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**GAAP.** Generally accepted accounting principles.

**GAAS.** Generally accepted auditing standards.

**Gabel** /gəbél/. An excise; a tax on movables; a rent, custom, or service. A tax, impost, or excise duty, especially in continental Europe. Formerly, in France, such term referred specifically to the tax on salt, but also applied to taxes on other industrial products.

*Land gabel.* See **Land gabel**.

**Gabella** /gəbélə/. The Law Latin form of "gabel," (*q.v.*). Also, in Teutonic and early English history, the peasantry constituting a village or hamlet; the holdings of such a group of freemen and serfs, or of either. The original significance of the word seems to be in its indication of a small rent-paying community, the rents being rendered in kind or in labor.

**Gablatores** /gæblatóriyz/. Persons who paid *gabel*, rent, or tribute.

**Gablum** /gæbləm/. A rent; a tax.

**Gabulus denariorum** /gæbyələs dənəriyórəm/. Rent paid in money.

**Gadsden Purchase.** A term commonly applied to the territory acquired by the United States from Mexico by treaty of December 30, 1853, known as the Gadsden Treaty.

**Gafol** /gævəl/. The same word as "gabel" or "gavel." Rent; tax; interest of money.

**Gage, v.** In old English law, to pawn or pledge; to give as security for a payment or performance; to wage or wager.

**Gage, n.** In old English law, a pawn or pledge; something deposited as security for the performance of some act or the payment of money, and to be forfeited on failure or non-performance.

A mortgage is a *dead-gage* or pledge; for, whatever profit it yields, it redeems not itself, unless the whole amount secured is paid at the appointed time.

In French law, the contract of pledge or pawn; also the article pawned.

**Gager de deliverance** /géyjar də dəlivərən(t)s/. In old English law, when he who has distrained, being sued, has not delivered the cattle distrained, then he shall not only avow the distress, but *gager deliverance*, *i.e.*, put in surety or pledge that he will deliver them.

**Gager del ley** /géyjar dèl léy/. Wager of law (*q.v.*).

**Gag order.** An unruly defendant at trial may constitutionally be bound and gagged to prevent further interruptions in the trial. *Illinois v. Allen*, 397 U.S. 337, 90 S.Ct. 1057, 25 L.Ed.2d 353. Term may also refer to an order by the court, in a trial with a great deal of notoriety, directed to attorneys and witnesses, to not discuss the case with reporters—such order being felt necessary to assure the defendant of a fair trial. Term may also refer to orders of the court directed to reporters to not report court proceedings, or certain aspects thereof. Such latter type orders have been struck down by the Supreme Court as being an unconstitutional obstruction of freedom of the press. See *Nebraska Press Ass'n. v. Stuart*, 427 U.S. 539, 96 S.Ct. 2791.

**Gain.** Profits; winnings; increment of value. Difference between receipts and expenditures; pecuniary gain. Difference between cost and sale price. Appreciation in value or worth of securities or property.

Excess of revenues over expenses from a specific transaction. Frequently used in the context of describing a transaction not part of a firm's typical, day-to-day operations.

"Gain derived from capital" is a gain, profit, or something of exchangeable value proceeding from the property, severed from the capital however invested, and received or drawn by claimant for his separate use, benefit, and disposal. *Commissioner of Internal Revenue v. Simmons Gin Co.*, C.C.A.10, 43 F.2d 327, 328.

See also *Acquire*; *Acquisition*; *Capital (Capital gains)*; *Income*; *Profit*; *Return*.

**Gainage.** At common law, the gain or profit of tilled or planted land, raised by cultivating it; and the draught, plow, and furniture for carrying on the work of tillage by the baser kind of *sokemen* or *villeins*.

**Gainery.** At common law, tillage, or the profit arising from it, or from the beasts employed therein.

**Gainful.** Profitable, advantageous, or lucrative.

**Gainful employment or occupation.** In general, any calling, occupation, profession or work which one may profitably pursue. Within disability clause of policy, term means ordinary employment of particular insured, or such other employment, if any, as insured may fairly be expected to follow. *Mutual Life Ins. Co. of New York v. Barron*, 198 Ga. 1, 30 S.E.2d 879, 882.

**Gainor.** In old English law, a sokeman; one who occupied or cultivated arable land.

**Galus, institutes of** /ɪnstə'tyʊwts əv ɡeɪyəs/. See **Institutes**.

**Gale.** In English law, the payment of rent, tax, duty, or annuity. The right is a license or interest in the nature of real estate, conditional on the due payment of rent and observance of the obligations imposed on the galee. It follows the ordinary rules as to the devolution and conveyance of real estate. The galee pays the crown a rent known as a "galeage rent," "royalty," or some similar name, proportionate to the quantity of minerals taken from the mine or quarry.

**Galea** /ɡæliyə/. In old records, a piratical vessel; a galley.

**Gallagher agreement.** See **Mary Carter agreement**.

**Gallon.** A liquid measure containing 231 cubic inches, or four quarts; the standard gallon of the United States. The imperial gallon contains about 277, and the ale gallon 282, cubic inches. The metric equivalent is 3.785 liters.

**Gallows.** A scaffold; a beam laid over either one or two posts, from which persons sentenced to capital punishment are hanged.

**Gamalls** /ɡæméyləs/. A child born in lawful wedlock; also one born to betrothed but unmarried parents.

**Gambler.** One who follows or practices games of chance or skill, with the expectation and purpose of thereby winning money or other property. See **Gambling**.

**Gambling.** The dealing, operating, carrying on, conducting, maintaining or exposing for pay of any game. Making a bet. To plan, or game, for money or other stake; hence to stake money or other thing of value on an uncertain event. It involves, not only chance, but a hope of gaining something beyond the amount played. Gambling consists of a consideration, an element of chance, and a reward. In re **Gaming Devices Seized at American Legion Post No. 109**, 197 Pa.Super. 10, 176 A.2d 115, 122. The elements of gambling are payment of a price for a chance to win a prize. *Boies v. Bartell*, 82 Ariz. 217, 310 P.2d 834, 837. Gambling is regulated by state and federal statutes. See e.g. 18 U.S.C.A. §§ 1081 et seq., 1955. See also **Bet**; **Bookmaking**; **Game of chance**; **Gaming**; **Lottery**; **Wager**.

**Gambling device.** Such device, apparatus, and the like, as is used and employed for gambling, in the sense that in using it, money or the like is staked, wagered, won, or lost as a direct result of its employment or operation. A machine, implement, or contrivance of any kind for the playing of an unlawful game of chance or hazard. See **Slot machine**.

**Gambling place.** Any place, room, building, vehicle, tent or location which is used for any of the following: Making and settling bets; receiving, holding, recording or forwarding bets or offers to bet; conducting lotteries; or playing gambling devices.

**Gambling policy.** In life insurance, one issued to a person, as beneficiary, who has no pecuniary interest in the life insured. Otherwise called a "wager policy." Such policies are generally illegal or not other-

wise written by insurance companies because of the absence of an insurable interest.

**Game.** Wild birds and beasts. The word includes all game birds, game fowl, and game animals. State ex rel. *Sofoico v. Hefferman*, 41 N.M. 219, 67 P.2d 240, 246. A sport, pastime or contest. A contrivance which has for its object to furnish sport, recreation, or amusement. Ex parte *Williams*, 127 Cal.App. 424, 16 P.2d 172, 173. See **Gaming**.

**Game-keeper.** One who has the care of keeping and preserving the game in a reserve, forest, or the like.

**Game laws.** Federal and state laws passed for the preservation of game, usually forbidding the killing and capturing of specified game during certain seasons, or by certain described means, or by restricting the number and type of game that may be killed or trapped in season. See 16 U.S.C.A. § 661 et seq., 18 U.S.C.A. § 41 et seq. See also **Lacey Act**; **Open season**.

**Game of chance.** One in which result as to success or failure depends less on skill and experience of player than on purely fortuitous or accidental circumstances incidental to game or manner of playing it or device or apparatus with which it is played, but not under control of player. *Kansas City v. Caresio, Mo.*, 447 S.W.2d 535, 537. See also **Lottery**.

**Gaming.** The practice or act of gambling. An agreement between two or more persons to play together at a game of chance for a stake or wager which is to become the property of the winner, and to which all contribute. See **Gambling**.

**Gaming contracts.** See **Wager**.

**Gaming device.** See **Gambling device**.

**Gaming house.** See **Gambling place**.

**Gananciales** /ɡanənsiájleys/. A Spanish term, used as either a noun or adjective, and applied to property acquired during marriage. Discussed in *Sanchez v. Bowers, C.C.A.N.Y.*, 70 F.2d 715, 716. See **Ganancial property, supra**.

**Ganancial property** /ɡənənsəʃl prɒpərdi/. In Spanish law, a species of community in property enjoyed by husband and wife, the property being divisible between them equally on a dissolution of the marriage. See **Community property**.

**Ganancias** /ɡanansiýəs/. In Spanish law, gains or profits.

**Gang.** Any company of persons who go about together or act in concert; in modern use, mainly for criminal purposes.

**Ganglatori** /ɡænj(iy)ətɔray/. Officers in ancient times whose business it was to examine weights and measures.

**Gangster.** A member of a gang of criminals, thieves, or the like.

**Ganser syndrome** /ɡənzər sɪndrɔwm/ɡæn(t)sər°. A setting in which questions are given nonsensical answers from which a hidden relevancy may be inferred. This is observed in prisoners who wish to gain leniency by simulating mental clouding.

**Gantelope** /gæntloʊp/góntlat/. (Pronounced "gauntlett".) A military punishment, in which the criminal running between the ranks receives a lash from each man. This was called "running the gauntlet."

**GAO.** General Accounting Office.

**Gaol** /jéy(ə)l/. A now obsolete term (of English origin) for a prison for temporary confinement; a jail; a place for the confinement of offenders against the law. As distinguished from "prison," it is said to be a place for temporary or provisional confinement, or for the punishment of the lighter offenses and misdemeanors. See also *Jail*.

**Gaol delivery.** In old criminal law, the delivery or clearing of a gaol of the prisoners confined therein, by trying them. Also, the clearing of a gaol by the escape of the prisoners. Such term is of English origin.

**Gaoler** /jéylər/. A variant of "jailer" (*q.v.*).

**Gaol liberties, gaol limits** /jéy(ə)l líbərɔːdiz/\*líməts/. A district around a gaol, defined by limits, within which prisoners are allowed to go at large on giving security to return. It is considered a part of the gaol.

**Garantia, or garantia** /gərændiə/gərænsh(iy)ə/. A warranty.

**Garantie** /garontiy/. In French law, this word corresponds to warranty or covenants for title in English law. In the case of a sale this *garantie* extends to two things: (1) Peaceful possession of the thing sold; and (2) absence of undisclosed defects (*défauts cachés*).

**Garathinx** /gærəθɪŋks/. In old Lombardic law, a gift; a free or absolute gift; a gift of the whole of a thing.

**Garauntor** /gærəntər/. L. Fr. In old English law, a warrantor of land; a vouchee; one bound by a warranty to defend the title and seisin of his alienee, or, on default thereof, and on eviction of the tenant, to give him other lands of equal value.

**Garba** /gərbə/. In old English law, a bundle or sheaf. *Blada in garbis*, corn or grain in sheaves.

**Garba sagittarum** /gərbə sæjətərəm/. A sheaf of arrows, containing twenty-four. Otherwise called "*schaffa sagittarum*."

**Garble.** In English statutes, to sort or cull out the good from the bad in spices, drugs, etc.

**Garbler of spices.** An ancient officer in the city of London, who might enter into any shop, warehouse, etc., to view and search drugs and spices, and garble and make clean the same, or see that it be done.

**Gard, or garde.** L. Fr. Wardship; care; custody; also the ward of a city.

**Gardein** /gárdən/. A keeper; a guardian.

**Garden.** A small piece of land, appropriated to the cultivation of herbs, fruits, flowers, or vegetables.

**Gardia** /gárd(i)yə/. L. Fr. Custody; wardship.

**Gardianus** /gárdiyénəs/. In old English law, a guardian, defender, or protector. In feudal law, *gardio*. A warden. *Gardianus ecclesiae*, a churchwarden.

**Garene** /gəriyn/. L. Fr. A warren; a privileged place for keeping animals.

**Garnestura** /gárnəst(y)úrə/. In old English law, victuals, arms, and other implements of war, necessary for the defense of a town or castle.

**Garnish, n.** In English law, money paid by a prisoner to his fellow-prisoners on his entrance into prison.

**Garnish, v.** To warn or summon. To issue process of garnishment against a person.

**Garnishee.** One garnished; a person against whom process of garnishment is issued; one who has money or property in his possession belonging to a defendant, or who owes the defendant a debt, which money, property, or debt is attached. A person who owes a debt to a judgment debtor, or a person other than the judgment debtor who has property in his possession or custody in which a judgment debtor has an interest.

**Garnishment.** A statutory proceeding whereby person's property, money, or credits in possession or under control of, or owing by, another are applied to payment of former's debt to third person by proper statutory process against debtor and garnishee. *Beggs v. Fite*, 130 Tex. 46, 106 S.W.2d 1039, 1042. Satisfaction of an indebtedness out of property or credits of debtor in possession of, or owing by, a third person. *Frank F. Fasi Supply Co. v. Wigwam Inv. Co., D.C.Hawaii*, 308 F.Supp. 59, 61. An ancillary remedy in aid of execution to obtain payment of a judgment. *First Nat. Bank in Chester v. Conner*, Mo.App., 485 S.W.2d 667, 671. It is an incident to or an auxiliary of judgment rendered in principal action, and is resorted to as a means of obtaining satisfaction of judgment by reaching credits or property of judgment debtor.

Due process requirements of Fourteenth Amendment, U.S.Const., requires notice and an opportunity to be heard before pre-judgment garnishment of wages. *Sniadach v. Family Finance Corp. of Bay View et al.*, 395 U.S. 337, 89 S.Ct. 1820, 23 L.Ed.2d 349. Garnishment is regulated by both state and federal (e.g. Consumer Credit Protection Act) statutes.

See also **Attachment execution**.

**Garnistura** /gárnəst(y)úrə/. In old English law, garniture; whatever is necessary for the fortification of a city or camp, or for the ornament of a thing.

**Garroting.** A method of inflicting the death penalty on convicted criminals practiced in Spain, Portugal, and some Spanish-American countries, consisting in strangulation by means of an iron collar which is mechanically tightened about the neck of the sufferer, sometimes with the variation that a sharpened screw is made to advance from the back of the apparatus and pierce the base of the brain. Also, any form of strangling resorted to to overcome resistance or induce unconsciousness.

**Garsomme** /gársəm/. In old English law, an amercement or fine.

**Garter.** The mark of the highest order of English knighthood, ranking next after the nobility. This

military order of knighthood is said to have been first instituted by Richard I, at the siege of Acre, where he caused twenty-six knights who firmly stood by him to wear thongs of blue leather about their legs.

**Garth.** In English law, a yard; a little close or home-  
stead in the north of England. A dam or wear in a  
river, for the catching of fish.

**Gasoline tax.** Excise imposed on sale of gasoline by  
both Federal and state governments.

**Gas sold.** Term used in leases of natural gas wells to  
describe gas which is actually sold to others and it  
does not necessarily include all gas used in produc-  
tion. *Southland Royalty Co. v. Pan American Petro  
Corp., Tex., 378 S.W.2d 50.*

**Gastaldus** /gæstældəs/. A temporary governor of the  
country. A bailiff or steward.

**Gastine** /gætiyn/. L. Fr. Waste or uncultivated  
ground.

**Gas used.** Term used in leases for natural gas to  
describe quantity of gas employed or consumed  
though not necessarily sold while operating a well.  
*Southland Royalty Co. v. Pan American Petro Corp.,  
Tex., 378 S.W.2d 50.*

**GATT.** General Agreement on Tariffs and Trade. A  
multi-lateral international agreement that requires  
foreign products to be accorded no less favorable  
treatment under the laws than that accorded domes-  
tic products.

**Gaudies** /gódiyɜz/. A term used in the English universi-  
ties to denote double commons.

**Gaugeator** /gəjijéydər/. A gauger.

**Gauger.** In England, a surveying officer under the  
customs, excise, and internal revenue laws, appointed  
to examine all tuns, pipes, hogsheads, barrels and  
tierces of wine, oil, and other liquids, and to give  
them a mark of allowance, as containing lawful mea-  
sure. There are also private gaugers in large seaport  
towns, who are licensed by government to perform  
the same duties.

**Gaugetum** /gəjijédəm/. A gauge or gauging; a measure  
of the contents of any vessel.

**Gault, Application of.** Landmark Supreme Court case  
guaranteeing to a defendant in a juvenile proceeding  
the right of confrontation, the privilege against self  
incrimination, prior notice of the complaint, and the  
right to counsel. *Application of Gault, 387 U.S. 1, 87  
S.Ct. 1428, 18 L.Ed.2d 527.*

**Gavel.** In English law, custom; tribute; toll; yearly  
rent; payment of revenue; of which there were an-  
ciently several sorts; as *gavel-corn, gavel-malt, oat-  
gavel, gavel-fodder*, etc.

**Gavelbred.** Rent reserved in bread, corn, or provision;  
rent payable in kind.

**Gavelcester.** A certain measure of rent-ale.

**Gavelet** /gævlət/. An obsolete English writ. An an-  
cient and special kind of *cessavit*, used in Kent and  
London for the recovery of rent.

**Gavelgeld** /gævəlgeld/. That which yields annual profit  
or toll. The tribute or toll itself.

**Gavelherite.** A service of plowing performed by a cus-  
tomary tenant.

**Gaveling men.** Tenants who paid a reserved rent, be-  
sides some customary duties to be done by them.

**Gavelkind.** A species of socage tenure common in  
Kent, in England, where the lands descend to all the  
sons, or heirs of the nearest degree, together; may be  
disposed of by will; do not escheat for felony; may  
be aliened by the heir at the age of fifteen; and dower  
and curtesy is given of half the land.

**Gavella** /gavéla/. See **Gabella**.

**Gavel-man.** A tenant liable to the payment of gavel or  
tribute.

**Gavelmed** /gævəlmjɜd/. A customary service of mow-  
ing meadow-land or cutting grass (*consuetudo falcan-  
di*).

**Gavelrep** /gævəliɪp/. Bedreap or bidreap; the duty of  
reaping at the bid or command of the lord.

**Gavelwerk** /gævəlvərk/. A customary service, either  
*manuopera*, by the person of the tenant, or *carropera*,  
by his carts or carriages.

**Gazette** /gəzét/. The official publication of the English  
government, also called the "London Gazette." It is  
evidence of acts of state, and of everything done by  
the Queen in her political capacity. Orders of adjudi-  
cation in bankruptcy are required to be published  
therein; and the production of a copy of the "Gaz-  
ette," containing a copy of the order of adjudication,  
is evidence of the fact, and of the date thereof.

See also **Official Gazette (Patent Office)**.

**Gdn.** Equivalent to guardian.

**Gebocced.** An Anglo-Saxon term, meaning "con-  
veyed."

**Gebocian.** In Saxon law, to convey; to transfer *boc*  
land (book-land or land held by charter). The grantor  
was said to *gebocian* the alienee.

**Gebrauchsmuster** /gəbráwksmústər/. A patent, issued  
in accordance with law of Germany. *Permutit Co. v.  
Graver Corporation, D.C.Ill., 37 F.2d 385, 390.*

**Gebur** /gəbúr/. (Sax.) A boor. His services varied in  
different places—to work for his lord two or more  
days a week; to pay gafols in money, barley, etc.; to  
pay hearth money, etc. He was a tenant with a  
house and a yard land or virgate or two oxen.

**Geburscript** /gəbúrskript/. In old English law, neigh-  
borhood or adjoining district.

**Geburus** /gəbúrs/. In old English law, a country  
neighbor; an inhabitant of the same *geburscript*, or  
village.

**Geld.** In Saxon law, money or tribute. A mulct, com-  
pensation, value, price. *Angeld* was the single value  
of a thing; *twigeld*, double value, etc. So, *weregeld*  
was the value of a man slain; *orfgeld*, that of a beast.  
A land tax of so much per hide or carucate. The  
compensation for a crime.

**Geldabilis** /geldéybəlas/. In old English law, taxable; geldable.

**Geldable** /gédəbəl/. Liable to pay geld; liable to be taxed.

**Gelding**. A horse that has been castrated, and which is thus distinguished from the horse in his natural and unaltered condition. A "ridgling" (a half-castrated horse) is not a gelding, but a horse, within the denomination of animals in the statutes.

**Gelt**. As a verb, an alternative form of the past tense of "geld," commonly "gelded." See **Gelding**. As a noun, used incorrectly for *geld* (q.v.).

**Gemma** /jémə/. Lat. In the civil law, a gem; a precious stone. Gems were distinguished by their transparency; such as emeralds, chrysolites, amethysts.

**Gemot** /gəməwt/. In Saxon law, a meeting or moot; a convention; a public assemblage. These were of several sorts, such as the *witena-gemot*, or meeting of the wise men; the *folc-gemot*, or general assembly of the people; the *shire-gemot*, or county court; the *burg-gemot*, or borough court; the *hundred-gemot*, or hundred court; the *hali-gemot*, or court-baron; the *hal-mote*, a convention of citizens in their public hall; the *holy-mote*, or holy court; the *swein-gemote*, or forest court; the *ward-mote*, or ward court.

**Genealogy** /jɪniyóləjɪ/. The summary history or table of a family, showing how the persons there named are connected together.

**Genearch** /jénɪyərək/. The head of a family.

**Geneath** /gəniyθ/. In Saxon law, a villein, or agricultural tenant (*villanus villicus*); a hind or farmer (*fir-marius rusticus*).

**Gener** /jénər/. Lat. In the civil law, a son-in-law; a daughter's husband.

**General**. From Latin word *genus*. It relates to the whole kind, class, or order. *Leuthold v. Brandjord*, 100 Mont. 96, 47 P.2d 41, 45. Pertaining to or designating the genus or class, as distinguished from that which characterizes the species or individual; universal, not particularized, as opposed to special; principal or central, as opposed to local; open or available to all, as opposed to select; obtaining commonly, or recognized universally, as opposed to particular; universal or unbounded, as opposed to limited; comprehending the whole or directed to the whole, as distinguished from anything applying to or designed for a portion only. Extensive or common to many.

As a noun, the word is the title of a principal officer in the army, usually one who commands a whole army, division, corps, or brigade. In the United States army, the rank of "general" is one of the highest, next to the commander in chief (i.e. President), and is only occasionally created. The officers next in rank are lieutenant general, major general, and brigadier general.

As to general Acceptance; Administration of estates; Agent; Appearance; Assignment; Average; Benefit; Challenge; Character; Charge; Covenant; Creditor; Customs; Damages; Demurrer; Denial; Deposit; Devise; Election; Finding; Franchise; Fund; Gaol delivery; Guaranty; Guardian; Imparlance; In-

surance; Intent; Issue; Legacy; Letter of credit; Malice; Meeting; Monition; Mortgage; Occupant; Orders; Owner; Partnership; Power; Property; Replication; Restraint of trade; Retainer; Return day; Rule; Session; Ship; Statute; Tail; Tenancy; Term; Traverse; Usage; Verdict; Warrant; and Warranty, see those titles.

**General Accounting Office**. The General Accounting Office of the federal government has the following basic purposes: assist the Congress, its committees, and its members to carry out their legislative and oversight responsibilities, consistent with its role as an independent nonpolitical agency in the legislative branch; carry out legal, accounting, auditing, and claims settlement functions with respect to Federal Government programs and operations as assigned by the Congress; and make recommendations designed to make Government operations more efficient and effective. The GAO is under the control and direction of the Comptroller General of the United States and the Deputy Comptroller General of the United States, appointed by the President with the advice and consent of the Senate for a term of 15 years.

**General agency business**. One engaged in such general agency business is one not engaged as agent for single firm or person, but holding himself out to public as being engaged in business of being agent. *Comer v. State Tax Commission of New Mexico*, 41 N.M. 403, 69 P.2d 936, 939.

**General appearance**. Consent to the jurisdiction of the court and a waiver of all jurisdictional defects except the competency of the court. *Johnson v. Zoning Bd. of Appeals of Town of Branford*, 166 Conn. 102, 347 A.2d 53, 56. In a general appearance defendant submits his person to jurisdiction of court by appearing himself or by duly authorized representative. *Buehne v. Buehne*, 190 Kan. 666, 378 P.2d 159, 164. See also **Appearance**.

**General assembly**. Title of legislative body in many states. See also **Legislature**.

The policy making body of the United Nations. It is composed of from one to five delegates from each member nation, although each member nation has but one vote.

The highest "judicatory" of the Presbyterian church, representing in one body all of the particular churches of the denomination. *Trustees of Pencader Presbyterian Church in Pencader Hundred v. Gibson*, 26 Del.Ch. 375, 22 A.2d 782, 788.

**General assignment for benefit of creditors**. A transfer of legal and equitable title to all debtor's property to trustee, with authority to liquidate debtor's affairs and distribute proceeds equitably to creditors. *Central Fibre Products Co. v. Hardin*, C.C.A.Tex., 82 F.2d 692, 694. See also **Assignment (Assignment for benefit of creditors)**.

**General assumpsit** /jén(ə)rəl əsəm(p)sət/. An action of assumpsit brought upon the promise or contract implied by law in certain cases. *Holcomb v. Kentucky Union Co.*, 262 Ky. 192, 90 S.W.2d 25, 28.

**General average**. See **Average**; **General average contribution**.

**General average bond.** Type of bond required by master of ship as security for general average contribution before master delivers the cargo.

**General average contribution.** Contribution by all parties in sea adventure to make good loss sustained by one of their number on account of sacrifices voluntarily made of part of ship or cargo to save residue, or for extraordinary expenses necessarily incurred by one or more of parties for general benefit of all interests embarked in general enterprise. *S. C. Loveland Co. v. U. S., D.C.Pa., 207 F.Supp. 450, 451.*

**General average loss.** Loss at sea commonly sustained when cargo is thrown overboard to save ship. Such loss is generally shared by shipowner and owners of cargo. See **General average contribution**; **Jettison**.

**General average statement.** Statement of account and admission on shipowner's part as to amount due cargo owner.

**General benefits.** Such benefits in a condemnation case are those produced by the improvement which a property owner may enjoy in the future in common with all other property owners in the area, which benefits may not be considered to reduce the compensation due. *State, by Com'r of Transp. v. Interpace Corp., 130 N.J.Super. 322, 327 A.2d 225, 229.*

**General bequest.** One not segregated or withdrawn from estate under terms of will but to be paid in money or property as latter directs. Gift payable out of general assets of estate, not amounting to a bequest of particular thing or money. *Feder v. Weissman, 81 Nev. 668, 409 P.2d 251, 252.*

**General building scheme.** One under which owner of large tract of land divides it into building lots, to be sold to different persons for separate occupancy by deeds which contain uniform covenants restricting the use which the several grantees may make of their premises. *Besch v. Hyman, 221 App.Div. 455, 223 N.Y.S. 231, 233.*

**General circulation.** That of a general newspaper only, as distinguished from one of a special or limited character. It is not determined by number of subscribers but by the diversity of subscribers and general nature of subject matter.

**General contractor.** One who contracts for the construction of an entire building or project, rather than for a portion of the work. The general contractor hires subcontractors (e.g. plumbing, electrical, etc.), coordinates all work, and is responsible for payment to subcontractors. Also called "prime" contractor.

**General Court.** The name given to the legislature of Massachusetts and of New Hampshire, in colonial times, and subsequently by their constitutions; so called because the colonial legislature of Massachusetts grew out of the general court or meeting of the Massachusetts Company.

**General court martial.** See **Court-Martial**.

**General credit.** The character of a witness as one generally worthy of credit. A distinction is sometimes made between this and "particular credit," which may be affected by proof of particular facts

relating to the particular action. See also **General reputation**.

**General debt.** Debt of a governmental unit legally payable from general revenues and backed by the full faith and credit of the governmental unit.

**General denial.** See **General plea**.

**Generale** /jènərəyliy/. The usual commons in a religious house, distinguished from *pietantiæ*, which on extraordinary occasions were allowed beyond the commons.

**Generale dictum generaliter est interpretandum** /jènərəyliy diktəm jènərəylədar èst intərpətəndəm/. A general expression is to be interpreted generally.

**General election.** An election held in the state at large. A regularly recurring election to select officers to serve after the expiration of the full terms of their predecessors. See also **Election**.

**Generale nihil certum implicat** /jènərəyliy náy(h)əl sárdəm impləkət/. A general expression implies nothing certain. A general recital in a deed has not the effect of an estoppel.

**General estate.** Customarily, the entire estate held by a person in his individual capacity.

**Generale tantum valet in generalibus, quantum singulare in singulis** /jènərəyliy təntəm véyləd in jènərəyləbəs, kwóntəm sɪngyləriy in sɪngyləs/. What is general is of as much force among general things as what is particular is among things particular.

**General exception.** General exception is an objection to a pleading, or any part thereof, for want of substance, while a special exception is an objection to the form in which a cause of action is stated. Exception taken at trial of case in which the exceptor does not specify the grounds or limitations of his objection. See also **Demurrer**.

**General execution.** A writ commanding an officer to satisfy a judgment out of any personal property of the defendant. If authorizing him to levy only on certain specified property, the writ is sometimes called a "special" execution.

**Generai executor.** One whose power is not limited either territorially or as to the duration or subject of his trust. One who is to have charge of the whole estate, wherever found, and administer it to a final settlement.

**General fee conditional.** A grant to a person and heirs of his body. *Blume v. Percy, 204 S.C. 409, 29 S.E.2d 673, 674.*

**General field.** Several distinct lots or pieces of land inclosed and fenced in as one common field.

**General fund.** Assets and liabilities of a nonprofit entity not specifically earmarked for other purposes. The primary operating fund of a governmental unit. See also **Fund**.

**Generalla præcedunt, specialia sequuntur** /jènərəyliyə priysiydant spəshiyéyliyə səkántər/. Things general precede, things special follow.

**Generalia specialibus non derogant** /jènərəyliyə spəshiyəyləbəs nòn dɛrəgənt/. General words do not derogate from special.

**Generalia sunt præponenda singularibus** /jènərəyliyə sànt pripanənda sɪŋgylərbəs/. General things are to precede particular things.

**Generalia verba sunt generaliter intelligenda** /jènərəyliyə vərbə sànt jènərəylədər intələjəndə/. General words are to be understood generally, or in a general sense.

**Generalibus specialia derogant** /jènərəyləbəs spɛs(h)-iyəyl(i)yə dɛrəgənt/. Special things take from generals.

**General improvement.** Exists where primary purpose and effect of improvement is to benefit public generally, though it may incidentally benefit property owners in particular locality.

**General Inclosure Act.** The English statute, 41 Geo. III, c. 109, which consolidated a number of regulations as to the inclosure of common fields and waste lands.

**General indorsement.** See **Indorsement**.

**General intangibles.** Any personal property (including things in action) other than goods, accounts, contract rights, chattel paper, documents and instruments. U.C.C. § 9-106.

**General interest.** In regard to admissibility of hearsay evidence, a distinction is sometimes made between "public" and "general" interest, the term "public" being strictly applied to that which concerns every member of the state, and the term "general" being confined to a lesser, though still a considerable, portion of the community.

**Generalis clausula non porrigitur ad ea quæ antea specialiter sunt comprehensa** /jènərəyləs klózyələ nòn porjədər əd iyə kwiy əntiyə spəshiyəylədər sànt kòmprəhén(t)sə/. A general clause does not extend to those things which are previously provided for specially. Therefore, where a deed at the first contains special words, and afterwards concludes in general words, both words, as well general as special, shall stand.

**Generalis regula generaliter est intelligenda** /jènərəyləs régyələ jènərəylədər èst intələjəndə/. A general rule is to be understood generally.

**General jurisdiction.** Such as extends to all controversies that may be brought before a court within the legal bounds of rights and remedies; as opposed to *special* or *limited* jurisdiction, which covers only a particular class of cases, or cases where the amount in controversy is below a prescribed sum, or which is subject to specific exceptions. The terms "general" and "special," applied to jurisdiction, indicate the difference between a legal authority extending to the whole of a particular subject and one limited to a part; and, when applied to the terms of court, the occasion upon which these powers can be respectively exercised. See also **Jurisdiction**.

**General Land Office.** Formerly an office of the United States government, being a division of the Department of the Interior, having charge of all executive

action relating to the public lands, including their survey, sale or other disposition, and patenting; originally constituted by Act of Congress in 1812. The General Land Office and the U.S. Grazing Service were consolidated into the Bureau of Land Management under the Department of the Interior by 1946 Reorganization Plan No. 3, § 403. See **Bureau of Land Management**.

**General law.** A law that affects the community at large. A general law as contradistinguished from one that is special or local, is a law that embraces a class of subjects or places, and does not omit any subject or place naturally belonging to such class. A law, framed in general terms, restricted to no locality, and operating equally upon all of a group of objects, which, having regard to the purposes of the legislation, are distinguished by characteristics sufficiently marked and important to make them a class by themselves, is not a special or local law, but a general law. A law that relates to a subject of a general nature, or that affects all people of state, or all of a particular class, while one relating to particular persons or things of a class is a "special law". *Albuquerque Metropolitan Arroyo Flood Control Authority v. Swinburne*, 74 N.M. 487, 394 P.2d 998, 1000.

**General lien.** A general lien is a right to detain a chattel, etc., until payment be made, not only of any debt due in respect of the particular chattel, but of any balance that may be due on general account in the same line of business.

**Generally Accepted Accounting Principles (GAAP).** The conventions, rules and procedures necessary to define accepted accounting practices at a particular time; includes both broad and specific guidelines. The source of such principles is the Financial Accounting Standards Board.

**Generally Accepted Auditing Standards.** The standards, as opposed to particular procedures, promulgated by the AICPA which concern the auditor's professional qualities and the judgment exercised by him in the performance of his examination and in his report.

**General manager.** One having general direction and control of corporation's affairs, and who may do everything which corporation could do in transaction of its business. *Continental Supply Co. v. Forrest E. Gilmore Co. of Texas*, Tex.Civ.App., 55 S.W.2d 622. A manager for all general purposes of the corporation.

**General partner.** One of two or more persons who associate to carry on business as co-owners for profit and who are personally liable for all debts of the partnership. Uniform Partnership Act, § 6(1), (15). To be contrasted with "limited" partner. See **Partner**.

**General plea.** Type of pleading such as a general denial which controverts *all* of the averments of the preceding pleading (e.g. of the complaint). See Fed.R. Civil P. 8(b).

**General power of appointment.** One exercisable in favor of any person the donee may select. *Johnstone v. Commissioner of Internal Revenue*, C.C.A.9, 76 F.2d 55, 57.

**General reputation.** In evidence, testimony concerning the repute in which a person is held in the community; e.g. peaceable, law abiding citizen.

Criminal defendant may show his good character by proof of his "real character", that is, those peculiar qualities which individual is supposed to possess and which distinguish him from others and denote what a man really is, not what he is reputed to be, or by proof of his "general reputation" which is based on speech of his associates and is sum of opinions generally entertained concerning what is reputed or understood to be the estimate of person's character in community in which he moves or resides. *State v. Hobbs, Iowa, 172 N.W.2d 268, 271.*

See **Character; Reputation.**

**General Services Administration.** Federal agency created to manage government property and records. The GSA supervises construction and operation of buildings, procurement and distribution of supplies, disposal of surplus property, traffic and communications facilities, stockpiling of strategic and critical materials, and management of automatic data processing resources program.

**General taxes.** Those imposed by and paid to state which return taxpayer no special benefit other than the protection afforded him and his property by government, and promotion of programs which have for their benefit the welfare of all. A tax, imposed solely or primarily for purpose of raising revenue and merely granting person taxed right to conduct business or profession.

**General welfare.** General term used to describe the government's concern for the health, peace, morals, and safety of its citizens.

**General welfare clause.** The provision of the U.S. Constitution (Art. I, Sec. 8, Cl. 1) which declares that Congress may tax and pay debts in order to provide for the "general welfare of the United States."

**General words.** Such words of a descriptive character as are used in conveyances in order to convey, not only the specific property described but also all kinds of easements, privileges, and appurtenances which may possibly belong to the property conveyed. Such words are in general unnecessary; but are properly used when there are any easements or privileges reputed to belong to the property not legally appurtenant to it.

**Generatio** /jènərəysh(iy)ow/. The issue or offspring of a mother-monastery.

**Generation.** May mean either a degree of removal in computing descents, or a single succession of living beings in natural descent. Average span of time between birth of parents and that of their offspring. Group of people born and living contemporaneously.

**Generation-skipping tax.** The transfer tax imposed upon a generation-skipping trust. A transfer which bypasses a generation younger than the transferor and, therefore, avoids the imposition of one transfer tax. For example, a grandmother gives property to her grandchildren. By by-passing the children, a transfer tax is avoided. If the property had been given to the children and they later pass it (by gift or

death) to the grandchildren, no generation skipping takes place. A generation-skipping tax may be imposed if the generation-skipping approach utilizes the trust device. See **Generation-skipping trust.**

**Generation-skipping trust.** A trust which skips a transfer tax on a generation of beneficiaries younger than the grantor of the trust. In the classic situation, D creates a trust with income payable to his children for life and remainder to the grandchildren upon the death of the children. Until the Tax Reform Act of 1976 enacted new Code §§ 2601-2603 and 2611-2614, there was no transfer tax imposed upon the death of D's children. Thus, one generation (i.e., D's children) was able to avoid both the gift and death tax when the trust property passed to the grandchildren. Under the new law, barring certain exceptions, the trust must pay a transfer tax on the death of the children as if the trust corpus had been included in their gross estates. See **Deemed transferor.**

**Generic.** Relating to or characteristic of a whole group or class; general, as opposed to specific or special.

**Generic name.** The "established name" of a drug; its chemical name, a common name, or an official name used in an official compendium. *Abbott Laboratories v. Celebrezze, C.A.Del., 352 F.2d 286, 287.* See also **Name.**

**Generosa** /jènərówsə/. Gentlewoman.

**Generosi filius** /jènərówsay filyəs/. The son of a gentleman. Generally abbreviated "*gen. fil.*"

**Generosus** /jènərówsəs/. Lat. Gentleman; a gentleman.

**Geneva Convention.** An international agreement for the conduct of nations at war drafted in 1864 and ratified by nearly every country. It provides, among other things, that a belligerent shall give proper care to enemy sick or wounded, that the Red Cross shall be the emblem of the sanitary service; and that hospitals and ambulances with their personnel shall be respected and protected. Revisions have brought the convention into accord with newer scientific discoveries and methods of warfare.

**Geniculum** /jəníkyləm/. A degree of consanguinity.

**Genoese lottery** /jènowíyz lódəriy/. Also known as the "numerical" lottery. As distinguished from the "class" lottery (see the title **Dutch lottery**), it is a scheme by which, out of 90 consecutive numbers, five are to be selected or drawn by lot. The players have fixed on certain numbers, wagering that one, two, or more of them will be drawn among the five, or that they will appear in a certain order.

**Gens** /jèn(d)z/. Lat. In Roman law, a tribe or clan; a group of families, connected by common descent and bearing the same name, being all free-born and of free ancestors, and in possession of full civic rights.

**Gens de justice** /zhón(d)z də justíys/. In French law, officers of a court.

**Gentes** /jéntiyz/. Lat. People. *Contra omnes gentes*, against all people. Words used in the clause of warranty in old deed.



**Gentiles** /jèntáyliyZ/. In Roman law, the members of a *gens* or common tribe.

**Gentleman**. In its English origin, this term formerly referred to a man of noble or gentle birth; one belonging to the landed gentry; a man of independent means; all above the rank of Yeomen.

**Gentlemen's agreement**. Generally an unsigned and unenforceable agreement made between parties who expect its performance because of good faith.

**Genuine**. As applied to notes, bonds, and other written instruments, this term means that they are truly what they purport to be, and that they are not false, forged, fictitious, simulated, spurious, or counterfeit. U.C.C. § 1-201(18).

**Genuine issue**. Genuine issues which will preclude entry of summary judgment are issues which can be sustained by substantial evidence. *Riss & Co. v. Association of Am. Railroads*, D.C.D.C., 190 F.Supp. 10, 17. As used in rule that burden of proving absence of material fact so that no "genuine issue" is left for jury determination is on movant for summary judgment, means a real as opposed to a false or colorable issue. *Byrd v. Leach*, Fla.App., 226 So.2d 866, 868. A "genuine issue of fact" precluding summary judgment exists whenever there is slightest doubt as to facts. *Seliga Shoe Stores, Inc. v. City of Maplewood*, Mo.App., 558 S.W.2d 328, 331. See Fed. R.Civil P. 56(c).

**Genus** /jíynás/. In the civil law, a general class or division, comprising several species. *In toto jure generi per speciem derogatur, et illud potissimum habetur quod ad speciem directum est*, throughout the law, the species takes from the genus, and that is most particularly regarded which refers to the species.

A man's lineage, or direct descendants.

In logic, it is the first of the universal ideas, and is when the idea is so common that it extends to other ideas which are also universal; e.g., incorporeal hereditament is *genus* with respect to a *rent*, which is *species*.

**George-noble**. An English gold coin, value 6s. 8d.

**Gerechtsbode** /garék(t)sbòwd(ə)/. In old New York law, a court messenger or constable.

**Gerefa** /gariyfa/. In Saxon law, greve, reve, or reeve; a ministerial officer of high antiquity in England; answering to the *grave* or *graf* (*grafio*) of the early continental nations. The term was applied to various grades of officers, from the *scyre-gerefa*, *shire-grefe*, or *shire-reve*, who had charge of the county (and, whose title and office have been perpetuated in the modern "sheriff"), down to the *tungerefa*, or town-reeve, and lower.

**Gerens** /jèhràn(d)z/. Bearing. *Gerens datum*, bearing date.

**German**. Whole, full, or own, in respect to relationship or descent. Brothers-german, as opposed to half-brothers, are those who have both the same father and mother. Cousins-german are "first" cousins; that is, children of brothers or sisters.

**Germane** /jèrméyn/. In close relationship, appropriate, relative, pertinent. *State ex rel. Riley v. District Court of Second Judicial Dist. in and for Silver Bow County*, 103 Mont. 576, 64 P.2d 115, 119.

**Germanus** /jèrméynás/. Lat. Descended of the same stock, or from the same couple of ancestors; of the whole or full blood.

**Gerontocomi** /jèhrántakówmay/. In the civil law, officers appointed to manage hospitals for the aged poor.

**Gerontocomium** /jèhrántakówmíyam/. In the civil law, an institution or hospital for taking care of the old.

**Gerrymander** /jèhriymændər/géhr°. A name given to the process of dividing a state or other territory into the authorized civil or political divisions, but with such a geographical arrangement as to accomplish an ulterior or unlawful purpose, as, for instance, to secure a majority for a given political party in districts where the result would be otherwise if they were divided according to obvious natural lines.

**Gersumarius** /jərsamériyas/. In old English law, finable; liable to be amerced at the discretion of the lord of a manor.

**Gersume** /gərsəm/. In old English law, expense; reward; compensation; wealth. It is also used for a fine or compensation for an offense.

**Gest**. In Saxon law, a guest. A name given to a stranger on the *second night* of his entertainment in another's house. *Twilight gest*.

**Gestation**. The time during which a woman carries a fetus in her womb, from conception to birth. But, as used in medical authorities, this phrase does not mean the actual number of days from conception to birth. *Dazey v. Dazey*, 50 Cal.App.2d 15, 122 P.2d 308, 309.

**Gestio** /jés(h)ch(iy)ow/. In the civil law, behavior or conduct. Management or transaction. *Negotiorum gestio*, the doing of another's business; an interference in the affairs of another in his absence, from benevolence or friendship, and without authority.

**Gestio pro hærede** /jés(h)ch(iy)ow pròw hæriydiy/. Behavior as heir. This expression was used in the Roman law, and adopted in the civil law and Scotch law, to denote conduct on the part of a person appointed heir to a deceased person, or otherwise entitled to succeed as heir, which indicates an intention to enter upon the inheritance, and to hold himself out as heir to creditors of the deceased; as by receiving the rents due to the deceased, or by taking possession of his title-deeds, etc. Such acts will render the heir liable to the debts of his ancestor.

**Gestor** /jéstòr/. In the civil law, one who acts for another, or transacts another's business.

**Gestu et fama** /jést(y)uw èt féymə/. An ancient and obsolete writ resorted to when a person's good behavior was impeached.

**Gestum** /jéstəm/. Lat. In Roman law, a deed or act; a thing done. Some writers affected to make a distinction between "*gestum*" and "*factum*." But the best authorities pronounced this subtle and indefensible.

**Gesture.** Motion of the body calculated to express a thought or used for emphasis. An act used as a sign of feeling, such as a gesture of friendship.

**Get.** To receive; gain possession of; obtain; to prevail or have influence on.

Under Hebraic law, evidence of the granting of a divorce. A bill of divorce among the Jews which is drawn in the Aramaic language, uniformly worded and carefully written by a proper scribe, and after proper ceremonies and questionings by the rabbi, especially as to whether both parties agree to the divorce, the husband hands to the wife in the presence of ten witnesses.

**Gewineda** /gəwɪnədə/. In Saxon law, the ancient convention of the people to decide a cause.

**Gewitnissa** /gəwɪtnəsə/. In Saxon and old English law, the giving of evidence.

**Gewrite** /gəwɪrdi/. In Saxon law, deeds or charters; writings.

**Gibbet.** A gallows; the post on which malefactors are hanged, or on which their bodies are exposed. It differs from a common gallows, in that it consists of one perpendicular post, from the top of which proceeds one arm, except it be a double gibbet, which is formed in the shape of the Roman capital T.

**Gibbet law.** Lynch law; in particular a custom anciently prevailing in the parish of Halifax, England, by which the free burghers held a summary trial of any one accused of petit larceny, and, if they found him guilty, ordered him to be decapitated.

**Gideon v. Wainwright.** Landmark Supreme Court decision which held that provision guaranteeing a criminal defendant the assistance of counsel under the Sixth Amendment, U.S.Const., is binding on the states in state proceedings through the due process provision of the Fourteenth Amendment. 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799. See also **Counsel, right to.**

**Gift.** A voluntary transfer of property to another made gratuitously and without consideration. Bradley v. Bradley, Tex.Civ.App., 540 S.W.2d 504, 511. Essential requisites of "gift" are capacity of donor, intention of donor to make gift, completed delivery to or for donee, and acceptance of gift by donee.

In tax law, a payment is a gift if it is made without conditions, from detached and disinterested generosity, out of affection, respect, charity or like impulses, and not from the constraining force of any moral or legal duty or from the incentive of anticipated benefits of an economic nature.

An *absolute gift*, or gift inter vivos, as distinguished from a testamentary gift, or one made in contemplation of death, is one by which the donee becomes in the lifetime of the donor the absolute owner of the thing given, whereas a *donatio mortis causa* leaves the whole title in the donor, unless the event occurs (the death of the donor) which is to divest him.

The only important difference between a "gift" and a "voluntary trust" is that in the case of a gift the thing itself passes to the donee, while in the case of a trust the actual, beneficial, or equitable title passes to the cestui que trust, while the legal title is transferred

to a third person, or retained by the person creating it. In re Alberts' Estate, 38 Cal.App.2d 42, 100 P.2d 538, 540.

In old English law, a conveyance of lands in tail; a conveyance of an estate tail in which the operative words are "I give," or "I have given." 2 Bl.Comm. 316.

See also Anatomical gift; Annual exclusion; Endowment; Symbolic delivery; Taxable gift; Vested gift.

**Antenuptial gift.** Voluntary transfer of property before a marriage from one spouse to another, commonly made in exchange for a waiver of rights to property after the marriage.

**Class gift.** See **Gift to a class.**

**Gift in contemplation of death.** In taxation, a gift made by donor within three years of his death is considered part of his gross estate for estate tax purposes. I.R.C. § 2035(b).

More broadly, a gift by a donor immediately before his death while he has knowledge of his impending death. See also **Gift causa mortis.**

**Testamentary gift.** Voluntary transfer of property to take effect upon the death of the donor.

**Gift causa mortis** /gift kɔzə mɔrdəs/. A gift of personal property made in expectation of donor's death and on condition that donor die as anticipated. Antos v. Bocek, 9 Ariz.App. 368, 452 P.2d 533, 534. A "gift causa mortis" is effected only if the following conditions are met: the donor must be stricken with some disorder which makes death imminent, death of donor must ensue as a result of the disorder existing at time the gift was made without any intervening perfect recovery, gift must have been made to take effect only in event of donor's death by his existing disorder, and there must have been an actual delivery of the subject of the donation to the donee. In re Vardalos' Estate, 24 Ill.App.3d 520, 320 N.E.2d 568, 571. See also **Gift (Gift in contemplation of death), supra.**

**Gift deed.** A deed for a nominal sum or for love and affection. Bertelsen v. Bertelson, 49 Cal.App.2d 479, 122 P.2d 130, 133.

**Gift enterprise.** A scheme for the division or distribution of articles to be determined by chance amongst those who have taken shares in the scheme. A sporting artifice by which, for example, a merchant or tradesman sells his wares for their market value, but, by way of inducement, gives to such purchaser a ticket which entitles him to a chance to win certain prizes to be determined after the manner of a lottery.

**Gift inter vivos** /gift intər vāvovs/. Gifts between the living, which are perfected and become absolute during lifetime of donor and donee. Neal v. Neal, 194 Ark. 226, 106 S.W.2d 595, 600. An immediate, voluntary, and gratuitous transfer of personalty by one to another. Tilton v. Mullen, 101 Ohio App. 129, 137 N.E.2d 125, 128, 130. The essentials of an inter vivos gift are; (1) donative intention; (2) delivery to donee; in the case of a chose in action not capable of delivery, the donor must during his lifetime strip himself of all dominion over the thing taken; (3) acceptance by donee. In re Posey's Estate, 89 N.J. Super. 293, 214 A.2d 713, 719.

**Gift in trust.** Gift made in such manner that the donee acquires legal title for the beneficial enjoyment of the cestui que trust.

**Gift over.** A gift to one for life, and from and after his death to another. Broadly, any transfer of property to take effect after the termination of an intermediate estate or estates such as a life estate, e.g. to A for life, remainder to B.

**Gift splitting.** Under this tax provision when a married man gives away his property, he may, if his spouse consents, treat the gift as though he had given away half of the property and his spouse had given away the other half. The net effect of the privilege of splitting gifts, which is optional and not mandatory, is to double the gift tax exclusions and exemptions, and by treating the gift as a gift by each spouse of half of the amount actually given away to cause the gift to be taxed in a lower bracket. I.R.C. § 2513.

**Gifts to Minors Act.** A Uniform Act adopted by most states providing for a means of transferring property (usually stocks and bonds) to a minor. The designated custodian of the property has the legal right to act on behalf of the minor without the necessity of a guardianship. Generally, the custodian possesses the right to change investments (e.g., sell one type of stock and buy another), apply the income from the custodial property to the minor's support, and even terminate the custodianship. In this regard, however, the custodian is acting in a fiduciary capacity on behalf of the minor. The custodian could not, for example, appropriate the property for his or her own use because it belongs to the minor. During the period of the custodianship, the income from the property is taxed to the minor. The custodianship terminates when the minor reaches legal age. One of the primary reasons for making gifts to minors pursuant to the requirements of the Uniform Act is to receive favorable tax treatment.

**Gift tax.** A tax imposed on the transfer of property by gift. Such tax is imposed upon the donor of a gift and is based on the fair market value of the property on the date of the gift. See also **Tax**.

**Gift to a class.** A gift of aggregate sum to body of persons uncertain in number at time of gift, to be ascertained at future time, who are all to take in equal shares, or some other definite proportion; share of each being dependent for its amount upon ultimate number taking. See also **Class gift**.

**Gild.** In Saxon law, a tax or tribute.

A fine, mulct, or amerciamnt; a satisfaction or compensation for an injury.

In old English law, a fraternity, society, or company of persons combined together, under certain regulations, and with the king's license, and so called because its expenses were defrayed by the *contributions* (*geld, gild*) of its members. In other words, a corporation; called, in Latin, "*societas*," "*collegium*," "*frat-ria*," "*fraternitas*," "*sodalitium*," "*adunatio*;" and, in foreign law, "*gildonia*." There were various kinds of these gilds, as merchant or commercial gilds, religious gilds, and others. See **Gilda mercatoria**; **Guild**.

A friborg, or decennary; called, by the Saxons, "*gyldscipes*," and its members, "*gildones*" and "*con-gildones*."

**Gildable** /gildəbəl/. In old English law, taxable, tributary, or contributory; liable to pay tax or tribute.

**Gilda mercatoria** /gildə mærkətōriyə/. In old English law, a gild merchant, or merchant gild; a gild, corporation, or company of merchants.

**Gild-hall.** See **Guildhall**.

**Gildo** /gildow/. In Saxon law, members of a *gild* or decennary. Oftener spelled "congildo."

**Gild-rent.** In old English law, certain payments made to the crown from any gild or fraternity.

**Gill.** A measure of capacity, equal to one-fourth of a pint.

**Gilour** /gāylər/. L. Fr. A cheat or deceiver. Applied in Britton to those who sold false or spurious things for good, as pewter for silver or laten for gold.

**Gilt edge.** As applied to commercial paper, a colloquialism, meaning of the best quality or highest price, first class; but not implying that a note which is not gilt edge is not collectible, or that the maker is irresponsible. Also, a bond or other security issue with the highest rating (i.e. highest investment quality).

**Ginnie Mae.** Government National Mortgage Association.

**Girante** /jirāntey/. An Italian word, which signifies the drawer of a bill. It is derived from "*girare*," to draw.

**Girth.** In Saxon and old English law, a measure of length, equal to one yard, derived from the girth or circumference of a man's body.

**Gisement** /jāyzmənt/. L. Fr. Agistment; cattle taken in to graze at a certain price; also the money received for grazing cattle.

**Giser** /jāyzər/. L. Fr. To lie. *Gist en le bouche*, it lies in the mouth. *Le action bien gist*, the action well lies. *Gisant*, lying.

**Gisetaker** /jāyztèykər/. An agister; a person who takes cattle to graze.

**Gisle** /gāyzal/. In Saxon law, a pledge. *Fredgisle*, a pledge of peace. *Gislebert*, an illustrious pledge.

**Gist** /jīst/. In common law pleading, the essential ground or object of the action in point of law, without which there would be no cause of action. The cause for which an action will lie or the ground or foundation of a suit without which it would not be maintainable; the essential ground or object of the suit without which there is no cause of action. This term is no longer used in those states that have adopted Rules of Civil Procedure, nor in the federal courts.

**Give.** To transfer ownership or possession without compensation. To bestow upon another gratuitously or without consideration. See also **Gift**.

**Give and bequeath.** These words, in a will, import a benefit in point of right, to take effect upon the decease of the testator and proof of the will, unless it is made in terms to depend upon some contingency or condition precedent.

**Give bail.** To furnish or post bail or security for one's appearance. See **Bail**.

**Give color.** To admit an apparent or colorable right in the opposite party. In common law pleading, a plea of confession and avoidance had to give color to the affirmative averments of the complaint, or it would be fatally defective. The "giving color" was simply the absence of any denials, and the express or silent admission that the declaration, as far as it went, told the truth. See **Color**.

**Give judgment.** To render, pronounce, or declare the judgment of the court in an action at law; not spoken of a judgment obtained by confession.

**Give notice.** To communicate to another, in any proper or permissible legal manner, information or warning of an existing fact or state of facts or (more usually) of some intended future action; e.g. tenant giving landlord thirty day notice of termination of tenancy; employee giving employer two weeks notice of intention to quit; to give notice of appeal to appellee. See also **Notice**.

**Giver.** A donor; he who makes a gift.

**Give time.** Extending the period at which, by the contract between them, the principal debtor was originally liable to pay the creditor. *Buffalo Forge Co. v. Fidelity & Casualty Co. of New York*, 142 Misc. 647, 256 N.Y.S. 329, 334.

**Give way.** In the rules of navigation, one vessel is said to "give way" to another when she deviates from her course in such a manner and to such an extent as to allow the other to pass without altering her course.

**Giving in payment.** In Louisiana law, a phrase (translating the Fr. "*dation en paiement*") which signifies the delivery and acceptance of real or personal property in satisfaction of a debt, instead of a payment in money. Civil Code La. art. 265.

**Gladius** /glædiyas/. Lat. A sword. An ancient emblem of defense. Hence the ancient earls or *comites* (the king's attendants, advisers, and associates in his government) were made by being girt with swords (*gladio succincti*).

The emblem of the executory power of the law in punishing crimes. 4 Bl.Comm. 177.

In old Latin authors, and in the Norman laws, this word was used to signify supreme jurisdiction (*ius gladii*).

**Glaive** /gléyv/. A sword, lance, or horseman's staff. One of the weapons allowed in a trial by combat.

**Gleaning.** The gathering of grain after reapers, or of grain left ungathered by reapers. Held not to be a right at common law.

**Glebæ ascriptitii** /glíbyi æskriptíshiyay/. In old English law, villein-socmen, who could not be removed from the land while they did the service due.

**Glebe** /glíyb/. In Ecclesiastical law, the land possessed as part of the endowment or revenue of a church or ecclesiastical benefice.

In Roman law, a clod; turf; soil. Hence, the soil of an inheritance; an agrarian estate. *Servi addicti glebæ* were serfs attached to and passing with the estate.

**Gliscywa.** In Saxon law, a fraternity.

**Glos** /glós/. Lat. In the civil law, a husband's sister.

**Gloss.** An interpretation, consisting of one or more words, interlinear or marginal; an annotation, explanation, or comment on any passage in the text of a work, for purposes of elucidation or amplification.

**Glossa** /glósə/. Lat. A gloss, explanation, or interpretation.

The *glossæ* of the Roman law are brief illustrative comments or annotations on the text of Justinian's collections, made by the professors who taught or lectured on them about the twelfth century (especially at the law school of Bologna), and were hence called "*glossators*." These glosses were at first inserted in the text with the words to which they referred, and were called "*glossæ interlineares*;" but afterwards they were placed in the margin, partly at the side, and partly under the text, and called "*glossæ marginales*." A selection of them was made by Accursius, between A.D. 1220 and 1260, under the title of "*glossa Ordinaria*," which is of the greatest authority.

**Glossator** /glósédər/. In the civil law, a commentator or annotator. A term applied to the professors and teachers of the Roman law in the twelfth century, at the head of whom was Irnerius.

**Glossa viperina est quæ corrodit viscera textus** /glósə vâypəráynə èst kwíy kərówdət vísərə tékstəs/. It is a poisonous gloss which corrupts the essence of the text.

**Gloucester, Statute of** /stæchuwd əv glóstar/. The English statute of 6 Edw. I, c. 1, A.D. 1278. It takes its name from the place of its enactment, and was the first statute giving costs in actions.

**Gloves** /glóvz/. In England, it was an ancient custom on a maiden assize, when there was no offender to be tried, for the sheriff to present the judge with a pair of white gloves. It was an immemorial custom to remove the glove from the right hand on taking oath.

**Glove silver.** In old English law, extraordinary rewards formerly given to officers of courts, etc.; money formerly given by the sheriff of a county in which no offenders are left for execution to the clerk of assize and judges' officers.

**G.N.M.A.** Government National Mortgage Association (Ginnie Mae).

**GNP.** Gross National Product.

**Go.** To be dismissed from a court. To issue from a court. "The court said a *mandamus* must go."

**Go bail.** To assume the responsibility of a surety on a bail-bond.

**God and my country.** The answer formerly made by a prisoner, when arraigned, in answer to the question, "How will you be tried?" In the ancient practice he had the choice (as appears by the question) whether to submit to the trial by ordeal (by God) or to be tried by a jury (by the country); and it is probable that the original form of the answer was, "By God or my country," whereby the prisoner averred his innocence by declining neither of the modes of trial.

**God-bote.** An ecclesiastical or church fine paid for crimes and offenses committed against God.

**God-gild.** That which is offered to God or his service.

**God's penny.** In old English law, earnest-money; money given as evidence of the completion of a bargain. This name is probably derived from the fact that such money was given to the church or distributed in alms.

**Go fifty-fifty.** Division into halves of something under discussion by the parties at the time. *Boyer v. Bowles*, 310 Mass. 134, 37 N.E.2d 489, 493.

**Go hence.** To depart from the court; with the further implication that a suitor who is directed to "go hence" is dismissed from further attendance upon the court in respect to the suit or proceeding which brought him there, and that he is finally denied the relief which he sought, or, as the case may be, absolved from the liability sought to be imposed upon him.

**Going.** In various compound phrases (as those which follow) this term implies either motion, progress, active operation, or present and continuous validity and efficacy.

**Going and coming rule.** Under this rule, employees who suffer injuries while going to and returning from work are generally excluded from the benefits of the Worker's Compensation Act. *Wiley Mfg. Co. v. Wilson*, 30 Md.App. 87, 351 A.2d 487, 490. Under the "going and coming" rule, an employee who is going to or coming from work is generally not, during such times, considered to be acting in the course or scope of his employment for purpose of applying the doctrine of respondeat superior. *Sherar v. B and E Convalescent Center*, 49 C.A.3d 227, 122 Cal.Rptr. 505, 506.

**Going before the wind.** In the language of mariners and in the rules of navigation, a vessel is said to be going "before the wind" when the wind is free as respects her course, that is, comes from behind the vessel or over the stern, so that her yards may be braced square across. She is said to be "going off large" when she has the wind free on either tack, that is, when it blows from some point abaft the beam or from the quarter.

**Going concern.** An enterprise which is being carried on as a whole, and with some particular object in view. The term refers to an existing solvent business, which is being conducted in the usual and ordinary way for which it was organized. When applied to a corporation, it means that it continues to transact its ordinary business. A firm or corporation which, though financially embarrassed, continues to transact its ordinary business. *City and County of Denver v. Denver Union Water Co.*, 246 U.S. 178, 38 S.Ct. 278, 62 L.Ed. 649.

**Going concern value.** The value which inheres in a plant where its business is established, as distinguished from one which has yet to establish its business. *East Bay Water Co. v. McLaughlin*, D.C.Cal., 24 F.Supp. 222, 226. The value of the assets of a business as a going, active concern, rather than merely as items of property which would be the case in a liquidation sale. Such value includes goodwill.

**Going into effect of act.** Becoming operative as a law. *State ex rel. Bishop v. Board of Education of Mt. Orab Village School Dist.*, Brown County, 139 Ohio St. 427, 40 N.E.2d 913, 919.

**Going off large.** See **Going before the wind**.

**Going price.** The prevalent market price; the current market value of the article in question at the time and place of sale. See **Fair market value**.

**Going private.** Causing of a class of equity securities to be delisted from a national securities exchange or the causing of a class of equity securities which is authorized to be quoted in an inter-dealer quotation system of a registered national securities exchange to cease to be so authorized. Nearly all attempts to go private utilize variations of one or more of a limited number of basic techniques. These include (in probable order of frequency): (1) A cash tender offer by the issuer, its management or an affiliated entity; (2) a merger or consolidation of the issuer with, or the sale of its assets to, another corporation controlled by management of the issuer; (3) an exchange offer (almost always involving a debt security) by the issuer, its management or an affiliated entity; and (4) a reverse stock split.

**Going public.** Term used to describe the process by which a corporation issues its first stock for public purchase. Also, when a private corporation becomes a public corporation. Said of a business when its shares become traded to the general public, rather than being closely held by relatively few stockholders.

**Going through the bar.** The act of the chief of an English common-law court in demanding of every member of the bar, in order of seniority, if he has anything to move. This was done at the sitting of the court each day in term, except special paper days, crown paper days in the queen's bench, and revenue paper days in the exchequer. On the last day of term this order is reversed, the first and second time round. In the exchequer the postman and tubman are first called on.

**Going to the country.** When a party, under the common-law system of pleading, finished his pleading by the words "and of this he puts himself upon the country," this was called "going to the country." It was the essential termination of a pleading which took issue upon a material fact in the preceding pleading.

**Going value.** See **Going concern value**.

**Going witness.** One who is about to take his departure from the jurisdiction of the court, although only into a state or country under the general sovereignty; as from one to another of the United States.

**Gold bond.** One payable in gold coin or its equivalent, which means any money acceptable to United States government in payment of debts due it.

**Gold clause.** Provision formerly found in contracts, bonds and mortgages calling for payment in gold, though such clause is void today. *Norman v. Baltimore & Ohio R. Co.*, 294 U.S. 240, 55 S.Ct. 407, 79 L.Ed. 885.

**Golden Rule argument.** "Golden Rule" type of argument, by which jurors are urged to place themselves or members of their families or friends in place of person who has been offended and to render verdict as if they or either of them or member of their families or friends was similarly situated, is improper in both civil and criminal cases. *Lycans v. Com.*, Ky., 562 S.W.2d 303.

**Goldsmiths' notes.** Bankers' cash notes (*i.e.*, promissory notes given by a banker to his customers as acknowledgments of the receipt of money) were originally called in London "goldsmiths' notes," from the circumstance that all the banking business in England was originally transacted by goldsmiths.

**Gold standard.** A monetary system in which every form of currency is convertible on demand into its legal equivalent in gold or gold coin. The United States adopted the gold standard in 1900 and terminated it in 1934.

**Goldwit.** A mulct or fine in gold.

**Gomashtah** /gəməštə/. In Hindu law, an agent; a steward; a confidential factor; a representative.

**Good.** Valid; sufficient in law; effectual; unobjectionable; sound; responsible; solvent; able to pay an amount specified.

Of a value corresponding with its terms; collectible. A note is said to be "good" when the payment of it at maturity may be relied on.

**Good abearing.** See *Abearing*.

**Good and clear record title, free from all incumbrances.** A title which on the record itself can be again sold as free from obvious defects and substantial doubts, and differs from a "good, marketable title," which is an actual title, but which may be established by evidence independently of the record.

**Good and valid.** Reliable, sufficient, and unimpeachable in law; adequate; responsible.

**Good and workmanlike manner.** In a manner generally considered skillful by those capable of judging such work in the community of the performance.

**Good behavior.** Orderly and lawful conduct; behavior such as is proper for a peaceable and law-abiding citizen. "Good behavior," as used in an order suspending sentence upon a defendant during good behavior, means merely conduct conformable to law, or to the particular law theretofore breached.

Under some state penal systems, each day of "good behavior" by a prisoner reduces his or her sentence by one day. See also *Goodtime allowance*.

**Good cause.** Substantial reason, one that affords a legal excuse. Legally sufficient ground or reason. Phrase "good cause" depends upon circumstances of individual case, and finding of its existence lies largely in discretion of officer or court to which decision is committed. *Wilson v. Morris*, Mo., 369 S.W.2d 402, 407. "Good cause" is a relative and highly abstract term, and its meaning must be determined not only by verbal context of statute in which term is employed but also by context of action and procedures involved in type of case presented. *Wray v. Folsom*,

D.C.Ark., 166 F.Supp. 390, 394, 395. See also *Probable cause*.

**Discovery.** "Good cause" for discovery is present if information sought is material to moving party's trial preparation. *Daniels v. Allen Industries, Inc.*, 391 Mich. 398, 216 N.W.2d 762, 766. "Good cause" requirement for discovery and production of documents is ordinarily satisfied by a factual allegation showing that requested documents are necessary to establishment of the movant's claim or that denial of production would cause moving party hardship or injustice. *Black v. Sheraton Corp. of America*, D.C.D.C., 47 F.R.D. 263, 273. Under a 1970 amendment to Fed.R. Civil P. 34, however, "good cause" is no longer required to be shown for production of documents and things. Federal Rule 35(a) does, however, require that "good cause" be shown for order requiring physical or mental examination, as does Rule 26(c) for protective orders to restrict scope of discovery.

**Quitting employment.** "Good cause" for leaving one's employment is such good cause as would compel a reasonably prudent person to quit under similar circumstances. *Chamblee v. Employment Division*, Or.App., 541 P.2d 165, 167.

**Unemployment compensation.** "Good cause" within statute denying unemployment compensation benefits if claimant has refused without good cause to accept an offer of suitable work is that cause that to an ordinary intelligent man is a justifiable reason for doing or not doing a certain particular thing. *Wallace v. Bureau of Unemployment Compensation*, Ohio Com.Pl., 160 N.E.2d 580, 582.

**Good character.** Sum or totality of virtues of a person which generally forms the basis for one's reputation in the community, though his reputation is distinct from his character. See *Character*; *Reputation*.

**Good conduct.** See *Certificate of good conduct*.

**Good consideration.** Any benefit conferred, or agreed to be conferred, upon the promisor, by any other person, to which the promisor is not lawfully entitled, or any prejudice suffered, or agreed to be suffered, by such person, other than such as he is at the time of consent lawfully bound to suffer, as an inducement to the promisor, is a good consideration for a promise. That consideration or detriment which the law considers valid and to this extent "good" does not refer to moral goodness. See *Consideration*.

**Good faith.** Good faith is an intangible and abstract quality with no technical meaning or statutory definition, and it encompasses, among other things, an honest belief, the absence of malice and the absence of design to defraud or to seek an unconscionable advantage, and an individual's personal good faith is concept of his own mind and inner spirit and, therefore, may not conclusively be determined by his protestations alone. *Doyle v. Gordon*, 158 N.Y.S.2d 248, 259, 260. Honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry. An honest intention to abstain from taking any unconscientious advantage of another, even through technicalities of law, together with absence of all information, notice, or benefit or belief of facts which render transaction unconscientious. In common usage this term is ordinarily used to

describe that state of mind denoting honesty of purpose, freedom from intention to defraud, and, generally speaking, means being faithful to one's duty or obligation. *Efron v. Kalmanovitz*, 249 Cal.App. 187, 57 Cal.Rptr. 248, 251. See **Bona fide**.

**Commercial law.** Honesty in fact in the conduct or transaction concerned. U.C.C. § 1-201(19). In the case of a merchant, honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade. U.C.C. § 2-103(1)(b).

**Good faith purchaser.** Those who buy without notice of circumstances which would put a person of ordinary prudence on inquiry as to the title of seller.

**Good health.** Good health, as employed in insurance contract, ordinarily means a reasonably good state of health. It means that the applicant has no grave, important, or serious disease, and is free from any ailment that seriously affects the general soundness and healthfulness of the system. A mere temporary indisposition not tending to weaken or undermine constitution does not render a person in "bad health". It does not mean a condition of perfect health.

**Good jury.** A jury of which the members are selected from the list of special jurors.

**Good, merchantable abstract of title.** An abstract showing a good title, clear from incumbrances, and not merely an abstract of matters of record affecting the title, made by one engaged in the business of making abstracts in such form as is customary, as passing current among persons buying and selling real estate and examining titles. See also **Marketable title**.

**Good order.** Goods or property are in "good order" when they are in acceptable condition under all the circumstances. See **Merchantability**.

**Good record title.** A "good record title," without words of limitation, means that the proper records shall show an unincumbered, fee-simple title, the legal estate in fee, free and clear of all valid claims, liens, and incumbrances. See also **Marketable title**.

**Good repute.** An expression, synonymous with and meaning only "of good reputation." See **Reputation**.

**Goodright, goodtitle.** The fictitious plaintiff in the old action of ejectment, most frequently called "John Doe," was sometimes called "Goodright" or "Goodtitle."

**Goods.** A term of variable content and meaning. It may include every species of personal property or it may be given a very restricted meaning.

Items of merchandise, supplies, raw materials, or finished goods. Sometimes the meaning of "goods" is extended to include all tangible items, as in the phrase "goods and services."

All things (including specially manufactured goods) which are movable at the time of identification to the contract for sale other than the money in which the price is to be paid, investment securities and things in action. Also includes the unborn of animals and growing crops and other identified things attached to realty as fixtures. U.C.C. § 2-105(1). All things treated as movable for the purposes of a contract of storage or transportation. U.C.C. § 7-102(1)(f).

As used with reference to collateral for security interest, goods include all things which are movable at the time the security interest attaches or which are fixtures. Section 9-105(1)(h) of the 1972 U.C.C.; § 9-105(1)(f) of the 1962 U.C.C.

See also **Confusion of goods; Future goods; Identification of goods**.

**Capital goods.** The equipment and machinery used in production of other goods or services.

**Consumer goods.** Goods which are used or bought for use primarily for personal, family or household purposes. U.C.C. § 9-109(1). See also **Consumer goods**.

**Durable goods.** Goods which have a reasonably long life and which are not generally consumed in use; e.g. refrigerator.

**Fungible goods.** Goods, every unit of which is similar to every other unit in the mass; e.g. uniform goods such as coffee, grain, etc. U.C.C. § 1-201.

**Hard goods.** Consumer durable goods. See **Durable goods, supra**.

**Soft goods.** Generally consumer goods such as wearing apparel, curtains, etc., in contrast to hard goods.

**Good Samaritan doctrine.** One who sees a person in imminent and serious peril through negligence of another cannot be charged with contributory negligence, as a matter of law, in risking his own life or serious injury in attempting to effect a rescue, provided the attempt is not recklessly or rashly made. *Jobst v. Butler Well Servicing, Inc.*, 190 Kan. 86, 372 P.2d 55, 59. Under doctrine, negligence of a volunteer rescuer must worsen position of person in distress before liability will be imposed. *U. S. v. DeVane*, C.A.Fla., 306 F.2d 182, 186. This protection from liability is provided by statute in most states.

**Goods and chattels.** This phrase is a general denomination of personal property, as distinguished from real property. In the law of wills, the term "goods and chattels" will, unless restrained by the context, pass all the personal estate.

**Goods sold and delivered.** A phrase frequently used in the action of *assumpsit*, when the sale and delivery of goods furnish the cause.

**Goods, wares, and merchandise.** A general and comprehensive designation of such chattels and goods as are ordinarily the subject of traffic and sale. The phrase is used in the statute of frauds, and is sometimes found in pleadings and other instruments.

**Goodtime allowance.** "Good time" is awarded for good conduct and reduces period of sentence which prisoner must spend in prison although it does not reduce the period of the sentence itself. *Carothers v. Follette*, D.C.N.Y., 314 F.Supp. 1014, 1026, 1027. Credit allowed on the sentence which is given for satisfactory conduct in prison. Introduced as an incentive for inmates, it has become practically automatically awarded. It may reduce the minimum or maximum sentence or both. See also **Good behavior**.

**Good title.** One free from reasonable doubt, that is, not only a valid title in fact, but one that can again be sold to a reasonable purchaser or mortgaged to a

person of reasonable prudence. *MacGowan v. Gaines*, 127 Vt. 477, 253 A.2d 121, 123. A title free from litigation, palpable defects and grave doubts. See also **Marketable title**.

**Good will.** The favor which the management of a business wins from the public. *Seneca Hotel Co. v. U. S., Ct.Cl.*, 42 F.2d 343, 344. The fixed and favorable consideration of customers arising from established and well-conducted business. *Colton v. Duvall*, 254 Mich. 346, 237 N.W. 48, 49. The favorable consideration shown by the purchasing public to goods known to emanate from a particular source. *White Tower System v. White Castle System of Eating Houses Corporation*, C.C.A.Mich., 90 F.2d 67, 69. Good will is an intangible asset. Something in business which gives reasonable expectancy of preference in race of competition. In *re Witkind's Estate*, 167 Misc. 885, 4 N.Y.S.2d 933, 947. The custom or patronage of any established trade or business; the benefit or advantage of having established a business and secured its patronage by the public. The advantage or benefit which is acquired by an establishment, beyond the mere value of the capital, stocks, funds, or property employed therein, in consequence of the general public patronage and encouragement which it receives from constant or habitual customers, on account of its local position, or common celebrity, or reputation for skill or affluence or punctuality, or from other accidental circumstances or necessities, or even from ancient partialities or prejudices. And as property incident to business sold, favor vendor has won from public, and probability that all customers will continue their patronage. It means every advantage, every positive advantage, that has been acquired by a proprietor in carrying on his business, whether connected with the premises in which the business is conducted, or with the name under which it is managed, or with any other matter carrying with it the benefit of the business.

The excess of cost of an acquired firm or operating unit over the current or fair market value of net assets of the acquired unit. Informally used to indicate the value of good customer relations, high employee morale, a well-respected business name, etc. which are expected to result in greater than normal earning power.

The ability of a business to generate income in excess of a normal rate on assets due to superior managerial skills, market position, new product technology, etc. In the purchase of a business, good will represents the difference between the purchase price and the value of the net assets. Good will is an intangible asset which possesses an indefinite life and cannot, therefore, be amortized for Federal income tax purposes.

**Gore.** In old English law, a small, narrow slip of ground. In modern land law, a small triangular piece of land, such as may be left between surveys which do not close. In some of the New England states (as Maine and Vermont) the term is applied to a subdivision of a county, having a scanty population and for that reason not organized as a town.

**Gossipred** /gósæprèd/. In canon law, compaternity; spiritual affinity.

**Go to.** In a statute, will, or other instrument, a direction that property shall "go to" a designated person means that it shall pass or proceed to such person, vest in and belong to him.

**Go to protest.** Commercial paper is said to "go to protest" when it is dishonored by non-payment or non-acceptance. See also **Protest**.

**Govern.** To direct and control the actions or conduct of, either by established laws or by arbitrary will; to direct and control, rule, or regulate, by authority. To be a rule, precedent, law or deciding principle for.

**Governing body.** Governing body of institution, organization or territory means that body which has ultimate power to determine its policies and control its activities. *Student Bar Ass'n Bd. of Governors of School of Law, University of North Carolina at Chapel Hill v. Byrd*, N.C., 239 S.E.2d 415, 421.

**Government.** From the Latin *gubernaculum*. Signifies the instrument, the helm, whereby the ship to which the state was compared, was guided on its course by the "gubernator" or helmsman, and in that view, the government is but an agency of the state, distinguished as it must be in accurate thought from its scheme and machinery of government.

In the United States, government consists of the executive, legislative, and judicial branches in addition to administrative agencies. In a broader sense, includes the federal government and all its agencies and bureaus, state and county governments, and city and township governments.

The system of polity in a state; that form of fundamental rules and principles by which a nation or state is governed, or by which individual members of a body politic are to regulate their social actions. A constitution, either written or unwritten, by which the rights and duties of citizens and public officers are prescribed and defined, as a monarchical government, a republican government, etc. The sovereign or supreme power in a state or nation. The machinery by which the sovereign power in a state expresses its will and exercises its functions; or the framework of political institutions, departments, and offices, by means of which the executive, judicial, legislative, and administrative business of the state is carried on.

The whole class or body of officeholders or functionaries considered in the aggregate, upon whom devolves the executive, judicial, legislative, and administrative business of the state.

In a colloquial sense, the United States or its representatives, considered as the prosecutor in a criminal action; as in the phrase, "the government objects to the witness."

The regulation, restraint, supervision, or control which is exercised upon the individual members of an organized jural society by those invested with authority; or the act of exercising supreme political power or control.

See also **De facto government**; **Federal government**; **Judiciary**; **Legislature**; **Seat of government**.

**Federal government.** The government of the United States of America, as distinguished from the governments of the several states.



**Local government.** The government or administration of a particular locality; especially, the governmental authority of a municipal corporation, as a city or county, over its local and individual affairs, exercised in virtue of power delegated to it for that purpose by the general government of the state or nation.

**Mixed government.** A form of government combining some of the features of two or all of the three primary forms, viz., monarchy, aristocracy, and democracy.

**Republican government.** One in which the powers of sovereignty are vested in the people and are exercised by the people, either directly, or through representatives chosen by the people, to whom those powers are specially delegated. In re Duncan, 139 U.S. 449, 11 S.Ct. 573, 35 L.Ed. 219; Minor v. Happersett, 88 U.S. (21 Wall.) 162, 22 L.Ed. 627.

**Governmental.** Of, pertaining to, or proceeding from government.

**Governmental act.** An act in exercise of police power or in exercise of constitutional, legislative, administrative, or judicial powers conferred on federal, state or local government for benefit of public. A step physically taken by persons capable of exercising the sovereign authority of the foreign nation. Banco de Espana v. Federal Reserve Bank of New York, C.C.A. N.Y., 114 F.2d 438, 444. Any action of the federal government, or of a state, within its constitutional power. Graves v. People of State of New York ex rel. O'Keefe, N.Y., 306 U.S. 466, 59 S.Ct. 595, 596, 83 L.Ed. 927. See also **Governmental activity**; **Governmental functions**.

**Governmental activity.** A function of government in providing for its own support or in providing services to the public; e.g. taxation and the collection of taxes. Goble v. Zolot, 144 Neb. 70, 12 N.W.2d 311, 312. Generally, when a municipality's activity is for advantage of state as a whole, or is in performance of a duty imposed by sovereign power, activity is "public" and "governmental." Department of Treasury v. City of Evansville, Ind., 223 Ind. 435, 60 N.E.2d 952, 955. See **Governmental act**; **Governmental functions**.

**Governmental agency.** A subordinate creature of federal, state or local government created to carry out a governmental function or to implement a statute or statutes. For example, the Federal Trade Commission was created and functions to implement and enforce the Federal Trade Commission Act and various other federal antitrust and consumer protection laws. See also **Administrative agency**; **Governmental subdivision**.

**Governmental agents.** Those performing services and duties of a public character for benefit of all citizens of community. The term includes firemen and policemen. Miller v. City of Albany, 158 Misc. 720, 287 N.Y.S. 889, 891.

**Governmental body.** See **Administrative agency**; **Governmental agency**; **Governmental subdivision**.

**Governmental duties.** Those duties of a municipality that have reference to some part or element of the state's sovereignty granted it to be exercised for the

benefit of the public, and all other duties are "proprietary". Those duties that the framers of the Constitution intended each member of the union of states would assume in order adequately to function under the form of government guaranteed by the Constitution. First State Bank of Gainesville v. Thomas, D.C.Tex., 38 F.Supp. 849, 851. See also **Governmental functions**.

**Governmental enterprise.** A project or undertaking by the government of a more or less permanent nature, such as a drainage district. Rorick v. United States Sugar Corporation, C.C.A.Fla., 120 F.2d 418, 421.

**Governmental facility.** A building or institution provided by the government to care for a specified need, such as a courthouse or county jail. Haney v. Town of Rainelle, 125 W.Va. 397, 25 S.E.2d 207, 211.

**Governmental functions.** The functions of a municipality which are essential to its existence, in sense of serving public at large, and are to be distinguished from those which are private, which are not necessary to its existence, and which enure to advantage of its inhabitants. City of New Rochelle v. State, 34 Misc.2d 454, 228 N.Y.S.2d 279, 282. Activities which are carried on by city, pursuant to state requirement, in discharge of state's obligation for health, safety or general welfare of public generally, or which are voluntarily assumed by city for benefit of public generally rather than for its own citizens, are performed in governmental capacity and as "governmental function". Sarmiento v. City of Corpus Christi, Tex.Civ. App., 465 S.W.2d 813, 816, 818.

Where duty involves general public benefit not in nature of corporate or business undertaking for corporate benefit and interest of municipality, function is "governmental," whether duty be directly imposed or voluntarily assumed. Those conferred upon municipality as local agency of prescribed and limited jurisdiction to be employed in administering the affairs of the state and promoting the public welfare generally. State ex rel. Gebhardt v. City Council of Helena, 102 Mont. 27, 55 P.2d 671, 673, 675.

**Governmental immunity.** The federal, state and local governments are not amenable to actions in tort except in cases in which they have consented to be sued. The federal government under the Federal Tort Claims Act has waived its immunity in certain cases "in the same manner and to the same extent as a private individual under like circumstances." 28 U.S.C.A. §§ 1346(b), 2674. Most states have also waived governmental immunity to various degrees at both the state and municipal government levels. See **Federal Tort Claims Act**.

**Governmental instrumentality.** Any agency constitutionally or legislatively created. See **Administrative agency**; **Governmental agency**; **Governmental subdivision**.

**Governmental interests.** In conflicts of law, term used to describe the particular governmental policies of a jurisdiction in terms of whether its law or another law should be applied in a choice of law issue.

**Governmental powers.** The totality of power which reposes in a government enabling it to carry out its proper functions as a sovereign. General powers of

federal government are enumerated in U.S. Constitution; powers of state governments in state constitutions; municipal governments in charters.

**Governmental privileges.** See **Governmental secrets.**

**Governmental purpose.** One which has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity and contentment of the inhabitants of a given political division. See also **Governmental functions.**

**Governmental secrets.** In evidence, a privilege exists which protects the government from revealing military or diplomatic secrets or other information the disclosure of which would be contrary to the public interest. *U. S. v. Reynolds*, 345 U.S. 1, 73 S.Ct. 528, 97 L.Ed. 727. See also **Executive privilege.**

**Governmental subdivision.** An agency created to carry out a governmental purpose or function. See **Administrative agency**; **Governmental agency.**

**Governmental survey.** General mapping out by government of towns, sections, quarter sections, etc.; sometimes known as congressional survey. See also **Government survey system.**

**Governmental trusts.** Type of charitable trust used for erection and maintenance of public buildings and for the promotion of purposes which are of a character sufficiently beneficial to the community to justify permitting property to be devoted forever to their accomplishment. Restatement, Second, Trusts, §§ 373, 374.

**Government annuities societies.** Societies formed in England under 3 & 4 Wm. IV, c. 14, 7 & 8 Vict., c. 83, 16 & 17 Vict., c. 45, and 27 & 28 Vict., c. 43, to enable the industrious classes to make provisions for themselves by purchasing, on advantageous terms, a government annuity for life or term of years.

**Government bonds.** See **Bond.**

**Government contract.** See **Procurement contract.**

**Government de facto.** A government of fact. A government actually exercising power and control, as opposed to the true and lawful government; a government not established according to the constitution of the nation, or not lawfully entitled to recognition or supremacy, but which has nevertheless supplanted or displaced the government *de jure*. A government deemed unlawful, or deemed wrongful or unjust, which, nevertheless, receives presently habitual obedience from the bulk of the community.

There are several degrees of what is called "*de facto* government." Such a government, in its highest degree, assumes a character very closely resembling that of a lawful government. This is when the usurping government expels the regular authorities from their customary seats and functions, and establishes itself in their place, and so becomes the actual government of a country. The distinguishing characteristic of such a government is that adherents to it in war against the government *de jure* do not incur the penalties of treason; and, under certain limitations, obligations assumed by it in behalf of the country or otherwise will, in general, be respected by the government *de jure* when restored. Such a government

might be more aptly denominated a "government of paramount force," being maintained by active military power against the rightful authority of an established and lawful government; and obeyed in civil matters by private citizens. They are usually administered directly by military authority, but they may be administered, also, by civil authority, supported more or less by military force. *Thorington v. Smith*, 75 U.S. (8 Wall.) 1, 19 L.Ed. 361.

**Government de jure /gávernment diy júriy/.** A government of right; the true and lawful government; a government established according to the constitution of the nation, and lawfully entitled to recognition and supremacy and the administration of the nation, but which is actually cut off from power or control. A government deemed lawful, or deemed rightful or just, which, nevertheless, has been supplanted or displaced; that is to say, which receives not presently (although it received formerly) habitual obedience from the bulk of the community.

**Government immunity.** See **Governmental immunity.**

**Government instrumentality doctrine.** The doctrine that government instrumentalities are tax exempt.

**Government National Mortgage Association.** Agency of Federal government (division of HUD) which, among its other functions, makes a market for higher risk loans by acquiring such from lenders who would otherwise not make such mortgage loans. Referred to as "Ginnie Mae."

**Government of laws.** Fundamental principle of American jurisprudence which requires decisions of courts to be based on laws, statutory and common law, irrespective of the character of the litigants and the personal predilections of the judges.

**Government survey system.** A type of legal description whereby the United States is generally divided into checks or tracts of ground. These are further broken down by smaller descriptions, such as metes and bounds. See also **Governmental survey**; **Metes and bounds.**

**Government tort.** A wrong perpetrated by the government through an employee or agent or instrumentality under its control which may or may not be actionable depending upon whether there is governmental tort immunity. Tort actions against the federal government are governed by the Federal Tort Claims Act; many states also have Tort Claims Acts. See **Governmental immunity.**

**Governor.** The chief executive official of a state in the United States, and territories of the United States; and also of the chief magistrate of some colonies, provinces, and dependencies of other nations. Governors serve terms ranging from two to four years; are usually restricted to two terms in office; possess veto powers, powers to call special sessions of legislature, powers to pardon and reprieve, and many other appointive, administrative, and financial powers. See also **Lieutenant governor.**

**Go without day.** Words used to denote that a party is dismissed by the court. He is said to go without day, because there is no day appointed for him to appear again.

**GPO.** Government Printing Office. Such office prints and publishes laws, regulations, forms, etc. of federal government.

**Grace.** A favor or indulgence as distinguished from a right. See also **Days of grace; Grace, days of; Grace period; Of grace.**

**Grace, days of.** Time of indulgence granted to an acceptor or maker for the payment of his bill of exchange or note. It was originally a gratuitous favor (hence the name), but custom has rendered it a legal right. See also **Days of grace; Grace period.**

**Grace period.** In insurance law, a period beyond the due date of premium (usually 30 or 31 days) during which insurance is continued in force and during which payment may be made to keep policy in good standing. The grace period for payment of premium does not contemplate free insurance or operate to continue the policy in force after it expires by agreement of the parties. *Miller v. Travelers Ins. Co.*, 143 Pa.Super. 270, 17 A.2d 907, 909.

**Gradatim** /grədédəm/. In old English law, by degrees or steps; step by step; from one degree to another.

**Grade, v.** To establish a level by mathematical points and lines, and then to bring the surface of the street or highway to the level by the elevation or depression of the natural surface to the line fixed. To bring property to the level of an abutting highway. *Nassau County v. O'Connell*, Sup., 37 N.Y.S.2d 1009, 1012.

**Grade, n.** Used in reference to streets: (1) The line of the street's inclination from the horizontal; (2) a part of a street inclined from the horizontal. The hypothetical line to which the work is to be constructed. *Musto-Keenan Co. v. City of Los Angeles*, 139 Cal. App. 506, 34 P.2d 506, 509. The street wrought to the line.

"Grades of crime" in legal parlance are understood as higher or lower in grade or degree, according to the measure of punishment attached and meted out on conviction and the consequences resulting to the party convicted; e.g. first, second or, third degree murder.

Quality, value, relative position, rank, status, or standing. *Mossman v. Chicago & Southern Air Lines*, 236 Mo.App. 282, 153 S.W.2d 799, 801, 802.

**Grade crossing.** A place where a railroad is crossed at grade by a public or private road, or by another railroad, or where one highway crosses another.

**Graded offense.** One for which offender is subject to a more severe penalty for a higher grade than for a lower grade of offense according to terms of statute; e.g. first degree murder, as opposed to second or third degree; aggravated as opposed to simple assault.

**Graduate.** One who has received a degree, or other evidence of completion, from a grade school, high school, trade or vocational school, college, university, graduate or professional school, or the like.

**Graduated lease.** A type of lease arrangement which provides that rent will vary depending upon future contingencies, such as the amount of traffic or gross income produced.

**Graduated tax.** Tax structured so that the rate increases as the amount of income of taxpayer increases. For example, the federal income tax is a graduated tax.

**Gradus** /grédəs/. In the civil and old English law, a measure of space. A degree of relationship.

A step or degree generally; e.g., *gradus honorum*, degrees of honor. A pulpit; a year; a generation.

A port; any place where a vessel can be brought to land.

**Gradus parentelæ** /grédəs pærəntiyli/. A pedigree; a table of relationship.

**Graffarius** /gráfériyas/. In old English law, a graffer, notary, or scrivener.

**Graffer** /gráfər/. A notary or scrivener. The word is a corruption of the French "*greffier*" (*q.v.*).

**Graffium** /gráfíyám/. A writing-book, register, or cartulary of deeds and evidences.

**Grafio** /gréyf(i)yow/. A baron, inferior to a count. A fiscal judge. An advocate.

**Graft.** The popular meaning is the fraudulent obtaining of public money unlawfully by the corruption of public officers. *Smith v. Pure Oil Co.*, 278 Ky. 430, 128 S.W.2d 931, 933. Advantage or personal gain received because of peculiar position or superior influence of one holding position of trust and confidence without rendering compensatory services, or dishonest transaction in relation to public or official acts, and sometimes implies theft, corruption, dishonesty, fraud, or swindle, and always want of integrity. See also **Bribery**.

A term used in equity to denote the confirmation, by relation back, of the right of a mortgagee in premises to which, at the making of the mortgage, the mortgagor had only an imperfect title, but to which the latter has since acquired a good title.

**Grain.** In Troy weight, the twenty-fourth part of a pennyweight. Any kind of corn sown in the ground.

**Grainage.** An ancient duty in London under which the twentieth part of salt imported by aliens was taken.

**Grain rent.** A payment for the use of land in grain or other crops; the return to the landlord paid by sharecroppers or persons working the land on shares.

**Grammar school.** In England, this term designates a school in which such instruction is given as will prepare the student to enter a college or university, and in this sense the phrase was used in the Massachusetts Colonial Act of 1647, requiring every town containing a hundred householders to set up a "grammar school." But in American usage the term usually denotes a school, intermediate between the primary school and the high school.

**Grammatica falsa non vitiat chartam** /grəmédəké fólsa nòn víshiyət kárdəm/. False grammar does not vitiate a deed.

**Grammatophylacium** /grəmédəfələysh(iy)ám/. (Græco-Lat.) In the civil law, a place for keeping writings or records.

**Gramme** /grām/. The unit of weight in the metric system. The gramme is the weight of a cubic centimeter of distilled water at the temperature of 4° C. It is equal to 15.4341 grains troy, or 5.6481 drachms avoirdupois.

**Granatarius** /grænətér(i)yəs/. In old English law, an officer having charge of a granary.

**Grand, n.** Jargon term for one thousand dollars.

As to grand Assize; Bill of sale; Cape; Distress; Jury; Larceny; Serjeanty, see those titles.

**Grandchild.** Generally, child of one's child. Descendant of second degree.

**Grand coutumier** /gròn kuwtyuwmyéy/. A collection of customs, laws, and forms of procedure in use in early times in France. See **Coustoumier**.

**Grand days.** In English practice, certain days in the terms, which are solemnly kept in the inns of court and chancery, viz., Candlemas day in Hilary term, Ascension day in Easter, St. John the Baptist day in Trinity, and All Saints in Michaelmas; which are *dies non juridici*. They are days set apart for peculiar festivity; the members of the respective inns being on such occasions regaled at their dinner in the hall, with more than usual sumptuousness.

**Grandfather.** The father of either of one's parents.

**Grandfather clause.** Provision in a new law or regulation exempting those already in or a part of the existing system which is being regulated. An exception to a restriction that allows all those already doing something to continue doing it even if they would be stopped by the new restriction. A clause introduced into several of the constitutions of the southern states, limiting the right to vote to those who can read and write any article of the constitution of the United States, and have worked or been regularly employed in some lawful employment for the greater part of the year next preceding the time they offer to register unless prevented from labor or ability to read or write by physical disability, or who own property assessed at three hundred dollars upon which the taxes have been paid; but excepting those who have served in the army or navy of the United States or in the Confederate States in time of war, their lawful descendants in every degree, and persons of good character who understand the duties and obligations of citizenship under a republican form of government.

One of the original purposes of the "grandfather" clause of the Motor Carrier Act was to permit the continued operation of carrier businesses already established prior to passage of the Act. *Transamerican Freight Lines v. United States*, D.C.Del., 51 F.Supp. 405, 409.

**Grand jury.** See **Jury**.

**Grand jury investigation.** Investigations conducted by a grand jury into possible wrongdoing. Generally, such are conducted under the aegis of the prosecuting official and they may or may not result in indictments. See **Jury** (*Grand jury*).

**Grandmother.** The mother of either of one's parents.

**Grand remonstrance.** A constitutional document passed by the British House of Commons in November, 1641. It was in the nature of an appeal to the country, setting forth political grievances. It consisted of a preamble of 20 clauses and the body of the remonstrance with 206 clauses, each of which was voted separately. Its first remedial measure was against papists; its second demanded that all illegal grievances and exactions should be presented and punished at the sessions and assizes and that judges and justices should be sworn to the due execution of the Petition of Rights and other laws. The third was a series of precautions to prevent the employment of evil councillors.

**Grange.** A farm furnished with barns, granaries, stables, and all conveniences for husbandry.

**Grangearius** /grèynj(iy)ériyəs/. A keeper of a grange or farm.

**Granger Cases.** A name applied to six cases decided by the supreme court of the United States in 1876, which are reported in *Munn v. Illinois*, 94 U.S. 113, 24 L.Ed. 77; *Chicago, B. & Q. R. Co. v. Iowa*, 94 U.S. 155, 24 L.Ed. 94; *Peik v. Ry. Co.*, 94 U.S. 164, 24 L.Ed. 97; *Chicago, M. & St. P. R. Co. v. Ackley*, 94 U.S. 179, 24 L.Ed. 99; *Winona & St. Peter R. Co. v. Blake*, 94 U.S. 180, 24 L.Ed. 99; those most frequently cited being *Munn v. Illinois*, and *C., B. & Q. R. Co. v. Iowa*. They are so called because they arose out of an agitation commenced by the grangers which resulted in the enactment of statutes for the regulation of the tolls and charges of common carriers, warehousemen, and the proprietors of elevators. The enforcement of these acts was resisted and their constitutionality questioned. The supreme court affirmed the common-law doctrine that private property appropriated by the owner to a public use is thereby subjected to public regulation. They also held that the right of regulation was not restrained by the prohibition of the fourteenth amendment of the federal constitution against the taking by the states of private property without due process of law.

**Grangia** /grèynj(iy)ə/. A grange.

**Grant.** To bestow; to confer upon some one other than the person or entity which makes the grant. *Porto Rico Ry., Light & Power Co. v. Colom*, C.C.A. Puerto Rico, 106 F.2d 345, 354. To bestow or confer, with or without compensation, a gift or bestowal by one having control or authority over it, as of land or money. *Palmer v. U. S. Civil Service Commission*, D.C.Ill., 191 F.Supp. 495, 537.

A conveyance; i.e. transfer of title by deed or other instrument. *Dearing v. Brush Creek Coal Co.*, 182 Tenn. 302, 186 S.W.2d 329, 331. Transfer of property real or personal by deed or writing. *Commissioner of Internal Revenue v. Plestcheeff*, C.C.A.9, 100 F.2d 62, 64, 65. A generic term applicable to all transfers of real property, including transfers by operation of law as well as voluntary transfers. *White v. Rosenthal*, 140 Cal.App. 184, 35 P.2d 154, 155. A technical term made use of in deeds of conveyance of lands to import a transfer. A deed for an incorporeal interest such as a reversion.

As distinguished from a mere license, a grant passes some estate or interest, corporeal or incorporeal, in the lands which it embraces.

To give or permit as a right or privilege; e.g. grant of route authority to a public carrier.

By the word "grant," in a treaty, is meant not only a formal grant, but any concession, warrant, order, or permission to survey, possess, or settle, whether written or parol, express, or presumed from possession. Such a grant may be made by law, as well as by a patent pursuant to a law. *Bryan v. Kennett*, 113 U.S. 179, 5 S.Ct. 407, 28 L.Ed. 908.

In England, an act evidenced by letters patent under the great seal, granting something from the king to a subject.

*Land grant.* See **Land grant**.

*Office grant.* See **Office**.

*Private land grant.* A grant by a public authority vesting title to public land in a private (natural) person.

*Public grant.* A grant from the public; a grant of a power, license, privilege, or property, from the state or government to one or more individuals, contained in or shown by a record, conveyance, patent, charter, etc.

**Grant and to freight let.** Operative words in a charter party, implying the placing of the vessel at the disposition of the charterer for the purposes of the intended voyage, and generally, transferring the possession.

**Grant, bargain, and sell.** Operative words in conveyances of real estate.

**Grantee.** One to whom a grant is made.

**Grant-in-aid.** Sum of money given by a governmental agency to a person or institution for a specific purpose such as education or research.

**Granting clause.** That portion of a deed or instrument of conveyance which contains the words of transfer of a present interest. *New Home Building Supply Co. v. Nations*, 259 N.C. 681, 131 S.E.2d 425.

**Grant of patent.** Written transfer of rights to an invention or of a right to use or sell the thing patented. See also **License**; **Patent**.

**Grant of personal property.** A method of transferring personal property, distinguished from a gift by being always founded on some consideration or equivalent. Its proper legal designation is an "assignment," or "bargain and sale."

**Grantor.** The person by whom a grant is made. A transferor of property. The creator of a trust is usually designated as the grantor of the trust.

**Grantor-grantee index.** Master index, as kept in county recorder's office, to all recorded instruments. Such index contains the volume and page number where the specific instrument can be located in the record books.

**Grantor's lien.** Lien which exists for payment of purchase money when title is transferred. *Kosters v. Hoover*, 69 App.D.C. 66, 98 F.2d 595, 596. Such lien arises when vendor has conveyed title to vendee without receiving full consideration. *Birnbaum v. Rollerama, Inc.*, 232 N.Y.S.2d 188, 191.

**Grantor trusts.** Trusts whereby the grantor retains control over the income or corpus, or both, to such an extent that such grantor will be treated as the owner of the property and its income for income tax purposes. The result is to make the income from a grantor trust taxable to the grantor and not to the beneficiary who receives it. I.R.C. §§ 671-677.

**Grant to uses.** The common grant with uses super-added, which became the favorite mode of transferring realty in England.

**Grantz** /grónts/grændz/. In old English law, noblemen or grandees.

**Grass.** Jargon name for marihuana.

**Grass hearth** /græs hærθ/. In old English records, the grazing or turning up the earth with a plow. The name of a customary service for inferior tenants to bring their plows, and do one day's work for their lords.

**Grasson, or grassum** /græsəm/. A fine paid upon the transfer of a copyhold estate. See **Gressume**.

**Grass week.** In old England, rogation week, so called anciently in the inns of court and chancery.

**Grass widow.** A slang term for a woman separated from her husband by abandonment or prolonged absence; a woman living apart from her husband. A divorcee.

**Gratian.** Italian monk, circa 1151, who made a compilation of canon law.

**Gratification.** A gratuity; a recompense or reward for services or benefits, given voluntarily, without solicitation or promise.

**Gratis** /gréydəs/grædəs/. Without reward or consideration. Done or received freely or gratuitously.

**Gratis dictum** /gréydəs díktəm/. A voluntary assertion; a statement which a party is not legally bound to make, or in which he is not held to precise accuracy.

**Gratuitous.** Given or granted without valuable or legal consideration. A term applied to deeds of conveyance and to bailments and other contracts.

In old English law, voluntary; without force, fear, or favor.

As to gratuitous Bailment; Contract; Deposit, see those titles. See also **Gratis**.

**Gratuitous allowance.** A pension. *Moran v. Firemen's and Policemen's Pension Fund Commission of Jersey City*, 20 N.J.Misc. 479, 28 A.2d 885, 887; *State ex rel. Parker v. Board of Education of City of Topeka*, 155 Kan. 754, 129 P.2d 265, 267.

**Gratuitous bailee.** Person to whom possession of personal property is transferred and who furnishes no consideration for such transfer and hence is required to use great care to avoid liability for negligence. One responsible for goods entrusted to him when goods are damaged or lost through his gross negligence. *Christensen v. Dady*, 238 Ark. 577, 383 S.W.2d 283, 285.

**Gratuitous guest.** In automobile law, a person riding at invitation of owner or authorized agent without payment of a consideration or fare. *Hart v. Hogan*, 173 Wash. 598, 24 P.2d 99. See **Guest**.

**Gratuitous licensee.** Person who has permission though not an invitation to come on to the property of another and who has furnished no consideration for such permission. He is not an invitee, though, because of the permission, he is not a trespasser.

**Gratuitous passenger.** See **Gratuitous guest**; **Guest**.

**Gratuitous promise.** Promise made by one who has not received consideration for it.

**Gratuity.** Something acquired without bargain or inducement. *State ex rel. Stafford v. Fox-Great Falls Theatre Corporation*, 114 Mont. 52, 132 P.2d 689, 697. Something given freely or without recompense; a gift. Something voluntarily given in return for a favor or especially a service, hence, a bounty; a tip; a bribe. *McCook v. Long*, 193 Ga. 299, 18 S.E.2d 488, 490.

**Gravamen** /grævémán/. The material part of a grievance, indictment, charge, etc. *Williamson v. Pacific Greyhound Lines*, 67 Cal.App.2d 250, 153 P.2d 990, 991. The burden or gist of a charge; the grievance or injury specially complained of.

In English Ecclesiastical law, a grievance complained of by the clergy before the bishops in convocation.

**Gravatio** /grævéysh(iy)ow/. In old English law, an accusation or impeachment.

**Grave.** An excavation in earth in which a dead body is or is to be buried, or place for interment of a corpse, such as a tomb, or a sepulcher.

**Graven dock.** A "graven dock" is distinguished from a "floating dock," in that it is permanently attached to, and in that manner is, a part of land. *Manufacturers' Liability Ins. Co. v. Hamilton*, 129 Misc. 665, 222 N.Y.S. 394.

**Graveyard.** A cemetery; a place for the interment of dead bodies; sometimes defined in statutes as a place where a minimum number of persons (as "six or more") are buried.

**Graveyard insurance.** A term applied to insurances fraudulently obtained (as, by false personation or other means) on the lives of infants, very aged persons, or those in the last stages of disease. Also occasionally applied to an insurance company which writes wager policies, takes extra-hazardous risks, or otherwise exceeds the limits of prudent and legitimate business.

**Gravis** /gréyvás/grávás/. Grievous; great. *Ad grave damnum*, to the grievous damage.

**Gravius** /gréyviyas/. A graf; a chief magistrate or officer. A term derived from the more ancient "grafio," and used in combination with various other words, as an official title in Germany; as *Margravius*, *Rheingravius*, *Landgravius*, etc.

**Gravius est divinum quam temporalem lædere majestatem** /gréyviyas èst dævýnam kwàm tèmporéyləm

lýdaryi mæjstéydam/. It is more serious to hurt divine than temporal majesty.

**Gray's inn.** An inn of court. See **Inns of court**.

**Great.** Considerable in magnitude, power, importance, intensity or degree. *Thompson v. Anderson*, 107 Utah 331, 153 P.2d 665, 666. As used in various compound legal terms, this word generally means extraordinary, that is, exceeding the common or ordinary measure or standard, in respect to physical size, or importance, dignity, etc.

For *presumption great*, see **Proof**. As to *great Care*; *Pond*; *Seal*; *Tithes*; see those titles.

**Great bodily injury.** The term "great bodily injury" as used in statute stating when an assault and battery becomes aggravated, is not susceptible of precise definition, but implies an injury of a graver and more serious character than ordinary battery. *Herrington v. State, Okl.Cr.*, 352 P.2d 931, 933.

**Great charter.** *Magna Charta (q.v.)*.

**Great-grandchildren.** Children of one's grandchildren.

**Great Law, The.** "The Body of Laws of the Province of Pennsylvania and Territories thereunto belonging, Past at an Assembly held at Chester *alias* Upland, the 7th day of the tenth month, called 'December,' 1682." This was the first code of laws established in Pennsylvania, and is justly celebrated for the provision in its first chapter for liberty of conscience.

**Great tithes.** In ecclesiastical law, the more valuable tithes: as, corn, hay, and wood. See **Tithes**.

**Great writ of liberty.** The writ of "habeas corpus and subjiciendum", issuing at common law out of courts of Chancery, King's Bench, Common Pleas, and Exchequer. See **Habeas corpus**.

**Gree.** Satisfaction for an offense committed or injury done.

**Greek cross.** See **Cross**.

**Greek kalends.** A colloquial expression to signify a time indefinitely remote, there being no such division of time known to the Greeks.

**Greenback.** The popular name applied to United States treasury issues.

**Green cloth.** In old English law, a board or court of justice held in the countinghouse of the king's (or queen's) household, and composed of the lord steward and inferior officers. It takes its name from the green cloth spread over the board at which it is held.

**Green River ordinance.** Type of local licensing law which protects persons from unwanted peddlers and salespersons who call on homes and business establishments. *Green River v. Bunger*, 50 Wyo. 52, 70, 58 P.2d 456, 462.

**Green wax.** In English law, the name of the estreats in the exchequer, delivered to the sheriff under the seal of that court which was impressed upon green wax.

**Greffiers** /gréf(i)yərz/grèfyéy/. In French law, registrars, or clerks of the courts. They are officials attached to the courts to assist the judges in their

duties. They keep the minutes, write out the judgments, orders, and other decisions given by the tribunals, and deliver copies thereof to applicants.

**Gregorian code.** The code or collection of constitutions made by the Roman jurist Gregorius. See *Codex Gregorianus*.

**Gregorian epoch.** The time from which the Gregorian calendar or computation dates; *i.e.*, from the year 1582.

**Gremio** /greymíyow/. In Spanish law, a guild; an association of workmen, artificers, or merchants following the same trade or business; designed to protect and further the interests of their craft.

**Gremium** /gríym(i)yəm/. Lat. The bosom or breast; hence, derivatively, safeguard or protection. In English law, an estate which is in abeyance is said to be *in gremio legis* /in gríym(i)yow líyəs/; that is, in the protection or keeping of the law.

**Grenville Act.** The statute 10 Geo. III, c. 16, by which the jurisdiction over parliamentary election petitions was transferred from the whole house of commons to select committees.

**Gressume** /grés(y)əm/. In English law, a customary fine due from a copyhold tenant on the death of the lord. Spelled also "grassum," "grossome," and "gressame."

**Greva** /gríyvə/. In old records, the seashore, sand, or beach.

**Greve** /gríyv/. A word of power or authority.

**Grievance.** In labor law, a complaint filed by an employee regarding working conditions and for resolution of which there is procedural machinery provided in the union contract. An injury, injustice or wrong which gives ground for complaint because it is unjust, discriminatory, and oppressive. See **Complaint**.

**Grieved.** Aggrieved.

**Grievous.** Causing grief or sorrow, painful, afflictive, hard to bear, offensive, harmful.

**Grith.** In Saxon law, peace; protection.

**Grithbrech, or grithbreche** /gríðbriych/. Breach of the peace.

**Grithstole** /gríðstüwl/. A place of sanctuary.

**Groat** /grówt/. An English silver coin (value four pence) issued from the fourteenth to the seventeenth century.

**Grocer** /grówsər/. In old English law, a merchant or trader who *engrossed* all vendible merchandise; an engrosser.

**Grog-shop.** A liquor saloon, bar, liquor store, or dram-shop; a place where intoxicating liquor is sold.

**Gross.** Great; culpable; general; absolute. A thing *in gross* exists in its own right, and not as an appendage to another thing. Before or without diminution or deduction. Whole; entire; total; as the gross sum, amount, weight—opposed to net. *State v. Hallenberg-Wagner Motor Co.*, 341 Mo. 771, 108 S.W.2d

398, 401. Not adjusted or reduced by deductions or subtractions. Contrast with **Net**.

Out of all measure; beyond allowance; flagrant; shameful; as a gross dereliction of duty, a gross injustice, gross carelessness or negligence. *State Board of Dental Examiners v. Savelle*, 90 Colo. 177, 8 P.2d 693, 697. Such conduct as is not to be excused.

As to gross Adventure; Average; Fault; Weight, see those titles.

**Gross alimony.** The terms "alimony in gross" and "gross alimony" are applied to an amount agreed upon or determined in full or in lieu of all alimony, and such amount is frequently payable in installments. *Whitney v. Whitney*, 15 Ill.App.2d 425, 146 N.E.2d 800, 804. See also **Alimony**.

**Gross earnings.** Total receipts of a person or business before deductions and expenses. *Rambin v. Continental Ins. Co.*, La.App., 186 So.2d 861. See also **Gross income**.

**Grosse aventure** /gròws avontyúr/. Fr. In French marine law, the contract of bottomry.

**Gross estate.** The property owned or previously transferred by a decedent that will be subject to the Federal death tax. It can be distinguished from the probate estate which is property actually subject to administration by the administrator or executor of an estate. I.R.C. §§ 2031–2044. See also **Adjusted gross estate**.

**Gross income.** Under I.R.C. Section 61(a) gross income means all income from whatever source derived, including (but not limited to) the following items: (1) Compensation for services, including fees, commissions, and similar items; (2) Gross income derived from business; (3) Gains derived from dealings in property; (4) Interest; (5) Rents; (6) Royalties; (7) Dividends; (8) Alimony and separate maintenance payments; (9) Annuities; (10) Income from life insurance and endowment contracts; (11) Pensions; (12) Income from discharge of indebtedness; (13) Distributive share of partnership gross income; (14) Income in respect of a decedent; and (15) Income from an interest in an estate or trust. See *Heard v. C. I. R.*, C.A.Mo., 326 F.2d 962, 966.

In the case of a manufacturing or merchandising business, gross income means gross profit (*i.e.*, gross sales or gross receipts less cost of goods sold).

**Adjusted gross income.** A determination peculiar to individual taxpayers. Generally, it represents gross income less business expenses, expenses attributable to the production of rent or royalty income and the long-term capital gain deduction.

**Gross income multiplier.** Valuation technique used to estimate the valuation of real property. For example, the gross income times a given gross income multiplier to produce the estimated value.

**Gross income tax.** Levy on total receipts of business without allowance for expenses and deductions.

Any tax imposed on gross receipts; may include retail sales tax and general sales tax.

**Gross interest.** Total interest payment by borrower including administrative, service, and insurance charges.

**Gross lease.** See **Lease**.

**Gross margin.** The difference between the amount of sales after returns and allowances and the cost of goods sold.

**Gross misdemeanor.** Classification of a type of crime which, while not a felony, is ranked as a serious misdemeanor.

**Gross National Product (GNP).** The market value within a nation for a year of all goods and services produced as measured by final sales of goods and services to individuals, corporations, and governments plus the excess of exports over imports. The total market value of the output of all goods and services of a country without doublecounting, divided into four main categories: consumption, gross private domestic investment, government purchases of goods and services, and net exports (exports minus imports).

**Gross neglect of duty.** Type of serious nonfeasance or failure to attend to one's duties, either public or private. See **Desertion**; **Non-support**.

**Gross negligence.** See **Negligence**.

**Grossome** /grówsəm/. In old English law, a fine, or sum of money paid for a lease. Supposed to be a corruption of *gersuma* (q.v.). See **Gressume**.

**Gross premium.** Net premium plus loading for expenses and contingencies; i.e., the net premium represents the cost of insurance. *Fox v. Mutual Ben. Life Ins. Co.*, C.C.A.Mo., 107 F.2d 715, 719.

**Gross profit.** The difference between sales and the cost of goods sold before allowance for operating expenses and income taxes. See also **Gross income**.

**Gross receipts.** Term refers to the total amount of money or the value of other considerations received from selling property or from performing services. *New Mexico Enterprises, Inc. v. Bureau of Revenue*, App., 86 N.M. 799, 528 P.2d 212, 213. See also **Gross income**.

**Gross receipts tax.** See **Gross income tax**.

**Gross revenue.** Receipts of a business before deductions for any purpose except those items specifically exempted. *Public Service Co. v. City and County of Denver*, 153 Colo. 396, 387 P.2d 33, 36.

**Gross sales.** Total of all sales at invoice prices, not reduced by discounts, allowances, returns, or other adjustments.

**Gross spread.** In finance the difference between the price paid by an investment banker for an issue and the price paid by the buying public.

**Gross stress reaction.** A term employed for an acute emotional reaction incident to severe environmental stress.

**Gross up.** To add back to the value of the property or income received the amount of the tax that has been deducted. In the case of gifts made after 1976 and included in the gross estate when the donor dies within three years of the gift, any gift tax paid on the transfer is added to the fair market value of the

property on the appropriate death tax valuation date. Thus, the gift property is "grossed-up" for any such gift tax. I.R.C. § 2035. Process by which U.S. corporations add pre-foreign tax income in federal income tax returns in order to acquire credit against federal taxes for foreign income taxes paid.

**Ground.** Soil; earth; the earth's surface appropriated to private use and under cultivation or susceptible of cultivation.

A foundation or basis; points relied on; e.g. "ground" for bringing civil action, or charging criminal defendant, or foundation for admissibility of evidence. See also **Ground of action**.

**Groundage.** Old custom or tribute paid for the standing of shipping in port. See also **Demurrage**.

**Ground landlord.** The grantor of an estate on which a ground-rent is reserved.

**Ground lease.** A lease of vacant land, or land exclusive of any buildings on it, or unimproved real property. Usually a net lease. See also **Ground rent**; **Lease**.

**Ground of action.** The basis of a suit; the foundation or fundamental state of facts on which an action rests (e.g. negligence; breach of contract); the real object of the plaintiff in bringing his suit. See also **Cause of action**.

**Ground rent.** Rent paid to owner of land for use of property; normally to construct building on such. Generally, rent is paid for a long-term lease (e.g. 99 year lease) with lessor retaining title to land. Such long-term lease is commonly renewable. Office buildings, hotels, and similar large structures in cities are commonly built on land under such types of ground leases.

A perpetual rent reserved to himself and his heirs, by the grantor of land in fee-simple, out of the land conveyed. It is in the nature of an emphyteutic rent. Also, in English law, rent paid on a building lease.

**Ground water.** Water in the subsoil or of a spring or shallow well.

**Ground writ.** Prior to the English common-law procedure act, 1852, c. 121 a *ca. sa.* or *fi. fa.* could not be issued into a county different from that in which the venue in the action was laid, without first issuing a writ, called a "ground writ," into the latter county, and then another writ, which was called a "*testatum* writ," into the former.

**Group annuity.** Type of pension plan for employees under a master plan or contract in which employer each year buys a deferred annuity for each qualified employee.

**Group boycott.** A concerted refusal by traders to deal with other traders. Such is unlawful per se because it restrains freedom of parties to the boycott independently to decide whether to deal with boycotted party. A single trader's refusal to deal with another does not constitute a group boycott. *Arzee Supply Corp. of Conn. v. Ruberoid Co.*, D.C.Conn., 222 F.Supp. 237, 242.

A group action to coerce third parties to conform to pattern of conduct desired by group or to secure third



parties' removal from competition. *Jones Knitting Corp. v. Morgan*, D.C.Pa., 244 F.Supp. 235, 238.

**Grouping of contacts.** In conflict of laws, when choice-of-law issue arises, court will apply the law of the jurisdiction most intimately concerned with the outcome of the litigation; also known as "center of gravity" approach or doctrine. *Industrial Credit Co. v. J. A. D. Const. Co.*, 29 A.D.2d 952, 289 N.Y.S.2d 243.

**Group insurance.** A contract of group insurance is one between insurer and employer for benefit of employees. *Crawford v. Metropolitan Life Ins. Co.*, Mo. App., 167 S.W.2d 915, 924. In its nature, group insurance is similar, if not identical, with that form of insurance known as "term" insurance. See **Insurance**.

**Group libel.** See **Libel**.

**Growing crop.** Lit. A crop in the process of growth; though decisions differ as to whether such must be above the surface of the soil, and as to whether matured crops are "growing" crops. The cases as well differ as to whether pasturage grass is a growing crop. Growing crops are personal property. *Estate of Ruwe v. Ruwe*, 190 Neb. 663, 211 N.W.2d 610, 613.

**Growth half-penny.** In old English law, a rate paid in some places for the tithe of every fat beast, ox, or other unfruitful cattle.

**Growth stock.** Type of security characterized by the prospect of increase in market value, but not necessarily with a good dividend return.

**Guarii /gruwériyay/. The principal officers of a forest.**

**Grub stake.** In mining law, a contract between two parties by which one undertakes to furnish the necessary provisions, tools, and other supplies, and the other to prospect for and locate mineral lands and stake out mining claims thereon, the interest in the property thus acquired inuring to the benefit of both parties, either equally or in such proportion as their agreement may fix.

**G.S.A.** General Services Administration.

**Guadalupe Hidalgo, Treaty of /tríydiy əv gwədəlúwpey hi(y)dálgow/. A treaty between the United States and Mexico, terminating the Mexican War, dated February 2, 1848. See Gadsden Purchase.**

**Guadia /(g)wéydiyə/. In old European law, a pledge. A custom. Spelled also "wadia."**

**Guarantee.** One to whom a guaranty is made. This word is also used, as a noun, to denote the contract of guaranty or the obligation of a guarantor, and, as a verb, to denote the action of assuming the responsibilities of a guarantor.

**Guarantee clause.** That provision in a contract, deed, mortgage, etc. by which one person promises to pay the obligation of another. Also, the provision in Art. IV, § 4, U.S.Const., in which the federal government guarantees to every state a republican form of government and the protection of the federal government in the event of domestic violence.

**Guaranteed payment.** See **Payment guaranteed**.

**Guaranteed stock.** See **Stock**.

**Guarantee stock.** Guarantee stock of a building and loan association is a fixed non-withdrawal investment which guarantees to all other investors in the association a fixed rate of dividend or interest. *Stumph v. Wheat Belt Building & Loan Ass'n of Pratt*, 148 Kan. 25, 79 P.2d 896, 899.

**Guarantor.** He who makes a guaranty. One who becomes secondarily liable for another's debt or performance in contrast to a strict surety who is primarily liable with the principal debtor. See also **Surety**.

**Guaranty, v.** To undertake collaterally to answer for the payment of another's debt or the performance of another's duty, liability, or obligation; to assume the responsibility of a guarantor; to warrant. See **Guaranty, n**.

**Guaranty, n.** A collateral agreement for performance of another's undertaking. An undertaking or promise that is collateral to primary or principal obligation and that binds guarantor to performance in event of nonperformance by the principal obligor. *Commercial Credit Corp. v. Chisholm Bros. Farm Equipment Co.*, 96 Idaho 194, 525 P.2d 976, 978.

A promise to answer for payment of debt or performance of obligation if person liable in first instance fails to make payment or perform obligation. An undertaking by one person to be answerable for the payment of some debt, or the due performance of some contract or duty, by another person, who himself remains liable to pay or perform the same. A promise to answer for the debt, default, or miscarriage of another person.

A guaranty is a contract that some particular thing shall be done exactly as it is agreed to be done, whether it is to be done by one person or another, and whether there be a prior or principal contractor or not. An undertaking by one person that another shall perform his contract or fulfill his obligation, or that, if he does not, the guarantor will do it for him. A guarantor of a bill or note is said to be one who engages that the note shall be paid, but is not an indorser or surety.

The contract of a guarantor is his own separate contract. It is in the nature of a warranty by him that the thing guaranteed to be done by the principal shall be done, not merely an engagement jointly with the principal to do the thing. The original contract of the principal is not his contract, and he is not bound to take notice of its non-performance. See **Suretyship, contract of**; also **Collateral guaranty**, below.

#### Synonyms

The terms *guaranty* and *suretyship* are sometimes used interchangeably; but they should not be confounded. The distinction between contract of suretyship and contract of guaranty is whether or not the undertaking is a joint undertaking with the principal or a separate and distinct contract; if it is the former it is one of "suretyship", and if the latter, it is one of "guaranty". *General Finance Corp. of Atlanta, Northeast v. Welborn*, 98 Ga.App. 280, 105 S.E.2d 386, 389.

*Guaranty* and *warranty* are derived from the same root, and are in fact etymologically the same word, the "g" of the Norman French being interchangeable with the English "w." They are often used colloquially and in commercial transactions as having the same signification, as where a piece of machinery or the produce of an estate is "guarantied" for a term of years, "warranted" being the more appropriate term in such a case. A distinction is also sometimes made in commercial usage, by which the term "guaranty" is understood as a collateral warranty (often a conditional one) against some default or event in the future, while the term "warranty" is taken as meaning an absolute undertaking *in praesenti*, against the defect, or for the quantity or quality contemplated by the parties in the subject-matter of the contract. But in strict legal usage the two terms are widely distinguished in this, that a warranty is an absolute undertaking or liability on the part of the warrantor, and the contract is void unless it is strictly and literally performed, while a guaranty is a promise, entirely collateral to the original contract, and not imposing any primary liability on the guarantor, but binding him to be answerable for the failure or default of another. See **Warranty**.

*Absolute guaranty.* An unconditional undertaking by a guarantor that debtor will pay debt or perform the obligation. An unconditional promise of payment or performance of principal contract on default of principal debtor or obligor. *Robey v. Walton Lumber Co.*, 17 Wash.2d 242, 135 P.2d 95, 102.

*Collateral guaranty.* A contract by which the guarantor undertakes, in case the principal fails to do what he has promised or undertaken to do, to pay damages for such failure; distinguished from an engagement of suretyship in this respect, that a surety undertakes to do the very thing which the principal has promised to do, in case the latter defaults.

*Conditional guaranty.* One which depends upon some extraneous event, beyond the mere default of the principal, and generally upon notice of the guaranty, notice of the principal's default, and reasonable diligence in exhausting proper remedies against the principal.

*Continuing guaranty.* One relating to a future liability of the principal, under successive transactions, which either continue his liability or from time to time renew it after it has been satisfied.

*Special guaranty.* A guaranty which is available only to the particular person to whom it is offered or addressed; as distinguished from a *general* guaranty, which will operate in favor of any person who may accept it.

*Guaranty company.* A corporation authorized to transact the business of entering into contracts of guaranty and suretyship; as one which, for fixed premiums, becomes surety on judicial bonds, fidelity bonds, and the like.

**Guaranty bond.** See **Bond**.

**Guaranty clause.** See **Guarantee clause**.

**Guaranty fund.** Statutes have made provision for depositors' guaranty funds to be raised, in whole or in part, by assessments on banks and to be used to pay

the depositors of an insolvent bank. *Noble State Bank v. Haskell*, 219 U.S. 104, 31 S.Ct. 186, 55 L.Ed. 112; *Shallenberger v. Bank*, 219 U.S. 114, 31 S.Ct. 189, 55 L.Ed. 117; *Assaria State Bank v. Dolley*, 219 U.S. 121, 31 S.Ct. 189, 55 L.Ed. 123; *Abilene Nat. Bank v. Dolley*, 228 U.S. 1, 33 S.Ct. 409, 57 L.Ed. 707. Most bank deposits are insured to a specified limit by the Federal Deposit Insurance Corporation (*q.v.*).

**Guaranty insurance.** See **Insurance**.

**Guardage.** A state of wardship.

**Guardian.** A person lawfully invested with the power, and charged with the duty, of taking care of the person and managing the property and rights of another person, who, for defect of age, understanding, or self-control, is considered incapable of administering his own affairs. One who legally has the care and management of the person, or the estate, or both, of a child during its minority.

#### Classification

A *testamentary* guardian is one appointed by the deed or last will of the child's father or mother; while a *guardian by election* is one chosen by the infant himself in a case where he would otherwise be without one.

A *general* guardian is one who has the general care and control of the person and estate of his ward; while a *special* guardian is one who has special or limited powers and duties with respect to his ward, *e.g.*, a guardian who has the custody of the estate but not of the person, or vice versa, or a *guardian ad litem*.

A *domestic* guardian is one appointed at the place where the ward is legally domiciled; while a *foreign* guardian derives his authority from appointment by the courts of another state, and generally has charge only of such property as may be located within the jurisdiction of the power appointing him.

A *guardian ad litem* is a special guardian appointed by the court to prosecute or defend, in behalf of an infant or incompetent, a suit to which he is a party, and such guardian is considered an officer of the court to represent the interests of the infant or incompetent in the litigation. *Kossar v. State*, 13 Misc.2d 941, 179 N.Y.S.2d 71, 73, 76, 79.

A *guardian by estoppel* is one who assumes to act as guardian without legal authority; similar to a *guardian de son tort*.

A *guardian by nature* is the father, and, on his death, the mother, of a child. *Daniels v. Metropolitan Life Ins. Co.*, 135 Pa.Super. 450, 5 A.2d 608, 611. This guardianship extends only to the custody of the person of the child to the age of majority. Sometimes called "natural guardian".

A *guardian by statute or testamentary guardian* is a guardian appointed for a child by the deed or last will of the father, and who has the custody both of his person and estate until the attainment of full age. This kind of guardianship is founded on the statute of 12 Car. II, c. 24, and has been extensively adopted in this country. 1 Bl.Comm. 462.

A *guardian for nurture* is the father, or, at his decease, the mother, of a child. This kind of guardianship at common law extended only to the person,

and determined when the infant arrived at the age of fourteen. 1 Bl.Comm. 461.

*Guardian in chivalry.* In the tenure by knight's service, in the feudal law, if the heir of the feud was under the age of twenty-one, being a male, or fourteen, being a female, the lord was entitled to the wardship (and marriage) of the heir, and was called the "guardian in chivalry." This wardship consisted in having the custody of the body and lands of such heir, without any account of the profits. 2 Bl.Comm. 67.

*Guardian in socage.* At the common law, this was a species of guardian who had the custody of lands coming to the infant by descent, as also of the infant's person, until the latter reached the age of fourteen. Such guardian was always "the next of kin to whom the inheritance cannot possibly descend." 1 Bl.Comm. 461.

*Natural guardian.* The father of a child, or the mother if the father be dead.

*Guardian de son tort,* sometimes described as "quasi guardian" or "guardian by estoppel," is one who assumes to act as guardian without valid authority. Similar to *guardian by estoppel*.

**Guardian of the peace** /gárd(i)yən əv ðə píys/. A ward-en or conservator of the peace.

**Guardian of the poor.** In English law, a person elected by the ratepayers of a parish to have the charge and management of the parish work-house or union.

**Guardian of the spiritualities** /gárd(i)yən əv ðə spírítuwælədiyz/. In England, the person to whom the spiritual jurisdiction of any diocese is committed during the vacancy of the see.

**Guardian of the temporalities** /gárd(i)yən əv ðə tɛmpərələdiyz/. The person to whose custody a vacant see or abbey was committed by the crown.

**Guardian or warden of the cinque ports** /gárd(i)yən əv ðə síŋk pórts/wórdən°. A magistrate who has the jurisdiction of the ports or havens which are called the "Cinque Ports" (*q.v.*). This office was first created in England, in imitation of the Roman policy, to strengthen the sea-coasts against enemies, etc.

**Guardianship.** The office, duty, or authority of a guardian. Also the relation subsisting between guardian and ward. See **Guardian**; **Ward**.

**Guardianus** /gárdiyénəs/. A guardian, warden, or keeper.

**Guarentiglo** /gärentiyhiyow/. In Spanish law, a written authorization to a court to enforce the performance of an agreement in the same manner as if it had been decreed upon regular legal proceedings.

**Guarnimentum** /gárnéméntəm/. In old European law, a provision of necessary things. A furnishing or garnishment.

**Guastald.** In old English law, one who had the custody of the royal mansions.

**Gubernator** /gyüwbörnédær/. Lat. In Roman law, the pilot or steersman of a ship.

**Guerpi, Guerpy.** L. Fr. Abandoned; left; deserted.

**Guerra, guerre** /gér(ə)/. War.

**Guest.** A person receiving lodging for pay at inn, motel, or hotel on general undertaking of keeper thereof. A traveler who lodges with the consent of the keeper or owner.

Guest is a person who is received and entertained at one's home, club, etc., and who is not a regular member. *Stadelmann v. Glen Falls Ins. Co. of Glen Falls*, 5 Mich.App. 536, 147 N.W.2d 460, 463.

A "guest" in an automobile is one who takes ride in automobile driven by another person, merely for his own pleasure or on his own business, and without making any return or conferring any benefit on automobile driver. Guest is used to denote one whom owner or possessor of vehicle invites or permits to ride with him as gratuity, without any financial return except such slight benefits as are customarily extended as part of ordinary courtesies of road. *Rothwell v. Transmeier*, 206 Kan. 199, 477 P.2d 960, 963, 966. See **Guest statute**.

*Business guest.* See **Business**.

**Guest statute.** A "guest," under provisions of guest statute, is a recipient of the voluntary hospitality of the driver or owner, that is, one who is invited or permitted by owner or possessor of automobile to ride with owner-possessor as a gratuity. *Walker v. Bounds*, Tex.Civ.App., 510 S.W.2d 392, 394.

Many states have statutes referred to as "automobile guest statutes," which provide that operators of automobiles shall only be liable for injuries to guests carried gratuitously for gross or willful negligence, willful or wanton misconduct, or the like, with a further provision in some statutes continuing liability for want of ordinary care in case of hosts operating automobiles while intoxicated. In recent years however there has been a trend towards repealing or delimiting such statutes.

While a typical guest statute excludes all non-paying guests from suing the host-driver or owner for damages arising out of the host-driver's ordinary negligence, certain statutes are more narrow in their scope; e.g. precluding only those guests without payment who are related within the second degree of consanguinity or affinity to the owner or operator from suing.

**Guidage** /gáydəj/. In old English law, that which was given for safe conduct through a strange territory, or another's territory. The office of guiding of travelers through dangerous and unknown ways.

**Guidon de la mer** /giydówn də là mér/. The name of a treatise on maritime law, by an unknown author, supposed to have been written about 1671 at Rouen, and considered, in continental Europe, as a work of high authority.

**Guild.** A voluntary association of persons, pursuing the same trade, art, profession or business, such as printers, goldsmiths, artists, wool merchants, etc., united under a distinct organization of their own, analogous to that of a corporation, regulating the affairs of their trade or business by their own laws and rules, and aiming, by cooperation and organiza-

tion, to protect and promote the interests of their common vocation. *Goodman v. Federal Trade Commission*, C.A.9, 244 F.2d 584, 594.

In medieval history these fraternities or guilds played an important part in the government of some states; as at Florence, in the thirteenth and following centuries, where they chose the council of government of the city. The word is said to be derived from the Anglo-Saxon "*gild*" or "*geld*," a tax or tribute, because each member of the society was required to pay a tax towards its support.

**Guildhall.** The hall or place of meeting of a guild, or gild.

The place of meeting of a municipal corporation. The mercantile or commercial guilds of the Saxons are supposed to have given rise to the present municipal corporations of England, whose place of meeting is still called the "Guildhall."

**Guildhall sittings.** The sittings held in the Guildhall of the city of London for city of London causes.

**Guild rents.** In England, rents payable to the crown by any guild, or such as formerly belonged to religious guilds, and came to the crown at the general dissolution of the monasteries.

**Guillotine** /gɪlətiːn/gɪjətɪn/. An instrument for decapitation, used in France for the infliction of the death penalty on convicted criminals, consisting, essentially, of a heavy and weighted knife-blade moving perpendicularly between grooved posts, which is made to fall from a considerable height upon the neck of the sufferer, immovably fixed in position to receive the impact.

**Guilt.** In criminal law, that quality which imparts criminality to a motive or act, and renders the person amenable to punishment by the law. Responsibility for offense. That disposition to violate the law which has manifested itself by some act already done. The opposite of innocence.

**Guilty.** Having committed a crime or tort; the word used by an accused in pleading to an indictment when he confesses the crime of which he is charged, and by the jury in convicting. Responsible for a delinquency, crime, or other offense, and the connotation of such word is "evil", "wrongdoing", or "culpability". *Hilkert v. Canning*, 58 Ariz. 290, 119 P.2d 233, 236.

**Guilty plea.** Formal admission in court as to guilt which a defendant may make if he or she does so intelligently and voluntarily; *i.e.* accused can only make such plea after he or she has been fully advised of rights and court has determined that accused understands such rights and is making plea voluntarily. *Boykin v. Alabama*, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274. See also **Plea bargaining**.

**Guilty verdict.** Formal pronouncement by jury that they adjudge the defendant guilty of the offense charged.

**Guinea** /ɡɪni/. A coin formerly issued by the English mint, but all these coins were called in the time of Wm. IV. The word now means only the sum of £1 1 s., in which denomination the fees of counsel are always given.

**Gun.** Portable firearm such as a rifle, pistol, revolver, shotgun, carbine, etc.

**Gwalstow.** A place of execution.

**Gwayf** /ɡweɪf/. In old English law, waif, or waived; that which has been stolen and afterwards dropped in the highway for fear of a discovery.

**Gyltwite, or guiltwit** /ɡɪltwɪt/. Sax. Compensation for fraud or trespass.

**Gynecocracy.** Government by a woman; a state in which women are legally capable of the supreme command; *e.g.* in Great Britain (Queen).

**Gyves** /jɑɪvz/. Fetters or shackles for the legs.