a prisoner who had been sentenced to death. — Abbr. sus. per coll.

“And now the usage is, for the judge to sign the calendar, or list of all the prisoners' names, with their separate judgments in the margin, which is left with the sheriff. As, for capital felony, it is written opposite to the prisoner's name, ‘hanged by the neck;’ formerly, in the days of Latin and abbreviation, ‘sus. per coll.’ for ‘suspendatur per collum.’ And this is the only warrant that the sheriff has for so material an act as taking away life of another.” 4 William Blackstone, *Commentaries on the Laws of England* 396 (1769).

SUSPENDED SENTENCE

suspended sentence. See SENTENCE.

SUSPENDED TRADING

suspended trading. See TRADING HALT.

SUSPENSE

suspense. The state or condition of being suspended; temporary cessation <a suspense of judgment>.

SUSPENSE ACCOUNT

suspense account. See ACCOUNT.

SUSPENSE RESERVE

suspense reserve. See appropriated retained earnings under EARNINGS.

SUSPENSION

suspension. 1. The act of temporarily delaying, interrupting, or terminating something <suspension of business operations> <suspension of a statute>. 2. The state of such delay, interruption, or termination <corporate transfers were not allowed because of the suspension of business>. 3. The temporary deprivation of a person's powers or privileges, esp. of office or profession; esp., a fairly stringent level of lawyer discipline that prohibits the lawyer from practicing law for a specified period, usu. from several months to several years <suspension of the bar license>. • Suspension may entail requiring the lawyer to pass a legal-ethics bar examination, or to take one or more ethics courses as continuing legal education, before being readmitted to active practice. [Cases: Licenses 38; Officers and Public Employees 65. C.J.S. Agriculture §§ 4.5; Architects § 10; Licenses §§ 48, 50–63; Officers and Public Employees §§ 139, 141–142.] 4. The temporary withdrawal from employment, as distinguished from permanent severance <suspension from teaching without pay>. [Cases: Master and Servant 30–31. C.J.S. Employer–Employee Relationship §§ 35, 38–40, 42–43, 52, 56, 60.] 5. Eccles. law. An ecclesiastical censure that can be temporary or permanent, and partial or complete. See DEPRIVATION. 6. Scots law. The process of staying a judgment pending an appeal to the Supreme Court.

SUSPENSION OF ARMS

suspension of arms. See TRUCE.

SUSPENSION OF JUDGMENT

suspension of judgment. See STAY.

SUSPENSION OF TRADING

suspension of trading. The temporary cessation of all trading of a particular stock on a stock exchange because of some abnormal market condition.

SUSPENSIVE APPEAL

suspensive appeal. See APPEAL.

SUSPENSIVE CONDITION

suspensive condition. See CONDITION(2).

SUSPENSIVE VETO

suspensive veto. See suspensory veto under VETO.

SUSPENSORY VETO

suspensory veto. See VETO.

SUS. PER COLL.

sus. per coll. abbr. SUSPENDATUR PER COLLUM.

SUSPICION

suspicion. The apprehension or imagination of the existence of something wrong based only on inconclusive or slight evidence, or possibly even no evidence.

reasonable suspicion. A particularized and objective basis, supported by specific and articulable facts, for suspecting a person of criminal activity. • A police officer must have a reasonable suspicion to stop a person in a public place. See STOP AND FRISK. Cf. PROBABLE CAUSE. [Cases: Arrest 63.5. C.J.S. Arrest §§ 38–42.]

SUSPICIOUS-ACTIVITY REPORT

suspicious-activity report. A form that, as of 1996, a financial institution must complete and submit to federal regulatory authorities if it suspects that a federal crime has occurred in the course of a monetary transaction. • This form superseded two earlier forms, the criminal-referral form and the suspicious-transaction report. — Abbr. SAR. [Cases: Banks and Banking 151, 188.5. C.J.S. Banks and Banking §§ 266–268, 277–278, 445–451.]

SUSPICIOUS CHARACTER

suspicious character. In some states, a person who is strongly suspected or known to be a habitual criminal and therefore may be arrested or required to give security for good behavior.

SUSPICIOUS-TRANSACTION REPORT

suspicious-transaction report. A checkbox on IRS Form 4789 formerly (1990–1995) requiring banks and other financial institutions to report transactions that might be relevant to a violation of the Bank Secrecy Act or its regulations or that might suggest money-laundering or tax evasion. • This checkbox, like the criminal-referral form, has since been superseded by the suspicious-activity report. — Abbr. STR. [Cases: Banks and Banking 151. C.J.S. Banks and Banking §§ 266–268, 277–278.]

SUSTAIN

sustain,vb.1. To support or maintain, esp. over a long period <enough oxygen to sustain life>.2. To nourish and encourage; lend strength to <she helped sustain the criminal enterprise>.3. To undergo; suffer <Charles sustained third-degree burns>.4. (Of a court) to uphold or rule in favor of <objection sustained>.5. To substantiate or corroborate <several witnesses sustained Ms. Sipes's allegation>.6. To persist in making (an effort) over a long period <he sustained his vow of silence for the last 16 years of his life>. — sustainment, sustentation,n. — sustainable,adj.

SUTHDURE

suthdure (suuth-door).Hist. Eccles. law. The south door of a church, where purgations and other acts were performed and complaints were heard and resolved.

SUUM CUIQUE TRIBUERE

suum cuique tribuere (s[y]oo-<<schwa>>m k[w]I-kwee tri-byoo-<<schwa>>r-ee), vb.[Latin] Roman law. To render to every person his due. • This was one of the three general precepts in which Justinian expressed the requirements of the law. Cf. ALTERUM NON LAEDERE; HONESTE VIVERE.

SUUS HERES

suus heres (s[y]oo-<<schwa>>s heer-eez). [Latin] Roman law. An heir in the power of the deceased, by whom acceptance of the inheritance was not necessary. See SUI HEREDES.

SUUS JUDEX

suus judex (s[y]oo-<<schwa>>s joo-deks). [Law Latin] Hist. A proper judge in a cause.

SUZERAIN

suzerain (soo-z<<schwa>>-rin or -rayn), n.[Law French] 1.Hist. A Crown tenant; a tenant in capite holding an estate immediately of the Crown. 2.Int'l law. A nation that exercises control over another nation's foreign relations. — Also spelled suzerain.

SUZERAINTY

suzerainty (soo-z<<schwa>>-rin-tee or -rayn-tee).1.Hist. The power of a feudal overlord to whom fealty is due. See FEALTY. 2.Int'l law. The dominion of a nation that controls the foreign relations of another nation but allows it autonomy in its domestic affairs.

“At the present time there appears to be no instance of a relation between states which is described as a suzerainty. The term was applied to the relation between Great Britain and the South African Republic, and also to that between Turkey and Bulgaria from 1878 to 1909, but it seems likely to disappear from diplomatic terminology.” J.L. Brierly, *The Law of Nations* 128 (5th ed. 1955).

SUZEREIGN

suzereign. See SUZERAIN.

S.W.

S.W.abbr.SOUTH WESTERN REPORTER.

SWAIN

swain. See SWEIN.

SWAINMOTE

swainmote. See SWEINMOTE.

SWAMP AND OVERFLOWED LAND

swamp and overflowed land. See LAND.

SWAP

swap,n. Commercial law. 1. An exchange of one security for another. 2. A financial transaction between two parties, usu. involving an intermediary or dealer, in which payments or rates are exchanged over a specified period and according to specified conditions.

currency swap.An agreement to swap specified payment obligations denominated in one currency for specified payment obligations denominated in a different currency.

stock swap.In a corporate reorganization, an exchange of one corporation's stock for another corporation's stock. [Cases: Corporations 573, 575.]

SWARF MONEY

swarf money.Hist. A payment made in lieu of the service of maintaining a lord's castle.

SWEAR

swear,vb.1. To administer an oath to (a person). [Cases: Oath 5.C.J.S. Oaths and Affirmations §§ 4, 8–13.] 2. To take an oath. 3. To use obscene or profane language.

SWEARING BEHIND

swearing behind.Patents. A patent applicant's showing that an invention was conceived of or reduced to practice before the effective date of a prior-art reference cited by a patent examiner as grounds for rejecting an application. — Also termed swearing behind the reference. See ANTEDATING OF A PRIOR-ART REFERENCE . [Cases: Patents 91(.5). C.J.S. Patents § 122.] — swear behind,vb.

SWEARING CONTEST

swearing contest. See SWEARING MATCH.

SWEARING-IN

swearing-in,n. The administration of an oath to a person who is taking office or testifying in a legal proceeding. See OATH. [Cases: Officers and Public Employees 36(1). C.J.S. Officers and Public Employees § 59.]

SWEARING MATCH

swearing match. A dispute in which determining a vital fact involves the credibility choice between one witness's word and another's — the two being irreconcilably in conflict and there being no other evidence. • In such a dispute, the fact-finder is generally thought to believe the more reputable witness, such as a police officer over a convicted drug-dealer. — Also termed swearing contest; oath against an oath.

SWEARING THE PEACE

swearing the peace. Hist. The giving of proof to a magistrate that one fears for one's own safety, so that the magistrate will order the troublemaker to keep the peace by issuing a supplicavit. See SUPPLICAVIT.

SWEAR OUT

swear out, vb. To obtain the issue of (an arrest warrant) by making a charge under oath <Franklin swore out a complaint against Sutton>.

SWEAT EQUITY

sweat equity. Financial equity created in property by the owner's labor in improving the property <the lender required the homeowner to put 300 hours of sweat equity into the property>.

SWEATING

sweating. Criminal procedure. The illegal interrogation of a prisoner by use of threats or similar means to extort information.

SWEAT-OF-THE-BROW DOCTRINE

sweat-of-the-brow doctrine. Copyright. The now-discarded principle that copyrights can protect the labor and expense that went into a work, rather than the work's originality. • The Supreme Court rejected the sweat-of-the-brow doctrine in *Feist Pubs., Inc. v. Rural Tel. Servs. Co.*, 499 U.S. 340, 111 S.Ct. 1282 (1991). Cf. SWEATWORK. [Cases: Copyrights and Intellectual Property 12(1).]

SWEATSHOP

sweatshop. Slang. A business where the employees are overworked and underpaid in extreme conditions; esp., in lawyer parlance, a law firm that requires associates to work so hard that they barely (if at all) maintain a family or social life — though the firm may, in return, pay higher salaries.

SWEATWORK

sweatwork. Slang. A compilation, esp. a searchable computer database, that does not qualify for U.S. copyright protection because the underlying facts are not copyrightable and the compilation is not a nontrivial arrangement. • New forms of intellectual-property laws are aimed at protecting the “sweat-of-the-brow” investment that goes into compiling databases. Cf.

SWEAT-OF-THE-BROW DOCTRINE E.**SWEEPING**

sweeping,adj.1. Comprehensive in scope <a sweeping objection><sweeping legislation>.2. Overwhelming <sweeping voter turnout>.

SWEEPING CLAUSE

Sweeping Clause.See NECESSARY AND PROPER CLAUSE.

SWEEPSTAKES

sweepstakes. 1. A race (esp. a horse race) in which the winner's prize is the sum of the stakes contributed by the various competitors. 2. A contest, often for promotional purposes, that awards prizes based on the random selection of entries. • State and federal laws prohibit conducting a sweepstakes as a scheme to obtain money or property through the mail by false representations. 39 USCA § 3005. [Cases: Gaming 62. C.J.S. Commerce § 139.]

SWEETENER

sweetener. 1. An inducement offered to a brokerage firm to enter into an underwriting arrangement with an issuer. 2. A special stock feature (such as convertibility) that enhances the stock's marketability.

SWEETHEART DEAL

sweetheart deal.A collusive agreement; esp., a collective-bargaining agreement made as a result of collusion between an employer and a union representative, usu. allowing the employer to pay lower wages in exchange for payoffs to the union representative.

SWEIN

swain (swayn).Hist. A forest freeholder. — Also spelled swain.

SWEINMOTE

swainmote (swayn-moht).Hist. A forest court held three times a year, before verderors as judges and freeholders of the forest as jurors, to try forest offenses. — Also spelled swainmote; swanimote; swainemote; swaingemote.

“The court of swainmote is to be holden before the verderors, as judges, by the steward of the swainmote thrice in every year The principal jurisdiction of this court is, first, to enquire into the oppressions and grievances committed by the officers of the forest ... and, secondly, to receive and try presentments certified from the court of attachments against offences in vert and venison.”
3 William Blackstone, Commentaries on the Laws of England 72 (1768).

SWELL

swell,n.1. An expansion in the bulk of something <a swell resulting from defective canning

procedures>.2. A gradual rise of something <a swell of damages>.3. A large, unbroken wave; the collective waves, particularly following a storm <a rough swell caused the shipwreck>.

SWIFT WITNESS

swift witness. See zealous witness under WITNESS.

SWINDLE

swindle, vb. 1. To cheat (a person) out of property <Johnson swindled Norton out of his entire savings>. 2. To cheat a person out of (property) <Johnson swindled Norton's entire savings out of him>. — swindle, n. — swindling, n.

SWINDLER

swindler. A person who willfully defrauds or cheats another.

SWINGING-DOOR CHAD

swinging-door chad. See CHAD.

SWING LOAN

swing loan. See bridge loan under LOAN.

SWING VOTE

swing vote. The vote that determines an issue when all other voting parties, such as appellate judges, are evenly split.

SWIPE

swipe, vb. 1. To strike or try to strike with a swinging blow <the cat swiped its claws across my hand>. 2. To steal <the thief swiped the ring out of the display case>. 3. To pass a card with a magnetic stripe through a machine that reads the stripe <I swiped my credit card through the pay phone's reader and made my call>. — Sometimes termed (in sense 3) wipe.

SWITCHING

switching. In mutual funds, the practice of selling shares in one fund to buy shares in another.

SWOLING

swoling (swuul-ing). Hist. The quantity of land that can be plowed in a year; a hide of land. — Also spelled suling (suul-ing); sulung (suu-luung). — Also termed swoling of land.

SWORN BROTHERS

sworn brothers. Hist. Persons who, by mutual oaths, swear to share in each other's fortunes.

SWORN CLERKS IN CHANCERY

sworn clerks in chancery. Hist. Certain officers in the Court of Chancery who assist the six principal clerks by performing clerical tasks, including keeping records and making copies of

pleadings. • The offices were abolished in 1842 by the Court of Chancery Act. St. 5 & 6 Vict., ch. 103. — Also termed sixty clerks.

SWORN STATEMENT

sworn statement. See STATEMENT.

SYD

SYD.abbr. Sum of the years' digits. See sum-of-the-years'-digits depreciation method under DEPRECIATION METHOD.

SYLLABUS

syllabus (sil-<<schwa>>-b<<schwa>>s). 1. An abstract or outline of a topic or course of study. 2. HEADNOTE. Pl. syllabuses, syllabi (sil-<<schwa>>-bI).

SYMBIOTIC-RELATIONSHIP TEST

symbiotic-relationship test. The standard by which a private person may be considered a state actor — and may be liable for violating someone's constitutional rights — if the relationship between the private person and the government is so close that they can fairly be said to be acting jointly. • Private acts by a private person do not generally create liability for violating someone's constitutional rights. But if a private person violates someone's constitutional rights while engaging in state action, the private person, and possibly the government, can be held liable. State action may be shown by proving that the private person and the state have a mutually dependent (symbiotic) relationship. For example, a restaurant in a public parking garage was held to have engaged in discriminatory state action by refusing to serve African-Americans. *Burton v. Wilmington Parking Auth.*, 365 U.S. 715, 81 S.Ct. 856 (1961). There, the Court found a symbiotic relationship because the restaurant relied on the garage for its existence and significantly contributed to the municipal parking authority's ability to maintain the garage. But the symbiotic-relationship test is strictly construed. For example, the fact that an entity receives financial support from — or is heavily regulated by — the government is probably insufficient to show a symbiotic relationship. Thus, although a state had granted a partial monopoly to a public utility, the Court refused to find a symbiotic relationship between them. *Jackson v. Metropolitan Edison Co.*, 419 U.S. 345, 95 S.Ct. 449 (1974). See JOINT PARTICIPATION. Cf. STATE-COMPULSION TEST; NEXUS TEST. [Cases: Civil Rights 1326(5, 7); Constitutional Law 82(5), 213(4), 254(4). C.J.S. Civil Rights §§ 92–94; Constitutional Law §§ 456, 619, 629, 631, 705, 719, 954–958.]

SYMBOLAEOGRAPHY

symbolaeography (sim-b<<schwa>>-lee-og-r<<schwa>>-fee). The art of drafting legal instruments.

SYMBOLIC

symbolic, adj. (Of a signature) consisting of a symbol or mark. Cf. ONOMASTIC (2); HOLOGRAPH.

SYMBOLIC DELIVERY

symbolic delivery. See DELIVERY.

SYMBOLIC SPEECH

symbolic speech. See SPEECH.

SYMBOLUM ANIMAE

symbolum animae (sim-b<<schwa>>-l<<schwa>>m an-<<schwa>>-mee). [Latin] Hist. A mortuary. See MORTUARY(2).

SYMPATHY STRIKE

sympathy strike. See STRIKE.

SYNALLAGMATIC CONTRACT

synallagmatic contract. See CONTRACT.

SYNCHRONIZATION LICENSE

synchronization license. See LICENSE.

SYNDIC

syndic (sin-dik), n. [French "governmental representative"] 1. An agent (esp. of a government or corporation) appointed to transact business for others. 2. Civil law. A bankruptcy trustee. [Cases: Bankruptcy 3001. C.J.S. Bankruptcy §§ 194–195.]

SYNDICALISM

syndicalism (sin-di-k<<schwa>>-liz-<<schwa>>m), n. A direct plan or practice implemented by trade-union workers seeking to control the means of production and distribution, esp. by using a general strike. — syndicalist, n.

criminal syndicalism. Any doctrine that advocates or teaches the use of illegal methods to change industrial or political control.

SYNDICATE

syndicate (sin-di-kit), n. A group organized for a common purpose; esp., an association formed to promote a common interest, carry out a particular business transaction, or (in a negative sense) organize criminal enterprises. See ORGANIZED CRIME. — syndicate (sin-di-kayt), vb. — syndication (sin-di-kay-sh<<schwa>>n), n. — syndicator (sin-di-kay-t<<schwa>>r), n.

buying syndicate. A group of investment bankers who share the risk in underwriting a securities issue.

SYNDICATING

syndicating. 1. The act or process of forming a syndicate. 2. The gathering of materials for

newspaper publication from various writers and distribution of the materials at regular intervals to newspapers throughout the country for publication on the same day.

SYNDICUS

syndicus (sin-di-k<<schwa>>s), n.[Latin “advocate” fr. Greek syn- “with” + dike “lawsuit”] Roman law. One chosen (by a corporate body such as a municipality, college, etc.) to represent it at law. See SYNDIC.

SYNERGISM

synergism (sin-<<schwa>>r-jiz-<<schwa>>m), n. Patents. 1. A combination of known elements or functions that create a result greater than the sum of the individual elements or functions. • Demonstrating that synergism exists is sometimes useful in proving nonobviousness. The U.S. Supreme Court held that synergism was a requirement for a combination patent in *Great Atl. & Pac. Tea Co. v. Supermarket Equip. Corp.*, 340 U.S. 147, 71 S.Ct. 127 (1950). But that holding was overturned by the Patent Act of 1952. 35 USCA § 103. [Cases: Patents 26(1.5). C.J.S. Patents §§ 83–84.] 2. A patentable device that produces a new or different function or an unusual or surprising consequence. — Also termed synergy; synergistic result. — synergistic (sin-<<schwa>>r-jis-tik), synergetic (sin-<<schwa>>r-jet-ik), adj.

SYNGRAPH

syngraph (sin-graf). A written contract or bond signed by all the parties.

SYNOD

synod (sin-<<schwa>>d).Eccles. law. An ecclesiastical council lawfully assembled to determine church matters; esp., a meeting of several adjoining presbyteries in the Presbyterian church. [Cases: Religious Societies 4. C.J.S. Religious Societies §§ 2, 5, 7–13.]

diocesan synod (dy-os-<<schwa>>-s<<schwa>>n). A synod composed of clergy from one diocese.

general synod.A synod composed of bishops from all nations. — Also termed universal synod.

national synod.A synod composed of clergy from a single nation.

provincial synod.A synod composed of clergy from a single province. — Also termed convocation.

SYNODAL

synodal (sin-<<schwa>>-d<<schwa>>l), n.1. A collection of ordinances of diocesan synods. 2. A tribute of money given by clergy to a bishop at the Easter visitation.

SYNODALES TESTES

synodales testes (sin-<<schwa>>-day-leez tes-teez), n.[Law Latin “synods-men”] Hist. Persons who gave evidence at synods (or later at visitations), informing them of misconduct by

clergy or laity.

SYNODSMAN

synodsmán. See SIDESMAN.

SYNOPSIS

synopsis (si-nop-sis), n. A brief or partial survey; a summary or outline; HEADNOTE. —
synopsíze (si-nop-sÍz), vb.

SYNTHETIC LEASE

synthetic lease. See LEASE.

SYNTHETIC RULE

synthetic rule. See QUANTITATIVE RULE.

SYSTEMATIC JURISPRUDENCE

systematic jurisprudence. See expository jurisprudence under JURISPRUDENCE.

SYSTEMATIC VIOLATION

systematic violation. Civil-rights law. An employer's policy or procedure that discriminates against an employee. • Such a policy or procedure will usu. be considered a continuing violation. So an employee's claim of unlawful discrimination will not be barred as untimely as long as some discriminatory effect of the policy or procedure occurs within the limitations period (e.g., 300 days for a Title VII claim). Cf. SERIAL VIOLATION. [Cases: Civil Rights 1505(7). C.J.S. Civil Rights §§ 159, 165.]