

S

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

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

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

Sabbath law. See BLUE LAW.

sabotage (*sab-ə-tahzh*), *n.* **1.** The destruction, damage, or knowingly defective production of materials, premises, or utilities used for national defense or for war. 18 USCA §§ 2151 et seq. **2.** The willful and malicious destruction of an employer's property or interference with an employer's normal operations, esp. during a labor dispute. — **sabotage**, *vb.*

saboteur (*sab-ə-tər*), *n.* A person who commits sabotage.

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

sachbaro. See SAGIBARO.

Sache (*zakh-ə*). [German] A thing; an article or matter. See THING.

sacramentales (*sak-rə-men-tay-leez*), *n. pl.* [Law Latin fr. Latin *sacramentum* "oath-takers"] *Hist.* Compurgators; people who take an oath swearing to a defendant's innocence. Sing. *sacramentalis*.

sacramentum (*sak-rə-men-təm*), *n.* [Latin "an oath"] *Roman law.* **1.** A procedure for remedying a wrong; one of the *legis actiones* proceedings, used in both *in rem* and *in personam* actions when no other remedy was prescribed.

"*Sacramentum* . . . Where it took the form of an action *in rem*, the proceedings were as follows: the plaintiff secured the presence of the defendant in Court, the XII Tables entitling him, if the defendant refused to come, to bring him by force, and the object in dispute (*e.g.* the slave) had also to be there. The plaintiff then, holding a wand . . . in one hand, seized the object with the other and claimed ownership . . . Thereupon the defendant went through exactly the same ceremony, and used the same words . . . The plaintiff next asked for the defendant's title . . ., the defendant's reply being a general assertion of ownership . . . Whereupon the plaintiff denied the right, and challenged the defendant to a bet . . . and the defendant made a like challenge . . . The praetor then — (a) Awarded possession of the slave to one of the parties pending the trial . . . (b) Required the person so given possession to give security . . . and (c) Required both parties to give security . . ." R.W. Leage, *Roman Private Law* 388-90 (C.H. Ziegler ed., 2d ed. 1930).

2. The deposit of money made by both parties to the *sacramentum* and given to the winning party after the cause was determined.

"[T]he money staked as a wager . . . was known as *sacramentum*. The word evidently has a religious significance. The sum of the wager, forfeited by the party found to be in the wrong, was anciently devoted to religious purposes, later went to the public chest. But there is reason to think that at a still earlier period the word *sacramentum* meant, not a thing staked as a wager on the result of litigation, but an oath by each party as to the justice of his cause, involving a penalty to be paid to the offended deity if the oath was found to be false." R.W. Lee, *The Elements of Roman Law* 422-23 (4th ed. 1956).

3. An oath of allegiance given by a soldier upon enlistment.

sacramentum decisionis (*sak-rə-men-təm di-sizh-ee-oh-nis*). [Latin "the oath of decision"] *Civil law.* The offer by one party to accept the opposing party's oath as decisive of the issues involved in a lawsuit.

"The defendant or person accused was . . . to make oath of his own innocence, and to produce a certain number of compurgators, who swore they believed his oath. Somewhat similar also to this is the *sacramentum decisionis*, or the voluntary and decisive oath of the civil law; where one of the parties to the suit, not being able to prove his

charge, offers to refer the decision of the cause to the oath of his adversary: which the adversary was bound to accept, or tender the same proposal back again; otherwise the whole was taken as confessed by him." 3 William Blackstone, *Commentaries on the Laws of England* 342 (1768).

sacramentum fidelitatis (sak-rə-men-təm fi-del-ə-tay-tis). [Law Latin] *Hist.* The oath of fidelity, given by a vassal to a lord.

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

sacrilegium (sak-rə-lee-jee-əm). [Latin fr. *sacer* "sacred" + *legere* "to steal"] *Roman law*. **1.** The theft of a sacred thing, punishable by death. **2.** Violation of an imperial law.

"In the later Empire the conception of *sacrilegium* was somewhat distorted and those 'who through ignorance or negligence confound, violate and offend the sanctity of a divine law' . . . were considered guilty of *sacrilegium*. 'Divine' is here used in the sense of imperial, issued by the emperor . . . Thus *sacrilegium* and *sacrilegus* became rather general terms applied to the neglect or violation of imperial orders or enactments." Adolf Berger, *Encyclopedic Dictionary of Roman Law* 689 (1953).

sacrilegus (sə-kril-ə-gəs). [Latin "sacrilegious"] *Roman law*. (A person) guilty of *sacrilegium*. See SACRILEGIUM.

sacristan (sak-ri-stən). [Latin] *Hist.* A caretaker of a church; a sexton of a church.

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

saemend (see-mənd). [Old English] *Hist.* An arbitrator; an umpire.

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

safe, *adj.* Not exposed to danger; not causing danger <driving at a safe limit of speed>.

safe-berth clause. See SAFE-PORT CLAUSE.

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

"Safe-conduct . . . The grantee is inviolable so long as he complies with the conditions imposed on him or

necessitated by the circumstances of the case. Unless stated, a safe-conduct does not cover goods or luggage. They may be given also for ships and for goods. To be effective under international law the grant must have been arranged between belligerents." David M. Walker, *The Oxford Companion to Law* 1098 (1980).

safe-deposit box. A lockbox stored in a bank's vault to secure a customer's valuables. ● It usu. takes two keys (one held by the bank and one held by the customer) to open the box. — Often shortened to *deposit box*. — Also termed *safety-deposit box*.

safe-deposit company. See DEPOSITARY (1).

safe harbor. **1.** An area or means of protection. **2.** A provision (as in a statute or regulation) that affords protection from liability or penalty. ● SEC regulations, for example, provide a safe harbor for an issuer's business forecasts that are made in good faith.

safekeeping. Under the Securities Investors Protection Act, the holding of a security on behalf of the investor or broker that has paid for it. 15 USCA § 7811(2).

safe-port clause. A clause in a voyage or time charter expressly providing that the ship must go to a safe port nominated or ordered by the charterer. ● The ship can refuse an order to proceed to an unsafe port; compliance with the order exposes the charterer to liability for damage to the vessel resulting from entering an unsafe port. — Also termed *safe-berth clause*.

Safety Appliance Act. A federal law regulating the safety of equipment used by railroads in interstate commerce. 49 USCA §§ 20301 et seq.

safety-deposit box. See SAFE-DEPOSIT BOX.

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

safe workplace. A place of employment in which all dangers that should reasonably be removed have been removed; a place of employment that is reasonably safe given the nature of the work performed. See OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION.

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

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

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

sailor’s will. See *soldier’s will* under WILL.

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

salable (say-lə-bəl or sayl-ə-bəl), *adj.* Fit for sale in the usual course of trade at the usual selling price; MERCHANTABLE. — **salability** (say-lə-bil-ə-tee or sayl-ə-bil-ə-tee), *n.*

salable value. See *fair market value* under VALUE.

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

salary. An agreed compensation for services — esp. professional or semiprofessional services — usu. paid at regular intervals on a yearly basis, as distinguished from an hourly basis. • Salaried positions are usu. exempt from the requirements of the Fair Labor Standards Act (on overtime and the like) but are subject to state regulation. Cf. WAGE.

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

sale, n. **1.** The transfer of property or title for a price. **2.** The agreement by which such a transfer takes place. • The four elements are (1) parties competent to contract, (2) mutual assent, (3) a thing capable of being transferred, and (4) a price in money paid or promised.

absolute sale. A sale in which possession and title to the property pass to the buyer

immediately upon the completion of the bargain. Cf. *conditional sale*.

approval sale. See *sale on approval*.

auction sale. See AUCTION.

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

bona fide sale. A sale made by a seller in good faith, for valuable consideration, and without notice of a defect in title or any other reason not to hold the sale.

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

bulk sale. See BULK TRANSFER.

cash-against-documents sale. See *documentary sale*.

cash sale. 1. A sale in which cash payment is concurrent with the receipt of the property sold. **2.** A securities transaction on the stock-exchange floor requiring cash payment and same-day delivery.

compulsory sale. The forced sale of real property in accordance with either an eminent-domain order or an order for a judicial sale arising from nonpayment of taxes.

conditional sale. 1. A sale in which the buyer gains immediate possession but the seller retains title until the buyer performs a condition, esp. payment of the full purchase price. See *conditional sales contract* under CONTRACT. **2.** A sale accompanied by an agreement to resell upon specified terms. Cf. *absolute sale*.

consignment sale. A sale of an owner’s property (such as clothing or furniture) by a third party entrusted to make the sale. See CONSIGNMENT.

consumer-credit sale. A sale in which the seller extends credit to the consumer. • A consumer-credit sale includes a lease in which the lessee’s rental payments equal or exceed the retail value of the item rented.

credit sale. A sale of goods to a buyer who is allowed to pay for the goods at a later time.

distress sale. 1. A form of liquidation in which the seller receives less for the goods than what would be received under normal sales conditions; esp., a going-out-of-business sale. **2.** A foreclosure or tax sale.

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

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

exclusive sale. A sale made by a broker under an exclusive-agency listing. See *exclusive-agency listing* under LISTING.

execution sale. A forced sale of a debtor's property by a government official carrying out a writ of execution. — Also termed *forced sale*; *judgment sale*; *sheriff's sale*. See EXECUTION.

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

fair sale. A foreclosure sale or other judicial sale conducted with fairness toward the rights and interests of the affected parties.

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

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

foreclosure sale. The sale of mortgaged property, authorized by a court decree or a power-of-sale clause, to satisfy the debt. See FORECLOSURE.

fraudulent sale. A sale made to defraud the seller's creditors by converting into cash property that should be used to satisfy the creditors' claims.

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

installment sale. See INSTALLMENT SALE.

isolated sale. An infrequent or one-time sale that does not carry an implied warranty of merchantability.

judgment sale. See *execution sale*.

judicial sale. A sale conducted under the authority of a judgment or court order, such as an execution sale. — Also termed *sheriff's sale*.

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

memorandum sale. A conditional sale in which the buyer takes possession but does not accept title until approving the property.

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

present sale. Under the UCC, a sale accomplished by the making of a contract. UCC § 2-106(1).

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

public sale. A sale made after public notice, as in an auction or sheriff's sale.

retail installment sale. See INSTALLMENT SALE.

sale and leaseback. See LEASEBACK.

sale and return. See *sale or return*.

sale as is. A sale in which the buyer accepts the property in its existing condition unless the seller has misrepresented its quality. — Also termed *sale with all faults*.

sale by sample. A sale in which the parties understand that the goods exhibited constitute the standard with which the goods not exhibited correspond and to which all deliveries should conform. • Any sample that is made part of the basis of the bargain creates an express warranty that the whole of the goods will conform to the sample or model. — Also termed *sample sale*.

sale in gross. 1. A sale of a tract of land made with no guarantee about the exact amount or size of the land being sold. 2. (*pl.*) See *gross sales*.

sale on approval. A sale in which completion hinges on the buyer's satisfaction, regardless of whether the goods conform to the contract. • Title and risk of loss remain with the seller until the buyer approves. UCC § 2-326(1)(a). — Also termed *approval sale*.

sale on credit. A sale accompanied by delivery of possession, but with payment deferred to a later date.

sale or return. A sale in which the buyer may return the goods to the seller, regardless of whether they conform to the contract, if the goods were delivered primarily for resale. • This transaction is a type of consignment in which the seller (usu. a distributor) sells goods to the buyer (often a retailer), who then tries to resell the goods, but a buyer who

cannot resell is allowed to return them to the seller. Title and risk of loss are with the buyer until the goods are returned. UCC § 2-326(1)(b). — Also termed *sale and return*.

sale per aversionem (pär ə-vər-zhee-oh-nəm). *Civil law*. A conveyance of all immovable property that falls within the boundaries stated in a purchase agreement, as opposed to a specified amount of acreage. • The sales price will not be modified because of a surplus or shortage in the amount of property that is exchanged, because the boundary description is the binding definition of the property conveyed. La. Civ. Code art. 2495.

sales in gross. See *gross sales*.

sale with all faults. See *sale as is*.

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

sample sale. See *sale by sample*.

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

short sale. A sale of a security that the seller does not own or has not contracted for at the time of sale, and that the seller must borrow to make delivery. • Such a sale is usu. made when the seller expects the security's price to drop. If the price does drop, the seller can make a profit on the difference between the price of the shares sold and the lower price of the shares bought to pay back the borrowed shares.

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

similar sales. *Eminent domain*. Sales of like property in the same locality and time frame, admissible in a condemnation action to determine the marketable value of the particular property at issue.

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

tax sale. A sale of property because of non-payment of taxes. See *tax deed* under DEED.

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

wash sale. A sale of securities made at about the same time as a purchase of the same securities (such as within 30 days), resulting in no change in beneficial ownership. • A loss from a wash sale is usu. not tax-deductible. And securities laws prohibit a wash sale made to create the false appearance of market activity. — Also termed *wash transaction*.

sale and leaseback. See LEASEBACK.

sale and return. See *sale or return* under SALE.

sale as is. See SALE.

sale by sample. See SALE.

sale in gross. See SALE.

sale note. See NOTE (1).

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

sale of land. A transfer of title to real estate from one person to another by a contract of sale. • A transfer of real estate is often referred to as a conveyance rather than a sale.

sale on approval. See SALE.

sale on credit. See SALE.

sale or exchange. 1. *Tax*. A voluntary transfer of property for value (as distinguished from a gift) resulting in a gain or loss recognized for federal tax purposes. 2. A transfer of property; esp., a situation in which proceeds of a sale are to be vested in another estate of the same character and use.

sale or return. See SALE.

sale per aversionem. See SALE.

sales agreement. A contract in which ownership of property is presently transferred, or will be transferred in the future, from a seller to a buyer for a fixed sum. UCC § 2-106(1).

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

sales finance company. See FINANCE COMPANY.

sales in gross. See *gross sales* under SALE.

sales invoice. See INVOICE.

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

sales load. See LOAD.

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

sales price. See PRICE.

sales puffery. See PUFFING (1).

sales tax. See TAX.

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

sale with right of redemption. See SALE.

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

law; *law Salique* (*sə-leek* or *sal-ik*); *lex Salica* (*leks sal-ə-kə*).

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

salus (*sal-əs*), *n.* [Latin] Health; prosperity; safety.

salva guardia. See DE SALVA GARDIA.

salvage (*sal-vij*), *n.* **1.** The rescue of imperiled property. **2.** The property saved or remaining after a fire or other loss, sometimes retained by an insurance company that has compensated the owner for the loss. **3.** Compensation allowed to a person who, having a duty to do so, helps save a ship or its cargo. — **salvage, vb.**

"When some special and extraordinary assistance is rendered, whereby a ship, the persons on it, or its cargo, are saved, the persons rendering such successful assistance, who are called salvors, are entitled to a compensation, which is called salvage." John Indermaur, *Principles of the Common Law* 168 (Edmund H. Bennett ed., 1st Am. ed. 1878).

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

salvage charges. *Insurance.* Costs necessarily incurred in salvage.

salvage loss. See LOSS.

salvager. See SALVOR.

salvage service. The aid or rescue given, either voluntarily or by contract, to a vessel in need of assistance because of present or apprehended danger. • Although salvage may involve towing, it is distinguished from *towing service*, which is rendered merely to expedite a voyage, not to respond to dangerous circumstances.

salvage value. See VALUE.

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

salvo conductu. See DE SALVO CONDUCTU.

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

salvor (sal-vør), *n.* [Law Latin] *Hist.* A person who saves a vessel and its cargo from danger or loss; a person entitled to salvage. — Also termed *salvager*.

"A 'salvor' is a person who, without any particular relation to a ship in distress, proffers useful service, and gives it as a volunteer adventurer, without any pre-existing covenant that connected him with the duty of employing himself for the preservation of the ship. To be a salvor, one must have the intention and capacity to save the distressed property involved, but need not have an intent to acquire it." 68 Am. Jur. 2d *Salvage* § 2, at 270 (1993).

salvus plegius (sal-vəs plee-jee-əs). [Law Latin] *Hist.* A safe pledge; a satisfactory pledge. See PLEDGE.

SAM. See *shared-appreciation mortgage* under MORTGAGE.

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

same-actor inference. *Employment law.* The doctrine that when an employee is hired and fired by the same person, and the termination occurs a reasonably short time after the hiring, the termination will be presumed not to be based on a discriminatory reason.

same-elements test. See LEGAL-ELEMENTS TEST.

same-evidence test. *Criminal law.* A test of whether the facts alleged in a given case are essentially identical to those alleged in a previous case. • If they are the same, the Fifth Amendment's prohibition against double jeopardy will bar the later action, which is essentially a second prosecution for the same offense. This principle was first announced in *Blockburger v. United States*, 284 U.S. 299, 52 S.Ct. 180 (1932). — Also termed *Blockburger test*; *actual-evidence test*. See *same offense* under OFFENSE (1); DOUBLE JEOPARDY.

same invention. *Patents.* **1.** A second invention claiming the identical subject matter as a previ-

ous invention. **2.** Within a reissue statute, the invention described in the original patent.

same-invention double patenting. See DOUBLE PATENTING (1).

same offense. See OFFENSE (1).

same-sex harassment. See HARASSMENT.

sample sale. See *sale by sample* under SALE.

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

sanctio (sangk-shee-oh). [Latin fr. *sancio* "to ordain, confirm, or forbid under penalty"] *Roman law.* A particular clause in a statute imposing a penalty on any violation of that statute. • Despite its appearance, this term does not derive from the Latin *sanctus*, meaning "holy."

"Sanctio (legis). A clause in a statute which strengthens its efficacy by fixing a penalty for its violation, by forbidding its derogation through a later enactment, or by releasing from responsibility any one who by acting in accordance with the statute violated another law. The purpose of the sanction clause was to settle the relation between the new statute and former and future legislation. Thus the *sanctio* could also state that a previous statute remained fully or partially in force without being changed by the new one." Adolf Berger, *Encyclopedic Dictionary of Roman Law* 689 (1953).

sanction (sangk-shən), *n.* **1.** Official approval or authorization <the committee gave sanction to the proposal>. **2.** A penalty or coercive measure that results from failure to comply with a law, rule, or order <a sanction for discovery abuse>.

"Without adequate sanctions the procedure for discovery would often be ineffectual. Under Rule 37 [of the Federal Rules of Civil Procedure], . . . any party or person who seeks to evade or thwart full and candid discovery incurs the risk of serious consequences, which may involve imprisonment for contempt of court, an order that designated facts be taken to be established, an order refusing the delinquent party the right to support or oppose designated claims or defenses, striking out pleadings or parts of pleadings, rendering judgment by default, dismissal of the action or a claim therein, or assessment of expenses and attorney's fees. Sanctions are intended to prompt a party to respond." 8A Charles Alan Wright et al., *Federal Practice and Procedure* § 2281, at 595-95 (2d ed. 1994).

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

"A criminal sanction . . . is a legally authorized post-conviction deprivation suffered by a human being

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

death-penalty sanction. *Civil procedure.* A court's order dismissing the suit or entering a default judgment in favor of the plaintiff because of extreme discovery abuses by a party or because of a party's action or inaction that shows an unwillingness to participate in the case. • Such a sanction is rarely ordered, and is usu. preceded by orders of lesser sanctions that have not been complied with or that have not remedied the problem.

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

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

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

sanctionable, adj. (Of conduct or action) meriting sanctions; likely to be sanctioned.

sanctioning right. See *secondary right* under RIGHT.

sanctions tort. A means of recovery for another party's discovery abuse, whereby the judge orders the abusive party to pay a fine to the injured party for the discovery violation. • This is not a tort in the traditional sense, but rather a form of punishment that results in monetary gain for the injured party.

sanctity of contract. The principle that the parties to a contract, having duly entered into it, must honor their obligations under it.

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

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

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

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

sandbagging, n. A trial lawyer's remaining glibly silent when a possible error occurs at trial, with the hope of preserving an issue for appeal if the court does not correct the problem. • Such a tactic does not usu. preserve the issue for appeal because objections must be promptly made to alert the trial judge of the possible error.

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

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

sandwich lease. See LEASE.

sane, adj. Having a relatively sound and healthy mind; capable of reason and of distinguishing right from wrong.

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

sanitary code. A set of ordinances regulating the food and healthcare industries.

sanity. The state or condition of having a relatively sound and healthy mind. Cf. INSANITY.

sanity hearing. **1.** An inquiry into the mental competency of a person to stand trial. **2.** A proceeding to determine whether a person should be institutionalized.

sans ce que (**sanz see kə** or **sawn sə kə**). [Law French] See ABSQUE HOC.

sans frais (**sawn fray**). [Law French] Without expense.

sans impeachment de wast (**sanz im-pee-chment də wayst**). [Law French] *Hist.* Without impeachment of waste.

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

sans recours (**sawn rə-koor** or **sanz ri-kuur**). See WITHOUT RECOURSE.

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

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

sasine. See SEISIN.

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

satellite state. See CLIENT STATE.

satisdare (**sat-is-dair-ee**), *vb.* [Latin fr. *satis* "sufficient" + *dare* "to give"] *Roman law.* To

give security in the form of *satisdatio*. See SATISDATIO.

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

satisfaction, *n.* **1.** The giving of something with the intention, express or implied, that it is to extinguish some existing legal or moral obligation. • Satisfaction differs from performance because it is always something given as a substitute for or equivalent of something else, while performance is the identical thing promised to be done. — Also termed *satisfaction of debt*. **2.** The fulfillment of an obligation; esp., the payment in full of a debt. **3.** SATISFACTION PIECE. **4.** *Wills & estates.* The payment by a testator, during the testator's lifetime, of a legacy provided for in a will; ADVANCEMENT. **5.** *Wills & estates.* A testamentary gift intended to satisfy a debt owed by the testator to a creditor. — **satisfy**, *vb.* See ACCORD AND SATISFACTION.

satisfaction contract. See CONTRACT.

satisfaction of debt. See SATISFACTION (1).

satisfaction of judgment. **1.** The complete discharge of obligations under a judgment. **2.** The document filed and entered on the record indicating that a judgment has been paid.

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

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

satisfaction of mortgage. **1.** The complete payment of a mortgage. **2.** A discharge signed by the mortgagee or mortgage holder indicating that the property subject to the mortgage is released or that the mortgage debt has been paid and the mortgage conditions have been fully satisfied.

satisfaction piece. A written statement that one party (esp. a debtor) has discharged its obligation to another party, who accepts the discharge. — Also termed *certificate of discharge*; *satisfaction*.

satisfactory evidence. See EVIDENCE.

satisfactory proof. See *satisfactory evidence* under EVIDENCE.

satisfied term. See TERM (4).

Saturday-night special. **1.** A handgun that is easily obtained and concealed. **2.** *Corporations.* A surprise tender offer typically held open for a limited offering period (such as one week) to maximize pressure on a shareholder to accept. ● These tender offers are now effectively prohibited by section 14(e) of the Williams Act. 15 USCA § 78n(e).

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

sauvagine (soh-və-zheen). [Law French] *Hist.* **1.** Wild animal. **2.** Wild nature of an animal.

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

save harmless. See HOLD HARMLESS.

save-harmless agreement. See HOLD-HARMLESS AGREEMENT.

save-harmless clause. See INDEMNITY CLAUSE.

saver default (say-vər di-fawlt). [Law French] *Hist.* To excuse a default. — Also spelled *saver de fault*; *saver default*.

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

saving clause. **1.** A statutory provision exempting from coverage something that would otherwise be included. ● A saving clause is generally used in a repealing act to preserve rights and

claims that would otherwise be lost. **2.** SAVING-TO-SUITORS CLAUSE. **3.** SEVERABILITY CLAUSE. — Also termed *savings clause*.

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

savings-account trust. See *Totten trust* under TRUST.

savings-and-loan association. A financial institution — often organized and chartered like a bank — that primarily makes home-mortgage loans but also usu. maintains checking accounts and provides other banking services. — Often shortened to S & L. — Also termed *loan association*; *thrift institution*; *thrift*. Cf. BUILDING-AND-LOAN ASSOCIATION.

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

savings bank. See BANK.

savings-bank trust. See *Totten trust* under TRUST.

savings bond. See BOND (3).

savings clause. See SAVING CLAUSE.

savings note. See NOTE (1).

saving-to-suitors clause. *Maritime law.* A federal statutory provision that allows a party to bring suit in either state or federal court, but requires both courts to apply federal substantive law. — Also termed *saving clause*. 28 USCA § 1333(1).

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

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

SBA. *abbr.* SMALL BUSINESS ADMINISTRATION.

SBIC. *abbr.* SMALL BUSINESS INVESTMENT COMPANY.

sc. *abbr.* SCILICET.

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

scab. A person who works under conditions contrary to a union contract; esp., a worker who crosses a union picket line to replace a union worker during a strike. — Also termed *strike-breaker*.

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

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

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

scale order. See ORDER (4).

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

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

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

scandal. **1.** Disgraceful, shameful, or degrading acts or conduct. **2.** Slander. See SCANDALOUS MATTER.

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

scandalous matter. *Civil procedure.* A matter that is both grossly disgraceful (or defamatory) and irrelevant to the action or defense. • A federal court — upon a party's motion or on its own — can order a scandalous matter struck from a pleading. Fed. R. Civ. P. 12(f). Cf. IMPERTINENT MATTER.

scandalum magnatum (skan-də-ləm mag-nay-təm). [Law Latin] *Hist.* Actionable slander of powerful people; specif., defamatory comments regarding persons of high rank, such as peers, judges, or state officials.

"Words spoken in derogation of a peer, a judge, or other great officer of the realm, which are called *scandalum magnatum*, are held to be still more heinous; and,

though they be such as would not be actionable in the case of a common person, yet when spoken in disgrace of such high and respectable characters, they amount to an atrocious injury: which is redressed by an action on the case founded on many ancient statutes; as well on behalf of the crown, to inflict the punishment of imprisonment on the slanderer, as on behalf of the party, to recover damages for the injury sustained." 3 William Blackstone, *Commentaries on the Laws of England* 123-24 (1768).

scarlet-letter punishment. See *shame sanction* under SANCTION.

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

scènes à faire (sen ah fair). [French "scenes for action"] In copyright law, standard or general themes that are common to a wide variety of works and are therefore not copyrightable.

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

scheduled injury. See INJURY.

scheduled property. See PROPERTY.

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

schism (siz-əm or skiz-əm). 1. A breach or rupture; a division, esp. among members of a group, as of a union. **2.** A separation of beliefs and doctrines by persons of the same organized religion, religious denomination, or sect.

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

school, n. 1. An institution of learning and education, esp. for children.

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

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

private school. A school maintained by private individuals, religious organizations, or corporations, funded, at least in part, by fees or tuition, and open only to pupils selected and admitted based on religious affiliations or other particular qualifications.

public school. An elementary, middle, or high school established under state law, regulated by the local state authorities in the various political subdivisions, funded and maintained by public taxation, and open and free to all children of the particular district where the school is located. — Also termed *common school*.

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

school board. An administrative body, made up of a number of directors or trustees, responsible for overseeing public schools within a city, county, or district. Cf. BOARD OF EDUCATION.

school bond. See BOND (3).

school district. A political subdivision of a state, created by the legislature and invested with local powers of self-government, to build, maintain, fund, and support the public schools within its territory and to otherwise assist the state in administering its educational responsibilities.

consolidated school district. A public-school district in which two or more existing schools have consolidated into a single district.

school land. See LAND.

science of legislation. See LAW REFORM.

sciendum est (sī-en-dəm est). [Latin] *Roman law*. It is to be known or understood. • This phrase often introduced a particular topic or explanation.

scienter (sī-en-tər or see-), *n.* [Latin “knowingly”] **1.** A degree of knowledge that makes a person legally responsible for the consequences of his or her act or omission; the fact of an act’s having been done knowingly, esp. as a ground for civil damages or criminal punishment. See KNOWLEDGE; MENS REA. **2.** A mental state consisting in an intent to deceive, manipulate, or defraud. • In this sense, the term is used most often in the context of securities fraud. The Supreme Court has held that to establish a claim for damages under Rule 10b-5, a plaintiff must prove that the defendant acted with scienter. *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 96 S.Ct. 1375 (1976).

scientific evidence. See EVIDENCE.

scientific knowledge. See KNOWLEDGE.

scientific method. An analytical technique by which a hypothesis is formulated and then systematically tested through observation and experimentation.

sci. fa. abbr. SCIRE FACIAS.

scil. abbr. SCILICET.

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

scintilla (sin-til-ə). A spark or trace <the standard is that there must be more than a scintilla of evidence>. Pl. **scintillas** (sin-til-əz).

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

scintilla-of-evidence rule. A common-law doctrine holding that if even the slightest amount of relevant evidence exists on an issue, then a motion for summary judgment or for directed verdict cannot be granted and the issue must go to the jury. • Federal courts do not follow this rule, but some states apply it. — Also termed *scintilla rule*.

scire facias (sī-ree fay-shee-əs). [Law Latin “you are to make known, show cause”] A writ requiring the person against whom it is issued to appear and show cause why some matter of record should not be annulled or vacated, or why a dormant judgment against that person should not be revived. — Abbr. *sci. fa.*

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

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

scire facias ad disprobandum debitum (sī-ree fay-shee-əs ad dis-proh-ban-dəm deb-ə-təm). [Law Latin “that you cause to know to disprove the debt”] *Hist.* A writ allowing a defendant in a foreign attachment against the plaintiff to disprove or avoid the debt recovered by the plaintiff, within a year and a day from the time of payment.

scire facias ad rehabendam terram (sī-ree fay-shee-əs ad re-hə-ben-dəm tər-əm), *n.* [Law Latin “that you cause to know to recover the land”] *Hist.* A writ allowing a judgment debtor to recover lands taken in execution after the debtor has satisfied the judgment.

scire facias quare restitutionem non (sī-ree fay-shee-əs kwair-ee res-tə-t[y]oo-shee-oh-nəm non), *n.* [Law Latin “that you cause to know why restitution not”] *Hist.* A writ for restitution after an execution on a judgment is levied but not paid and the judgment is later reversed on appeal.

scire facias sur mortgage (sī-ree fay-shee-əs sər mor-gj), *n.* [Law Latin “that you cause to know on mortgage”] *Hist.* A writ ordering a defaulting mortgagor to show cause why the mortgage should not be foreclosed and the property sold in execution.

scire facias sur municipal claim (sī-ree fay-shee-əs sər myoo-nis-ə-pəl klajm), *n.*

[Law Latin "that you cause to know on municipal claim"] *Hist.* A writ compelling the payment of a municipal claim out of the property to which a municipal lien is attached.

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

scire fieri inquiry (si-ree fi-ə-ri), *n.* [Law Latin] *Hist.* A writ to ascertain the location of a testator's property from an executor, when the sheriff returned nulla bona to a writ of execution *fieri facias de bonis testatoris*. See FIERI FACIAS.

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

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

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

scolding bridle. See BRANKS.

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

"In the Century and Decennial Digests, though not in the various digests of the Key-Number Series, there is printed immediately following each topic title a couple of paragraphs which are called the Scope-Note. The first paragraph of this scope-note shows very briefly the character of the subject-matter included under the title. The second paragraph shows the 'Exclusions' — i.e., what related matter has been excluded in order to conform to the plan of the Digest — and directs the reader to the proper title under which such related matter may be found. Consequently a little study of the scope-note will oftentimes repay the searcher for a few moments' time consumed in so doing." William M. Lile et al., *Brief Making and the Use of Law Books* 116 (3d ed. 1914).

scope of a patent. *Patents.* The invention limits protected under a patent, determined by methods based on established principles of patent law.

scope of authority. *Agency.* The reasonable power that an agent has been delegated or might foreseeably be delegated in carrying out the principal's business. See SCOPE OF EMPLOYMENT; RESPONDEAT SUPERIOR.

scope of employment. The range of reasonable and foreseeable activities that an employee engages in while carrying out the employer's business. See RESPONDEAT SUPERIOR. Cf. ZONE OF EMPLOYMENT.

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

S corporation. See CORPORATION.

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

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

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

Scotch marriage. See MARRIAGE (1).

Scotch verdict. See NOT PROVEN.

scottare (skə-tair-ee), *vb.* [Law Latin] *Hist.* To pay a tax.

scrambling possession. See POSSESSION.

scrap value. See *salvage value* under VALUE.

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

scrawl. See SCROLL (3).

screening grand jury. See GRAND JURY.

screening mechanism. See ETHICAL WALL.

scriba (skri-bə), *n.* [Latin] *Roman law.* A court or office clerk; a scribe; a secretary. • In England, the *scriba regis* was the king's secretary.

scribere est agere (skri-bə-ree est aj-ə-ree). [Latin] *Hist.* To write is to act.

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

scrip. 1. A document that entitles the holder to receive something of value. 2. Paper money issued for temporary use.

scrip dividend. See DIVIDEND.

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

scriptum indentatum (skrip-təm in-den-tay-təm). [Law Latin "indented writing"] *Hist.* An indenture.

scrivener (skriv-[ə]-nər). A writer; esp., a professional drafter of contracts or other documents.

money scrivener. A money broker; one who obtains money for mortgages or other loans.

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

scrivener's exception. An exemption from the attorney-client privilege whereby the privilege does not attach if the attorney is retained solely to perform a ministerial task for the client, such as preparing a statutory-form deed.

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

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

scrutator (skroo-tay-tər), *n.* [Latin fr. *scrutari* "to search"] *Hist.* A bailiff or officer who enforces the king's water rights, as by supervising

wreckage, flotsam, and jetsam; a customs officer.

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

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

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

scutagio habendo. See DE SCUTAGIO HABENDO.

scyra (shy-rə), *n.* [Law Latin "shire"] *Hist.* 1. A county; shire. 2. A county's inhabitants.

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

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

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

high seas. The seas or oceans beyond the jurisdiction of any country. • Under international law, the high seas traditionally began three miles from the coast, but under the 1982 U.N. Convention on the Law of the Sea, coastal shores now have a 200-mile exclusive economic zone. — Also termed *open seas*; *main sea*.

"Outside territorial waters the law of no one country applies, since the high seas are free." R.H. Graveson, *Conflict of Laws* 584 (7th ed. 1974).

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

navigable sea. See NAVIGABLE SEA.

territorial sea. See *territorial waters* under WATER.

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

sea brief. See SEA LETTER.

seagoing vessel. See VESSEL.

seal, n. **1.** An impression or sign that has legal consequence when applied to an instrument. **2.** A fastening that must be broken before access can be obtained.

"The use of the seal in England seems to have begun after the Norman Conquest, spreading from royalty and a few of the nobility to those of lesser rank. Originally a seal often consisted of wax bearing the imprint of an individualized signet ring, and in the seventeenth century Lord Coke said that wax without impression was not a seal. But in the United States the courts have not required either wax or impression. Impressions directly on the paper were recognized early and are still common for notarial and corporate seals, and gummed wafers have been widely used. In the absence of statute decisions have divided on the effectiveness of the written or printed word 'seal,' the printed initials 'L.S.' (locus sigilli, meaning place of the seal), a scrawl made with a pen (often called a 'scroll') and a recital of sealing. Most states in which the seal is still recognized now have statutes giving effect to one or more such devices." Restatement (Second) of Contracts § 96 cmt. a (1981).

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

corporate seal. A seal adopted by a corporation for executing and authenticating its corporate and legal instruments.

great seal. **1.** The official seal of the United States, of which the Secretary of State is the

custodian. — Also termed *seal of the United States*. **2.** The official seal of a particular state. — Also termed *seal of the state; state seal*. **3.** The official seal of Great Britain, of which the Lord Chancellor is the custodian.

notary seal. See NOTARY SEAL.

private seal. A corporate or individual seal, as distinguished from a public seal.

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

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

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

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

state seal. See *great seal* (2).

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

sea law. See MARITIME LAW.

sealed bid. See BID (2).

sealed-container rule. *Products liability.* The principle that a seller is not liable for a defective product if it receives the product from the manufacturer and sells it without knowing of the defect or having a reasonable opportunity to inspect the product.

sealed contract. See *contract under seal* under CONTRACT.

sealed instrument. At common law and under some statutes, an instrument to which the bound party has affixed a personal seal, usually recognized as providing indisputable evidence of the validity of the underlying obligations. ● The common-law distinction between sealed and unsealed instruments has been abolished by many states, and the UCC provides that the laws applicable to sealed instruments do not apply to contracts for the sale of goods or negotiable instruments. UCC § 2-203. See *contract under seal* under CONTRACT; SPECIALTY.

"At common law, the seal served to render documents indisputable as to the terms of the underlying obligation, thereby dispensing with the necessity of witnesses; the sealed instrument was considered such reliable evidence that it actually became the contract itself — called a 'specialty' — the loss of which meant loss of all rights of the obligee against the obligor. The seal also had many

other consequences at common law, some of which have been retained in jurisdictions which still recognize the seal In states where the seal is still recognized, its primary legal significance is often the application of a longer statute of limitations to actions on sealed instruments." 69 Am. Jur. 2d *Seals* § 2, at 617-18 (1993).

sealed testament. See *mystic will* under WILL.

sealed verdict. See VERDICT.

sealed will. See *mystic will* under WILL.

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

sealing records. The act or practice of officially preventing access to particular (esp. juvenile-criminal) records, in the absence of a court order. See EXPUNGEMENT.

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

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

seaman. *Maritime law.* A person who assists in the navigation and operation of a vessel at sea; a sailor or mariner, esp. one below the rank of officer. ● Seamen's injuries are covered under the Jones Act. — Also termed *mariner*. See JONES ACT. Cf. STEVEDORE.

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

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

able-bodied seaman. An experienced seaman who is qualified for all seaman's duties and certified by an inspecting authority. — Abbr. AB; ABS. — Also termed *able seaman*; *bluewater seaman*.

merchant seaman. A sailor employed by a private vessel, as distinguished from one employed in public or military service.

ordinary seaman. A seaman who has some experience but who is not proficient enough to be classified as an able-bodied seaman. — Abbr. OS; OD.

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

sea pass. See SEA LETTER.

search, n. 1. An examination of a person's body, property, or other area that the person would reasonably be expected to consider as private, conducted by a law-enforcement officer for the purpose of finding evidence of a crime. ● Because the Fourth Amendment prohibits unreasonable searches (as well as seizures), a search cannot ordinarily be conducted without probable cause. — **search, vb.**

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

administrative search. A search of public or commercial premises carried out by a regulatory authority for the purpose of enforcing compliance with health, safety, or security regulations. ● The probable cause required for an administrative search is less stringent than that required for a search incident to a criminal investigation. — Also termed *regulatory search*; *inspection search*.

border search. A search conducted by immigration or customs officials at the border of a country to detect and prevent illegal entries of people or things. • A border search requires no warrant.

checkpoint search. A search anywhere on a military installation.

consent search. A warrantless search conducted after the person who is to be searched or who has authority over the property to be searched voluntarily gives consent.

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

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

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

exigent search (eks-ə-jənt). A warrantless search carried out in response to a sudden emergency. • This type of search is often performed to preserve evidence or to ensure the safety of the arresting officers.

illegal search. See *unreasonable search*.

inventory search. A complete search of an arrestee's person before being booked into jail. • All possessions found are typically held in police custody.

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

private search. A search conducted by a private person rather than by a law-enforcement officer. • Items found during a private search are generally admissible in evidence if the person conducting the search was not acting at the direction of a law-enforcement officer.

protective search. A search of a detained suspect and the area within the suspect's immediate control, conducted to protect the arresting officer's safety (as from a concealed weapon) and often to preserve evidence. • A protective search can be conducted without a warrant. *Chimel v. California*, 395 U.S. 752, 89 S.Ct. 2034 (1969). — Also termed *search incident to arrest*; *Chimel search* (shə-mel).

regulatory search. See *administrative search*.

shakedown search. A usu. random and warrantless search for illicit or contraband material (such as weapons or drugs) in a prisoner's cell. — Often shortened to *shakedown*.

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

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

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

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

2. An examination of public documents or records for information; esp., TITLE SEARCH. 3. *Int'l law.* The wartime process of boarding and examining the contents of a merchant vessel for contraband. • A number of treaties regulate the manner in which the search must be conducted. See RIGHT OF SEARCH.

search-and-seizure warrant. See SEARCH WARRANT.

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

search incident to arrest. See *protective search* under SEARCH (1).

search warrant. A judge's written order authorizing a law-enforcement officer to conduct a search of a specified place and to seize evidence. — Also termed *search-and-seizure warrant*. See WARRANT (1).

anticipatory search warrant. A search warrant based on an affidavit showing probable cause that evidence of a certain crime (such as illegal drugs) will be located at a specific place in the future.

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

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

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

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

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

seasonal employment. See EMPLOYMENT.

seat, n. **1.** Membership and privileges in an organization; esp., membership on a securities or commodities exchange <her seat at the exchange dates back to 1998>. **2.** The center of some activity <the seat of government>.

seated land. See LAND.

seat of government. The nation's capital, a state capital, a county seat, or other location where the principal offices of the national, state, and local governments are located.

seaward. See CUSTOS MARIS.

seaworthy, adj. (Of a vessel) properly equipped and sufficiently strong and tight to resist the perils reasonably incident to the voyage for which the vessel is insured. • An implied condi-

tion of marine-insurance policies, unless otherwise stated, is that the vessel will be seaworthy. — **seaworthiness, n.**

seaworthy vessel. See VESSEL.

SEC. abbr. SECURITIES AND EXCHANGE COMMISSION.

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

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

Second Amendment. The constitutional amendment, ratified with the Bill of Rights in 1791, guaranteeing the right to keep and bear arms as necessary for securing freedom through a well-regulated militia.

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

secondary, n. Hist. An officer of the courts of the King's Bench and common pleas, so called because he was next to the chief officer. • By the Superior Courts (Officers) Act (1837), the secondary office was abolished. St. 7 Will. 4; 1 Vict., ch. 30.

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

secondary affinity. See AFFINITY.

secondary authority. See AUTHORITY (4).

secondary beneficiary. See *contingent beneficiary* under BENEFICIARY.

secondary boycott. See BOYCOTT.

secondary conveyance. See CONVEYANCE.

secondary creditor. See CREDITOR.

secondary distribution. See DISTRIBUTION.

secondary easement. See EASEMENT.

secondary evidence. See EVIDENCE.

secondary invention. *Patents.* An invention that uses or incorporates established elements or combinations to achieve a new and useful result.

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

secondary liability. See LIABILITY.

secondary-line competition. See *vertical competition* under COMPETITION.

secondary-line injury. *Antitrust.* Under the price-discrimination provisions of the Robinson-Patman Act, the act of hindering or seeking to hinder competition among a seller's customers by selling substantially the same products at favorable prices to one customer, or a select group of customers, to the detriment of others. 15 USCA § 13(a). ● A secondary-line injury, which refers to competition among the seller's customers, is distinguishable from a primary-line injury, which refers to the anticompetitive effects that predatory pricing has on the direct competitors of the seller. Cf. PRIMARY-LINE INJURY.

secondary market. See MARKET.

secondary meaning. *Intellectual property.* A special sense that a trademark or tradename for a business, goods, or services has acquired even though the trademark or tradename was not originally protectable. — Also termed *special meaning*; *trade meaning*.

secondary mortgage market. See MORTGAGE MARKET.

secondary obligation. See OBLIGATION.

secondary offering. See OFFERING.

secondary party. *Commercial law.* **1.** A party not primarily liable under an instrument, such

as a guarantor. **2.** The drawer or indorser of a negotiable instrument.

secondary picketing. See PICKETING.

secondary reserve ratio. See RESERVE RATIO.

secondary right. See RIGHT.

secondary strike. See STRIKE.

secondary trading. See TRADING.

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

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

second-collision doctrine. See CRASHWORTHINESS DOCTRINE.

second cousin. See COUSIN.

second-degree murder. See MURDER.

second deliverance. See DELIVERANCE.

second delivery. See DELIVERY.

second distress. See DISTRESS.

secondhand evidence. See HEARSAY.

second-impact doctrine. See CRASHWORTHINESS DOCTRINE.

second lien. See LIEN.

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

second mortgage. See MORTGAGE.

second offense. See OFFENSE (1).

second-permittee doctrine. *Insurance.* The principle that, when a third person is allowed to use an insured's car by permission granted by someone else to whom the insured gave permission to use the car, the third person's use of the car will be a permissive use, under the insured's automobile-liability-insurance policy, as long as that use falls within the scope of the permission originally given by the insured.

second surcharge. See SURCHARGE (vb).

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

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

secretarius (sek-rə-tair-ee-əs), *n.* [Law Latin] See APOCRISARIUS.

secretary. A corporate officer in charge of official correspondence, minutes of board meetings, and records of stock ownership and transfer. — Also termed *clerk of the corporation*.

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

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

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

secretary of state. **1.** (*usu. cap.*) The cabinet member who heads the State Department and directs foreign policy. • The Secretary of State is fourth in line of succession to the presidency after the Vice President, the Speaker of the House, and the President pro tempore of the Senate. **2.** A state government official who is

responsible for the licensing and incorporation of businesses, the administration of elections, and other formal duties. • The secretary of state is elected in some states and appointed in others.

secret ballot. See BALLOT (3).

secret diplomacy. See DIPLOMACY.

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

secret equity. See *latent equity* under EQUITY.

secret lien. See LIEN.

secret partner. See PARTNER.

Secret Service. A federal law-enforcement agency — organized as a division of the Treasury Department — primarily responsible for preventing counterfeiting and protecting the President and other public officials.

secret testament. See *mystic will* under WILL.

secret trust. See TRUST.

secret will. See *mystic will* under WILL.

secta (sek-tə), *n.* [Latin "suit"] **1.** *Roman law.* A group of followers, as of a particular religion or school of philosophy, law, etc.; a religious sect. **2.** *Hist.* People whom a plaintiff must bring to court to support the plaintiff's case. **3.** *Hist.* A lawsuit.

secta ad molendinum. See DE SECTA AD MOLENDINUM.

secta curiae (sek-tə kyoor-ee-ee). [Latin "suit of court"] *Hist.* Attendance at court, esp. by feudal tenants, who are obligated to attend the lord's court as jurors or parties.

secta facienda per illam quae habet eniciam partem (sek-tə fay-shee-en-də pər il-əm kwee hay-bət i-nish-ee-əm pah-r-təm), *n.* [Law Latin "suit to be performed by her who has the eldest part"] *Hist.* A writ ordering the eldest heir or coparcener to perform suit and services for all the coheirs or coparceners.

secta regalis (sek-tə ri-gay-lis). [Latin "king's suit"] *Hist.* An obligation to attend the sheriff's

court twice a year, so called because it had the same functions and jurisdiction as the king's court.

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

sectatores (sek-tə-tor-eez), *n.* [Latin] *Roman law.* Supporters of candidates for office, who accompany a candidate during a campaign, primarily to impress voters.

secta unica tantum facienda pro pluribus haereditatibus (sek-tə yoo-nə-kə tan-təm fay-shee-en-də proh ploor-ə-bəs hə-red-ə-tay-tə-bəs), *n.* [Law Latin "one suit alone to be performed for several inheritances"] *Hist.* A writ exempting the eldest heir, distrained by a lord to perform several services for the coheirs, from performing all services but one.

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

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

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

section 8(f) agreement. *Labor law.* A labor contract that is negotiated between an employer in the construction business and a union that cannot demonstrate that it represents a majority of the employees at the time the contract is executed. 29 USCA § 158(f). • This is an exception to the general rule that an employer need only negotiate with a union that can demonstrate majority status. It was enacted in part because of the nature of the construction industry, in which the employers may have several different jobs in different parts of the country, the jobs are typically completed in a relatively short time, and the workforce is often transient. Since the workforce often does not have sufficient ties to a particular employer to petition for a certification election, section 8(f) agreements are directed toward providing a certain level of protection in recognition of that fact. But section 8(f) agreements are not equivalent to collective-bargaining agreements. For

example, the employer can legally repudiate the agreement at any time, and the employees may not legally picket to enforce the agreement. The main protection such an agreement provides is a monetary obligation, which can be enforced, if necessary, in federal court. And if the union achieves majority status, the section 8(f) agreement will essentially become a fully enforceable collective-bargaining agreement.

section of land. See SECTION.

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

sectores (sek-tor-eez), *n.* [Latin] *Roman law.* Successful bidders at public auctions.

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

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

secundum (si-kən-dəm). [Latin] *Roman law.* According to; in favor of, as in *secundum actorem* ("in favor of the plaintiff").

secundum aequum et bonum (si-kən-dəm ee-kwəm et boh-nəm). [Latin] *Hist.* According to what is just and good.

secundum allegata et probata (si-kən-dəm al-ə-gay-tə et prə-bay-tə). [Latin] *Hist.* According to what is alleged and proved.

secundum artem (si-kən-dəm ahr-təm). [Latin] *Hist.* According to the art or trade.

secundum bonos mores (si-kən-dəm boh-nohs mor-eez). [Latin] *Hist.* According to good usages; customary.

secundum consuetudinem manerii (si-kən-dəm kon-swə-t[y]oo-də-nəm mə-neer-ee-I). [Law Latin] *Hist.* According to the custom of the manor.

secundum formam chartae (si-kən-dəm forməm kahr-tee). [Law Latin] *Hist.* According to the form of the charter.

secundum formam doni (si-kən-dəm for-məm dōh-nī). [Latin] *Hist.* According to the form of the gift or grant.

secundum formam statuti (si-kən-dəm for-məm stə-t[ɪ]oō-tī). [Law Latin] *Hist.* According to the form of the statute.

secundum legem communem (si-kən-dəm lee-jəm kə-myoo-nəm). [Law Latin] *Hist.* According to the common law.

secundum normam legis (si-kən-dəm nor-məm lee-jis). [Latin] *Hist.* According to the rule of law; by rule of law.

secundum regulam (si-kən-dəm reg-yə-ləm). [Latin] *Hist.* According to the rule; by rule.

secundum subjectam materiam (si-kən-dəm səb-jek-təm mə-teer-ee-əm). [Law Latin] *Hist.* According to the subject matter.

secured, *adj.* **1.** (Of debt or obligation) supported or backed by security or collateral. **2.** (Of a creditor) protected by a pledge, mortgage, or other encumbrance of property that helps ensure financial soundness and confidence. See SECURITY.

secured bond. See BOND (3).

secured claim. See CLAIM (5).

secured creditor. See CREDITOR.

secured debt. See DEBT.

secured loan. See LOAN.

secured note. See NOTE (1).

secured party. See *secured creditor* under CREDITOR.

secured transaction. A business arrangement by which a buyer or borrower gives collateral to the seller or lender to guarantee payment of an obligation. • Article 9 of the UCC deals with secured transactions. See SECURITY AGREEMENT.

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

securitatem inveniendi (si-kyoor-i-tay-təm in-vee-nee-en-di), *n.* [Law Latin] *Hist.* A writ

Securities Investor Protection Act

from the Crown requiring subjects to find security to ensure that they would not leave the kingdom without the Crown's permission. • It was replaced by *ne exeat regno*. See NE EXEAT REPUBLICA.

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

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

Securities Act of 1933. The federal law regulating the registration and initial public offering of securities, with an emphasis on full public disclosure of financial and other information. 15 USCA §§ 77a–77aa. — Also termed *Securities Act; 1933 Act*.

Securities and Exchange Commission. The federal agency that regulates the issuance and trading of securities in an effort to protect investors against fraudulent or unfair practices. • The Commission was established by the Securities Exchange Act of 1934. — Abbr. SEC.

securities broker. See BROKER.

securities exchange. 1. A marketplace or facility for the organized purchase and sale of securities, esp. stocks. **2.** A group of people who organize themselves to create such a marketplace. — Often shortened to *exchange*. — Also termed *stock exchange*.

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

Securities Exchange Act of 1934. The federal law regulating the public trading of securities. • This law provides for the registration and supervision of securities exchanges and brokers, and regulates proxy solicitations. The Act also established the SEC. 15 USCA §§ 78a et seq. — Also termed *Exchange Act; 1934 Act*.

Securities Investor Protection Act. A 1970 federal law establishing the Securities Investor Protection Corporation that, although not a governmental agency, is designed to protect

investors and help brokers and dealers in financial trouble. — Abbr. SIPA. 15 USCA §§ 78aaa et seq.

Securities Investor Protection Corporation.

A corporation established under the Securities Investor Protection Act to protect investors and help brokers and dealers in financial trouble. — Abbr. SIPC. See SECURITIES INVESTOR PROTECTION ACT.

securities-offering distribution. See DISTRIBUTION.

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

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

"Securities differ from most other commodities in which people deal. They have no intrinsic value in them-

selves — they represent rights in something else. The value of a bond, note or other promise to pay depends on the financial condition of the promisor. The value of a share of stock depends on the profitability or future prospects of the corporation or other entity which issued it; its market price depends on how much other people are willing to pay for it, based on their evaluation of those prospects." David L. Ratner, *Securities Regulation in a Nutshell* 1 (4th ed. 1992).

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

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

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

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

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

certificated security. A security that is a recognized investment vehicle, belongs to or is divisible into a class or series of shares, and is represented on an instrument payable to the bearer or a named person.

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

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

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

convertible security. A security (usu. a bond or preferred stock) that may be exchanged by the owner for another security, esp. common stock from the same company, and usu. at a fixed price on a specified

date. — Also termed (specif.) *convertible debt*; *convertible stock*.

coupon security. A security with detachable interest coupons that the holder must present for payment as they mature. • Coupon securities are usu. in denominations of \$1,000, and they are negotiable.

debt security. A security representing funds borrowed by the corporation from the holder of the debt obligation; esp., a bond, note, or debenture. • Generally, a debt security is any security that is not an equity security. See BOND (3).

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

equity security. A security representing an ownership interest in a corporation, such as a share of stock, rather than a debt interest, such as a bond; any stock or similar security, or any security that is convertible into stock or similar security or carrying a warrant or right to subscribe to or purchase stock or a similar security, and any such warrant or right.

exempt security. A security that need not be registered under the provisions of the Securities Act of 1933 and is exempt from the margin requirements of the Securities Exchange Act of 1934.

fixed-income security. A security that pays a fixed rate of return, such as a bond with a fixed interest rate or a preferred stock with a fixed dividend.

government security. A security issued by a government, a government agency, or a government corporation; esp., a security (such as a Treasury bill) issued by a U.S. government agency, with the implied backing of Congress. — Also termed *government-agency security*; *agency security*.

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

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

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

investment security. An instrument issued in bearer or registered form as a type com-

monly recognized as a medium for investment and evidencing a share or other interest in the property or enterprise of the issuer.

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

landed security. A mortgage or other encumbrance affecting land.

letter security. See *restricted security*.

listed security. A security accepted for trading on a securities exchange. • The issuing company must have met the SEC's registration requirements and complied with the rules of the particular exchange. — Also termed *listed stock*. See DELISTING.

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

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

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

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

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

mortgage-backed security. A security (esp. a pass-through security) backed by mortgages.

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

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

nonmarketable security. **1.** A security that cannot be sold on the market (such as government bonds) and can be redeemed only by the holder. **2.** A security that is not of investment quality.

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

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

before passing the principal and interest payments through to the investors.

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

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

real security. The security of mortgages or other liens or encumbrances upon land. See COLLATERAL.

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

registered security. **1.** A security whose owner is recorded in the issuer's books. • The issuer keeps a record of the current owners for purposes of sending dividends, proxies, and the like. **2.** A security that is to be offered for sale and for which a registration statement has been submitted. — Also termed (specif.) *registered stock*.

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

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

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

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

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

structured security. (*usu. pl.*) A security whose cash-flow characteristics depend on one or more indexes, or that has an embedded forward or option, or a security for which an investor's investment return and the issuer's payment obligations are contingent on,

or highly sensitive to, changes in the value of the underlying assets, indices, interest rates, or cash flows. SEC Rule 434(h) (17 CFR § 230.434(h)).

treasury security. See *treasury stock* under STOCK.

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

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

unregistered security. See *restricted security*.

voting security. See *voting stock* under STOCK.

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

worthless security. A security that has lost its value, for which a loss (*usu. capital*) is allowed for tax purposes. IRC (26 USCA) § 165.

zero-coupon security. A security (*esp. a bond*) that is issued at a large discount but pays no interest.

security agreement. An agreement that creates or provides for an interest in specified real or personal property to guarantee the performance of an obligation.

Security Council. A body of the United Nations, consisting of five permanent members (China, France, Russia, the United Kingdom, and the United States) and ten additional members elected at stated intervals, charged with the responsibility of maintaining international peace and security, and *esp. of preventing or halting wars by diplomatic, economic, or military action*.

security deposit. See DEPOSIT (3).

security for costs. Money, property, or a bond given to a court by a plaintiff or an appellant to secure the payment of court costs if that party loses.

security grade. See SECURITY RATING.

security grading. See SECURITY RATING.

security interest. A property interest created by agreement or by operation of law to secure performance of an obligation (esp. repayment of a debt). • Although the UCC limits the creation of a security interest to personal property, the Bankruptcy Code defines the term to mean “a lien created by an agreement.” 11 USCA § 101(51).

perfected security interest. A security interest that has completed the statutory requirements for achieving priority over other security interests that are subject to the same requirements.

purchase-money security interest. A security interest that is created when a buyer uses the lender's money to make the purchase and immediately gives the lender security (UCC § 9-107); a security interest that is either (1) taken or retained by the seller of the collateral to secure all or part of its price or (2) taken by a person who by making advances or incurring an obligation gives value to enable the debtor to acquire rights in or the use of collateral if that value is in fact so used. • If a buyer's purchase of a boat, for example, is financed by a bank that loans the amount of the purchase price, the bank's security interest in the boat that secures the loan is a purchase-money security interest. — Abbr. PMSI. — Also termed *purchase-money interest*.

unperfected security interest. A security interest held by a creditor who has not established priority over any other creditor. • The only priority is over the debtor.

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

secus (see-kəs). [Latin] Otherwise; to the contrary.

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

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

“Homicide *se defendendo* is of two kinds. (1) Such, as tho it excuseth from death, yet it excuseth not the forfeiture

of goods, . . . (2) Such as wholly acquits from all kinds of forfeiture.” 1 Hale P.C. 478.

sedentary work. See WORK.

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

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

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

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

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

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

seditious conspiracy. See CONSPIRACY.

seditious libel. See LIBEL.

seditious speech. See SPEECH.

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

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

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

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

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

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

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

segregation, n. 1. The act or process of separating. 2. The unconstitutional policy of separating people on the basis of color, nationality, religion, or the like. — **segregate, vb.** — **segregative, adj.**

de facto segregation. Segregation that occurs without state authority, usu. on the basis of socioeconomic factors.

de jure segregation. Segregation that is permitted by law.

punitive segregation. The act of removing a prisoner from the prison population for placement in separate or solitary confinement, usu. for disciplinary reasons.

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

seignior in gross (seen-yər in grohs), *n.* A lord having no manor but enjoying the other rights of lordship.

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

seignioress (seen-yər-es or -is), *n.* [Law French] *Hist.* A female superior; a lady.

seignior (seen-yər-ee), *n.* [Law French] *Hist.* 1. The rights and powers of a lord; esp., a grantor's retained right to have the grantee perform services in exchange for the transfer of land. 2. A lord's dominions; a feudal or manor lordship; esp., land held subject to such a retained right in the grantor. — Also spelled *seignory*.

seignior in gross (seen-yər-ee in grohs). See *reputed manor* under MANOR.

seignory. See SEIGNIORY.

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

seisin (see-zin), *n.* Possession of a freehold estate in land; ownership. — Also spelled *seizin*. — Also termed *vesture*; *seisina*; (in Scots law) *sasine*.

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

with ownership." Cornelius J. Moynihan, *Introduction to the Law of Real Property* 98-99 (2d ed. 1988).

actual seisin. See *seisin in deed*.

constructive seisin. See *seisin in law*.

covenant of seisin. See COVENANT (4).

customary seisin. See *quasi seisin*.

equitable seisin. See *seisin in law*.

legal seisin. See *seisin in law*.

livery of seisin. See LIVERY OF SEISIN.

primer seisin (prim-ər or pri-mər see-zin).

Hist. A right of the Crown to receive, from the heir of a tenant who died in possession of a knight's fee, one year's profits of the inherited estate (or half a year's profits if the estate was in reversion); FIRST FRUITS (1).

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

seisin in deed. Actual possession of a freehold estate in land, by oneself or by one's tenant or agent, as distinguished from legal possession. — Also termed *seisin in fact*; *actual seisin*.

seisin in fact. See *actual seisin*.

seisin in law. The right to immediate possession of a freehold estate in land, as when an heir inherits land but has not yet entered it. — Also termed *legal seisin*; *constructive seisin*; *equitable seisin*.

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

seisina habenda (see-zin-ə hə-ben-də). See DE SEISINA HABENDA.

seisin in fact. See *actual seisin* under SEISIN.

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

seizure, *n.* The act or an instance of taking possession of a person or property by legal right or process; esp., in constitutional law, a confiscation or arrest that may interfere with a person's reasonable expectation of privacy.

select committee. See *special committee* under COMMITTEE.

select council. See COUNCIL.

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

selective disclosure. The act of divulging part of a privileged communication, or one of several privileged communications, usu. because the divulged portion is helpful to the party giving the information, while harmful portions of the communication are withheld. • Such a disclosure can result in a limited waiver of the privilege for all communications on the same subject matter as the divulged portion.

selective enforcement. The practice of law-enforcement officers who use wide or even unfettered discretion about when and where to carry out certain laws; esp., the practice of singling a person out for prosecution or punishment under a statute or regulation because the person is a member of a protected group or because the person has exercised or is planning to exercise a constitutionally protected right. — Also termed *selective prosecution*. Cf. VINDICTIVE PROSECUTION.

"The chief of police of a New England town once declared to the press that he believed in a strict curfew law, 'selectively enforced.' 'Selective enforcement' in this case means that the policeman decides for himself who ought to be sent home from the street; legislative candour would suggest that if this is the intention it ought to be expressed in the law itself, instead of being concealed behind words that are 'strict' and categorical." Lon L. Fuller, *Anatomy of the Law* 42 (1968).

selective incorporation. See INCORPORATION.

selective prosecution. See SELECTIVE ENFORCEMENT.

selective prospectivity. A court's decision to apply a new rule of law in the particular case in which the new rule is announced, but to apply the old rule in all other cases pending at the time the new rule is announced or in which the facts predate the new rule's announcement.

Selective Service System. An executive agency charged with maintaining records of all persons eligible for military service. — Abbr. SSS.

selectman. A municipal officer elected annually in some New England towns to transact business and perform some executive functions.

self-applying, *adj.* (Of a statute, ordinance, etc.) requiring no more for interpretation than

a familiarity with the ordinary meanings of words.

self-authentication. See AUTHENTICATION.

self-crimination. See SELF-INCRIMINATION.

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

self-dealing, n. Participation in a transaction that benefits oneself instead of another who is owed a fiduciary duty. • For example, a corporate director might engage in self-dealing by participating in a competing business to the corporation's detriment. — **self-deal, vb.** Cf. FAIR DEALING.

self-defense, n. 1. The use of force to protect oneself, one's family, or one's property from a real or threatened attack. • Generally, a person is justified in using a reasonable amount of force in self-defense if he or she believes that the danger of bodily harm is imminent and that force is necessary to avoid this danger. — Also termed *defense of self*. Cf. ADEQUATE PROVOCATION.

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

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

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

2. Int'l law. The right of a state to defend itself against a real or threatened attack. — Also spelled (esp. in BrE) *self-defence*. — **self-defender, n.**

"Self-defence, properly understood, is a legal right, and as with other legal rights the question whether a specific state of facts warrants its exercise is a legal question. It is not a question on which a state is entitled, in any special sense, to be a judge in its own cause." J.L. Brierly, *The Law of Nations* 319 (5th ed. 1955).

self-destruction. See SUICIDE.

self-determination contract. See CONTRACT.

self-determination election. See GLOBE ELECTION.

self-employed retirement plan. See KEOGH PLAN.

self-employment tax. See TAX.

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

self-help, n. An attempt to redress a perceived wrong by one's own action rather than through the normal legal process. • The UCC and other statutes provide for particular self-help remedies (such as repossession) if the remedy can be executed without breaching the peace. UCC § 9-503. — Also termed *self-redress*; *extrajudicial enforcement*.

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

self-help remedy. See *extrajudicial remedy* under REMEDY.

self-incrimination. The act of indicating one's own involvement in a crime or exposing oneself to prosecution, esp. by making a statement. — Also termed *self-crimination*; *self-inculpation*. See RIGHT AGAINST SELF-INCRIMINATION.

Self-Incrimination Clause. The clause of the Fifth Amendment to the U.S. Constitution barring the government from compelling criminal defendants to testify against themselves.

self-induced frustration. See FRUSTRATION.

self-induced intoxication. See *voluntary intoxication* under INTOXICATION.

self-insurance. See INSURANCE.

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

self-killing. See SUICIDE.

self-liquidating mortgage. See *amortized mortgage* under MORTGAGE.

self-murder. See SUICIDE.

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

self-proved will. See WILL.

self-proving affidavit. See AFFIDAVIT.

self-redress. See SELF-HELP.

self-serving declaration. See DECLARATION (6).

self-settled trust. See TRUST.

self-slaughter. See SUICIDE.

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

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

seller. 1. A person who sells or contracts to sell goods; a vendor. UCC § 2-103(1)(d). **2.** Generally, a person who sells anything; the transferor of property in a contract of sale.

seller's market. See MARKET.

seller's option. See OPTION.

selling agent. The real-estate broker's representative who sells the property, as opposed to the agent who lists the property for sale. Cf. LISTING AGENT.

selling price. See *sales price* under PRICE.

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

sell order. See ORDER (4).

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

semestria (si-mes-tree-ə), n. [Latin "half-yearly matters"] *Roman law.* The collected decisions of Roman emperors, issued every six months. — Also spelled *semenstria*.

semi-matrimonium (sem-I ma-trə-moh-nee-əm), n. [Latin] A half-marriage.

seminary. 1. An educational institution, such as a college, academy, or other school. **2.** The building in which the institution performs its functions.

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

semi-plena probatio (sem-I-plee-nə proh-bay-shee-oh), n. [Latin] Half-proof.

semi-skilled work. See WORK.

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

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

senate. 1. The upper chamber of a bicameral legislature. **2.** (*cap.*) The upper house of the U.S. Congress, composed of 100 members — two from each state — who are elected to six-year terms. — Abbr. S.

senate bill. See BILL (3).

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

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

senatorial courtesy. 1. The tradition that the President should take care in filling a high-level federal post (such as a judgeship) with a person agreeable to the senators from the nominee's home state, lest the senators defeat confirmation.

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

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

senatus (si-nay-təs), *n.* [Latin] *Roman law.* 1. The senate; the great national council of Roman statesmen and dignitaries. 2. The meeting place for the Roman senate.

senatus consulta (si-nay-təs kən-səl-tə). [Latin] *Roman law.* Advice from the Roman Senate, which had no legal weight (though it was usu. followed) until the end of the second century A.D., when it became the official expression of the imperial will.

"*Senatus consulta.* — In the regal and republican periods the Senate enjoyed no legislative power. It was an advisory body, nominated by the King, and at first purely patrician. Later it . . . included patricians and plebeians . . . its chief duty still being to tender advice to the magistrates . . . The theory still was, till the time of Hadrian, that *senatus consulta* were directions to the magistrates, who were now in fact, if not in name, bound to give effect to them, till by a process of gradual usurpation *senatus consulta* came to be direct legislation." R.W. Leage, *Roman Private Law* 12-13 (C.H. Ziegler ed., 2d ed. 1930).

Senatus consulto (si-nay-təs kən-səl-toh). [Latin] *Roman law.* By the decree of the Senate.

senatus consultum (si-nay-təs kən-səl-təm). [Latin] *Roman law.* A decree of the Roman Senate. — Also termed *senatus consult.*

senatus consultum Macedonianum (si-nay-təs kən-səl-təm mas-ə-doh-nee-ay-nəm), *n.* [Latin "Macedo's Decree"] *Roman law.* A senate decree, first given under Claudius and renewed by Vespasian, to protect children from making unconscionable loans with creditors in expectation of their father's death, by making

actions to recover such loans unlawful. — Also termed *Macedonian Decree.*

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

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

senatus consultum ultimae necessitatis (si-nay-təs kən-səl-təm əl-tə-mee nə-ses-i-tay-tis). [Latin] *Roman law.* A decree of the senate of the last necessity. • This decree usu. preceded the nomination of a leader with absolute power in a time of emergency. — Also termed *senatus consultum ultimum.*

senatus consultum Velleianum (si-nay-təs kən-səl-təm vel-ee-ay-nəm). [Latin "Velleian Decree"] *Roman law.* A senate decree, probably of A.D. 46, to protect women from making unconscionable guarantees, suretyship undertakings, or debt assumptions for their husbands and for others generally, by making actions to enforce such undertakings unlawful.

senatus decreta (si-nay-təs di-kree-tə), *n.* [Latin] *Roman law.* The senate's decisions.

sending state. The country from which a diplomatic agent or consul is sent abroad. Cf. RECEIVING STATE.

senescallus (sen-əs-kal-əs), *n.* [Law Latin] See SENESCHAL.

seneschal (sen-ə-shəl), *n.* [Law French] *Hist.* 1. A French title of office, equivalent to a steward in England. • A seneschal was originally a duke's lieutenant or a lieutenant to other dignities of the kingdom. 2. The steward of a manor. — Also termed *senescallus.*

senility. Mental feebleness or impairment caused by old age. ● A senile person (in the legal, as opposed to the popular, sense) is incompetent to enter into a binding contract or to execute a will. — Also termed *senile dementia* (see-nil di-men-shee-ə).

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

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

senior interest. See INTEREST (2).

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

seniority system. *Employment law.* Any arrangement that recognizes length of service in making decisions about job layoffs and promotions or other advancements.

senior judge. See JUDGE.

senior lien. See LIEN.

senior mortgage. See MORTGAGE.

senior partner. See PARTNER.

senior security. See SECURITY.

senior status. The employment condition of a judge who, having taken semiretirement, continues to perform certain judicial duties that the judge is willing and able to undertake.

sensitivity training. Instructional sessions for management and employees designed to counteract the callous treatment of others, esp. women and minorities, in the workplace.

sensus (sen-səs). [Latin] *Hist.* Sense; meaning; signification. ● The word appears in its inflected form in phrases such as *malo sensu* ("an evil sense"), *mitiori sensu* ("in a milder sense"), and *sensu honesto* ("in an honest sense").

sentence, n. The judgment that a court formally pronounces after finding a criminal defendant guilty; the punishment imposed on a criminal wrongdoer <a sentence of 20 years in prison>. — **sentence, vb.**

accumulative sentences. See *consecutive sentences*.

aggregate sentence. A sentence that arises from a conviction on multiple counts in an indictment.

concurrent sentences. Two or more sentences of jail time to be served simultaneously. ● For example, if a defendant receives concurrent sentences of 5 years and 15 years, the total amount of jail time is 15 years.

conditional sentence. A sentence of confinement if the defendant fails to perform the conditions of probation.

consecutive sentences. Two or more sentences of jail time to be served in sequence. ● For example, if a defendant receives consecutive sentences of 20 years and 5 years, the total amount of jail time is 25 years. — Also termed *cumulative sentences*; *accumulative sentences*.

death sentence. A sentence that imposes the death penalty. — Also termed *judgment of blood*. See DEATH PENALTY.

deferred sentence. A sentence that will not be carried out if the defendant meets certain requirements, such as complying with conditions of probation.

determinate sentence. A sentence for a fixed length of time rather than for an unspecified duration. — Also termed *definite sentence*; *definitive sentence*; *fixed sentence*; *flat sentence*; *straight sentence*.

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

flat sentence. See *determinate sentence*.

general sentence. An undivided, aggregate sentence in a multicount case; a sentence that does not specify the punishment imposed for each count. ● General sentences are prohibited.

indeterminate sentence. **1.** A sentence of an unspecified duration, such as one for a term of 10 to 20 years. **2.** A maximum prison term that the parole board can reduce, through statutory authorization, after the inmate has served the minimum time required by law. — Also termed *indefinite sentence*. See INDETERMINATE SENTENCING.

intermittent sentence. A sentence consisting of periods of confinement interrupted by

periods of freedom. — Also termed (when served on weekends) *weekend sentence*.

life sentence. A sentence that imprisons the convicted criminal for life — though in some jurisdictions the prisoner may become eligible for release on good behavior, rehabilitation, or the like.

mandatory sentence. A sentence set by law with no discretion for the judge to individualize punishment. — Also termed *mandatory penalty*; *mandatory punishment*; *fixed sentence*.

maximum sentence. The highest level of punishment provided by law for a particular crime.

minimum sentence. The least amount of time that a defendant must serve in prison before becoming eligible for parole.

multiple sentences. Concurrent or consecutive sentences, if a defendant is found guilty of more than one offense.

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

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

presumptive sentence. An average sentence for a particular crime (esp. provided under sentencing guidelines) that can be raised or lowered based on the presence of mitigating or aggravating circumstances.

split sentence. A sentence in which part of the time is served in confinement — to expose the offender to the unpleasantness of prison — and the rest on probation.

straight sentence. See *determinate sentence*.

suspended sentence. A sentence postponed so that the defendant is not required to serve time unless he or she commits another crime or violates some other court-imposed condition. ● A suspended sentence, in effect, is a form of probation. — Also termed *withheld sentence*.

weekend sentence. See *intermittent sentence*.

sentence cap. *Military law.* A pretrial plea agreement in a court-martial proceeding, by which a ceiling is placed on the maximum penalty that can be imposed.

sentence-factor manipulation. See *sentencing entrapment* under ENTRAPMENT.

sentence-package rule. *Criminal procedure.* The principle that a defendant can be resentenced on an aggregate sentence — that is, one

arising from a conviction on multiple counts in an indictment — when the defendant successfully challenges part of the conviction, as by successfully challenging some but not all of the counts.

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

sentencing entrapment. See ENTRAPMENT.

sentencing guidelines. A set of standards for determining the punishment that a convicted criminal should receive, based on the nature of the crime and the offender's criminal history. ● The federal government and several states have adopted sentencing guidelines in an effort to make judicial sentencing more consistent.

sentencing hearing. See PRESENTENCE HEARING.

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

SEP (sep). See *simplified employee pension plan* under EMPLOYEE BENEFIT PLAN.

separability clause. See SEVERABILITY CLAUSE.

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

separable controversy. A claim that is separate and independent from the other claims being asserted in a suit. ● This term is most often associated with the statute that permits an entire case to be removed to federal court if one of the claims, being separate and independent from the others, presents a federal question that is within the jurisdiction of the federal courts. 28 USCA § 1441(c).

separaliter (sep-ə-ray-lə-tər). [Latin] *Hist.* Separately. ● This term was formerly used in an indictment to emphasize that multiple defendants were being charged with separate offenses, when it appeared from the general language of the indictment that the defendants were jointly charged.

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

separate action. See ACTION.

separate and apart. (Of a husband and wife) living away from each other, along with at least one spouse's intent to dissolve the marriage.

separate-but-equal doctrine. The now-defunct doctrine that African-Americans could be segregated if they were provided with equal opportunities and facilities in education, public transportation, and jobs. • This rule was established in *Plessy v. Ferguson*, 163 U.S. 537, 16 S.Ct. 1138 (1896), and overturned in *Brown v. Board of Education*, 347 U.S. 483, 74 S.Ct. 686 (1954).

separate caucus. See CAUCUS.

separate count. See COUNT.

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

separate demise. See DEMISE.

separate estate. See ESTATE.

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

separate maintenance. See MAINTENANCE.

separate offense. See OFFENSE (1).

separate property. 1. In a community-property state, property that a spouse owned before marriage or acquired during marriage by inheritance or by gift from a third party, or property acquired during marriage but after the spouses have entered into a separation agreement and have begun living apart. — Also termed *individual property*. Cf. COMMUNITY PROPERTY; *marital property* under PROPERTY. **2.** In some common-law states, property titled to one spouse or acquired by one spouse individually during marriage.

separate return. See TAX RETURN.

separate-sovereigns rule. *Criminal procedure.* The principle that a person may be tried twice for the same offense — despite the Double

Jeopardy Clause — if the prosecutions are conducted by separate sovereigns, as by the federal government and a state government or by two different states. See DOUBLE JEOPARDY.

separate support. See *separate maintenance* under MAINTENANCE.

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

separate trial. See TRIAL.

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

separation. 1. An arrangement whereby a husband and wife live apart from each other while remaining married, either by mutual consent or by judicial decree; the act of carrying out such an arrangement. — Also termed *legal separation*; *judicial separation*. **2.** The status of a husband and wife having begun such an arrangement, or the judgment or contract that brought the arrangement about. **3.** Cessation of a contractual relationship, esp. in an employment situation. — **separate, vb.**

separation agreement. An agreement between spouses in the process of a divorce or legal separation concerning alimony, property division, child custody and support, and the like. — Also termed *separation order* (if approved or sanctioned judicially).

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

separation from bed and board. See *divorce a mensa et thoro* under DIVORCE.

separation of patrimony. *Civil law.* The act of providing creditors of a succession the right to collect against the class of estate property from which the creditors should be paid, by separating certain succession property from property rights belonging to the heirs.

separation of powers. The division of governmental authority into three branches of government — legislative, executive, and judicial — each with specified duties on which neither of the other branches can encroach; the constitutional doctrine of checks and balances by which

the people are protected against tyranny. Cf. DIVISION OF POWERS.

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

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

separation of witnesses. The exclusion of witnesses (other than the plaintiff and defendant) from the courtroom to prevent them from hearing the testimony of others.

separation order. See SEPARATION AGREEMENT.

separation pay. See SEVERANCE PAY.

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

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

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

sequential journal. See JOURNAL OF NOTARIAL ACTS.

sequester (si-kwes-tər), *n.* **1.** An across-the-board cut in government spending. **2.** A person with whom litigants deposit property being contested until the case has concluded; a sequestrator.

sequester, vb. **1.** To seize (property) by a writ of sequestration. **2.** To segregate or isolate (a jury or witness) during trial. — Also termed *sequestrate*.

sequestered account. See ACCOUNT.

sequesterer. See SEQUESTRATOR.

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

sequesterate, vb. See SEQUESTER.

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

sequestration (see-kwes-tray-shən), *n.* **1.** The process by which property is removed from the possessor pending the outcome of a dispute in which two or more parties contend for it. Cf. ATTACHMENT (1); GARNISHMENT.

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

judicial sequestration. The court-ordered deposit of the property at issue in a lawsuit.

2. The setting apart of a decedent's personal property when no one has been willing to act as a personal representative for the estate. **3.** A judicial writ commanding the sheriff or other officer to seize the goods of a person named in the writ. • This writ is sometimes issued against a civil defendant who has defaulted or has acted in contempt of court. **4.** The court-ordered seizure of a bankrupt's estate for the benefit of creditors. **5. Int'l law.** The seizure by a belligerent power of enemy assets. **6.** The freezing of a government agency's funds; SEQUESTER (1). **7.** Custodial isolation of a trial jury to prevent tampering and exposure to publicity, or of witnesses to prevent them from hearing the testimony of others. — Also termed (in sense 7) *jury sequestration*.

sequestrator (see-kwes-tray-tər). **1.** An officer appointed to execute a writ of sequestration. **2.** A person who holds property in sequestration. — Also termed *sequesterer*.

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

serendipity doctrine. *Criminal procedure.* The principle that all evidence discovered during a lawful search is eligible to be admitted into evidence at trial.

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

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

sergeant. **1.** *Hist.* A person who is not a knight but holds lands by tenure of military service. **2.** *Hist.* A municipal officer performing duties for the Crown. **3.** *Hist.* A bailiff. **4.** SERGEANT-AT-ARMS. **5.** A noncommissioned officer in the armed forces ranking a grade above a corporal. **6.** An officer in the police force ranking below a captain or lieutenant. — Also spelled *serjeant*.

sergeant-at-arms. **1.** *Hist.* An armed officer attending a sovereign. **2.** An officer the Crown assigns to attend a session of Parliament. **3.** A court-appointed officer to attend a legislative body, as by serving process and maintaining order during a legislative session. — Also spelled *serjeant-at-arms*.

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

serial bond. See BOND (3).

serial murder. See MURDER.

serial note. See *installment note* under NOTE.

serial right. The right of publication; esp., a right reserved in a publishing contract giving the author or publisher the right to publish the manuscript in installments (as in a magazine) before or after the publication of the book.

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

seriatim (seer-ee-ay-tim), *adv.* [Latin] One after another; in a series; successively <the court disposed of the issues seriatim>. — Also termed *seriatly* (seer-ee-at-lee).

seriatim, adj. Occurring in a series.

seriatim opinions. See OPINION (1).

series bonds. See BOND (3).

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

serious and willful misconduct. *Workers' compensation.* An intentional act performed with the knowledge that it is likely to result in serious injury or with a wanton and reckless disregard of its probable consequences.

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

serious illness. *Insurance.* A disorder that permanently or materially impairs, or is likely to permanently or materially impair, the health of the insured or an insurance applicant.

serious offense. See OFFENSE (1).

serjeant. See SERGEANT.

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

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

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

serjeanty (sahr-jən-tee). *Hist.* A feudal tenure by knight service due only to the king. — Also spelled *sergeanty*.

grand serjeanty. *Hist.* Serjeanty requiring the tenant to personally perform a service to the king, as by carrying the king's banner or sword or officiating at the king's coronation.

petit serjeanty (pet-ee). *Hist.* Serjeanty that either did not have to be performed personally by the tenant or was not personal in nature, such as an annual payment of rent by a bow, sword, arrow, or other war implement.

serment (sər-mənt). *Hist.* An oath.

serological test (seer-ə-loj-ə-kəl). A state-ordered blood test to determine the presence of venereal disease in a couple applying for a marriage license.

serva aliena. See SERVUS.

servage (sər-vij). *Hist.* A feudal service consisting of (in addition to paying rent) furnishing one or more workers for the lord.

servant. A person who is employed by another to do work under the control and directions of the employer. See EMPLOYEE.

“A servant, strictly speaking, is a person who, by contract or operation of law, is for a limited period subject to the authority or control of another person in a particular trade, business or occupation The word *servant*, in our legal *nomenclature*, has a broad significance, and embraces all persons of whatever rank or position who are in the employ, and subject to the direction or control of another in any department of labor or business. Indeed it may, in most cases, be said to be synonymous

with employee.” H.G. Wood, *A Treatise on the Law of Master and Servant* § 1, at 2 (2d ed. 1886).

serve, vb. 1. To make legal delivery of (a notice or process) <a copy of the pleading was served on all interested parties>. **2.** To present (a person) with a notice or process as required by law <the defendant was served with process>.

service, n. 1. The formal delivery of a writ, summons, or other legal process <after three attempts, service still had not been accomplished>. — Also termed *service of process*. **2.** The formal delivery of some other legal notice, such as a pleading <be sure that a certificate of service is attached to the motion>.

constructive service. 1. See *substituted service*. **2.** Service accomplished by a method or circumstance that does not give actual notice.

personal service. See PERSONAL SERVICE (1).

service by publication. The service of process on an absent or nonresident defendant by publishing a notice in a newspaper or other public medium.

sewer service. The fraudulent service of process on a debtor by a creditor seeking to obtain a default judgment.

substituted service. Any method of service allowed by law in place of personal service, such as service by mail. — Also termed *constructive service*.

3. The act of doing something useful for a person or company for a fee <your services were no longer required>.

personal service. See PERSONAL SERVICE (2).

4. A person or company whose business is to do useful things for others <a linen service>.

civil service. See CIVIL SERVICE.

salvage service. See SALVAGE SERVICE.

5. An intangible commodity in the form of human effort, such as labor, skill, or advice <contract for services>.

service, vb. To provide service for; specif., to make interest payments on (a debt) <service the deficit>.

service by publication. See SERVICE (2).

service charge. 1. A charge assessed for the performing of a service, such as the charge assessed by a bank against the expenses of maintaining or servicing a customer's checking account. **2.** The sum of (1) all charges payable by the buyer and imposed by the seller as an

incident to the extension of credit and (2) charges incurred for investigating the collateral or creditworthiness of the buyer or for commissions for obtaining the credit. UCCC § 2.109. — Also termed (in sense 2) *credit service charge*.

service contract. See CONTRACT.

service establishment. Under the Fair Labor Standards Act, an establishment that, although having the characteristics of a retail store, primarily furnishes services to the public, such as a barber shop, laundry, or automobile-repair shop.

service life. The period of the expected usefulness of an asset. • It may or may not coincide with the asset's depreciable life for income-tax purposes.

servicemark. A name, phrase, or other device used to identify and distinguish the services of a certain provider. • Servicemarks identify and afford protection to intangible things such as services, as distinguished from the protection already provided for marks affixed to tangible things such as goods and products. — Often shortened to *mark*. — Also spelled *service mark*; *service-mark*. Cf. TRADEMARK (1).

service-occupation tax. See TAX.

service of process. See SERVICE (1).

serviens narrator (sər-vee-enz nə-ray-tər). See SERJEANT-AT-LAW.

servient (sər-vee-ənt), *adj.* (Of an estate) subject to a servitude or easement. See *servient estate* under ESTATE.

servient estate. See ESTATE.

servient property. See *servient estate* under ESTATE.

servient tenant. See TENANT.

servient tenement. See *servient estate* under ESTATE.

servitiis acquietandis (sər-vish-ee-is ə-kwi-ə-tan-dis), *n.* [Law Latin “for being quit of service”] *Hist.* A writ exempting a person from performing certain services, either because they are not due or because they are due someone other than the distrainer.

servitium (sər-vish-ee-əm), *n.* [Latin “service”] *Hist.* The duty of service; esp., a duty of performance and obedience of a tenant to the lord.

servitium feudale et praediale (sər-vish-ee-əm fee-ə-day-lee [or fyoo-day-lee] et pree-dee-ay-lee), *n.* [Law Latin] *Hist.* A personal service due only by reason of lands held in fee.

servitium forinsecum (sər-vish-ee-əm fə-rin-si-kəm), *n.* [Law Latin] *Hist.* A service due the king rather than a lord.

servitium intrinsecum (sər-vish-ee-əm in-trin-si-kəm), *n.* [Law Latin] *Hist.* The ordinary service due from a tenant to the chief lord.

servitium liberum (sər-vish-ee-əm lib-ər-əm), *n.* [Law Latin] *Hist.* The service by a free tenant (not a vassal) to the lord, as by attending the lord's court or accompanying the lord into military service. — Also termed *liberum servitium*; *servitium liberum armorum*.

servitium regale (sər-vish-ee-əm ri-gay-lee). [Latin “royal service”] *Hist.* The right of a lord of a royal manor to settle disputes, make assessments, mint money, and the like.

servitium scuti (sər-vish-ee-əm sk[y]oo-ti). [Latin “service of the shield”] *Hist.* Knight service.

servitium socae (sər-vish-ee-əm soh-see). [Latin “service of the plow”] *Hist.* Socage.

servitor of bills (sər-vi-tər). *Hist.* A messenger of the marshal of the King's Bench, sent out to summon people to court. — Also termed *tip-stave*.

servitude. 1. An encumbrance consisting in a right to the limited use of a piece of land without the possession of it; a charge or burden on an estate for another's benefit <the easement by necessity is an equitable servitude>. • The three types of servitudes are easements, licenses, and profits. See EASEMENT; LICENSE; PROFIT (2).

acquired servitude. A servitude that requires a special mode of acquisition before it comes into existence.

additional servitude. A servitude imposed on land taken under an eminent-domain proceeding for a different type of servitude, as when a highway is constructed on land condemned for a public sidewalk. • A landowner

whose land is burdened by an additional servitude is entitled to further compensation.

apparent servitude. *Civil law.* A predial servitude that is manifested by exterior signs or constructions, such as a roadway. Cf. *nonapparent servitude*.

landed servitude. See *servitude appurtenant*.

legal servitude. A servitude arising from a legal limitation on a property's use.

mineral servitude. A servitude granting the right to enter another's property to explore for and extract minerals.

natural servitude. A servitude naturally appurtenant to land, requiring no special mode of acquisition. • An example is the right of land, unencumbered by buildings, to the support of the adjoining land.

navigation servitude. See NAVIGATION SERVITUDE.

negative servitude. *Civil law.* A real servitude allowing a person to prohibit the servient landowner from exercising a right. • For example, a negative servitude, such as *jus ne luminibus officiat*, prevents an owner of land from building in a way that blocks light from reaching another person's house.

nonapparent servitude. *Civil law.* A predial servitude that is not obvious because there are no exterior signs of its existence. • An example is a prohibition against building above a certain height. Cf. *apparent servitude*.

personal servitude. A servitude granting a specific person certain rights in property.

positive servitude. *Civil law.* A real servitude allowing a person to do something on the servient landowner's property, such as entering the property.

predial servitude. See *servitude appurtenant*.

private servitude. A servitude vested in a particular person. • Examples include a landowner's personal right-of-way over an adjoining piece of land or a right granted to one person to fish in another's lake.

public servitude. A servitude vested in the public at large or in some class of indeterminate individuals. • Examples include the right of the public to a highway over privately owned land and the right to navigate a river the bed of which belongs to some private person.

servitude appurtenant. A servitude that is not merely an encumbrance of one piece of land but is accessory to another piece; the

right of using one piece of land for the benefit of another, such as the right of support for a building. — Also termed *real servitude*; *predial* (or *praedial*) *servitude*; *landed servitude*.

servitude in gross. A servitude that is not accessory to any dominant tenement for whose benefit it exists but is merely an encumbrance on a given piece of land.

urban servitude. A servitude appertaining to the building and construction of houses in a city, such as the right to light and air.

2. The condition of being a servant or slave <under the 15th Amendment, an American citizen's right to vote cannot be denied on account of race, color, or previous condition of servitude>. **3.** The condition of a prisoner who has been sentenced to forced labor <penal servitude>.

involuntary servitude. The condition of one forced to labor — for pay or not — for another by coercion or imprisonment.

servitus (sər-vi-təs), *n.* [Latin fr. *servire* “to serve”] *Roman law.* **1.** Slavery; bondage. **2.** A servitude; an easement. Pl. **servitutes.**

servitus actus (sər-vi-təs ak-təs). [Latin “the servitude of driving cattle”] *Roman law.* A type of right-of-way; a servitude entitling one to walk, ride, or drive animals over another's property.

servitus altius non tollendi (sər-vi-təs al-see-əs non tə-len-dī). [Latin “the servitude of not building higher”] *Roman law.* A servitude allowing a person to prevent a neighbor from building a higher house.

servitus aquae ducendae (sər-vi-təs ak-wee d[ɪ]oo-sen-dee). [Latin “the servitude of leading water”] *Roman law.* A servitude allowing one to bring water to property through another's land, as by a canal.

servitus aquae educendae (sər-vi-təs ak-wee ee-d[ɪ]oo-sen-dee). [Latin “the servitude of leading off water”] *Roman law.* A servitude entitling a person to discharge water onto another's land.

servitus aquae hauriendae (sər-vi-təs ak-wee haw-ree-en-dee). [Latin “the servitude of drawing water”] *Roman law.* A servitude entitling a person to draw water from another's spring or well. — Also termed *servitus aquae haustus*.

servitus fluminis (sər-vi-təs floo-mə-nəs). [Latin “the servitude of a stream of rainwater”] *Roman law.* A servitude consisting in the right to divert rainwater as opposed to drip (*stillicidium*) onto another's land.

servitus fumi immittendi (sər-vi-təs fyoo-mī im-ə-ten-dī). [Latin “the servitude of discharging smoke”] *Roman law*. A servitude allowing a person’s chimney smoke to be directed over a neighbor’s property.

servitus itineris (sər-vi-təs I-tin-ər-is). [Latin “the servitude of way”] *Roman law*. A servitude allowing one to walk, ride, or be carried by horse over another’s property, but not to drive animals across it.

servitus luminum (sər-vi-təs loo-mə-nəm). [Latin “the servitude of lights”] *Roman law*. A servitude entitling one to receive light from a neighbor’s land, as by building windows in a common wall to light a room.

servitus ne luminibus officatur (sər-vi-təs nee loo-min-ə-bəs ə-fish-ee-ay-tər). [Latin “the servitude not to hinder light”] *Roman law*. A servitude preventing someone’s light from being obstructed by a neighbor’s building.

servitus ne prospectui officatur (sər-vi-təs nee prə-spek-too-I ə-fish-ee-ay-tər). [Latin “the servitude not to intercept one’s prospect”] *Roman law*. A servitude entitling someone to an unobstructed view.

servitus oneris ferendi (sər-vi-təs on-ə-ris fə-ren-dī). [Latin “the servitude of bearing weight”] *Roman law*. The servitude allowing a person’s building to rest on a neighbor’s building, wall, or pillar.

servitus pascendi (sər-vi-təs pa-sen-dī). [Latin “the servitude of pasturing”] *Roman law*. A servitude allowing one to pasture cattle on another’s land. — Also termed *jus pascendi*.

servitus pecoris ad aquam adpulsum (sər-vi-təs pek-ə-ris ad ak-wəm ad-pəl-səm). [Latin “the servitude to drive cattle to water”] *Roman law*. A servitude allowing one to drive cattle to water across another’s land.

servitus praedii rustici (sər-vi-təs pree-dee-I rəs-ti-sī). [Latin “the servitude of a country estate”] *Roman law*. A rural servitude; a servitude attached to land, as in *servitus pecoris ad aquam adpulsum*.

servitus praedii urbani (sər-vi-təs pree-dee-I ər-bay-nī). [Latin “the servitude of an urban estate”] *Roman law*. An urban servitude; a servitude attached to a building, as in *servitus oneris ferendi*.

servitus praediorum (sər-vi-təs pree-dee-or-əm). [Latin “praedial servitude”] *Roman law*. A burden on one estate for the benefit of another. See *servitude appurtenant* under SERVITUDE (1).

servitus projiciendi (sər-vi-təs prə-jish-ee-en-dī). [Latin “the servitude of projecting”] *Roman law*. An urban servitude allowing a projection from one’s building into the open space of a neighbor’s property.

servitus stillicidii (sər-vi-təs stil-ə-sid-ee-I). [Latin “the servitude of drip”] *Roman law*. A servitude allowing water to drip from one’s house onto the house or ground of a neighbor. Cf. AQUAE IMMITTENDAE; DRIP RIGHTS.

servitus tigni immittendi (sər-vi-təs tig-nī im-ə-ten-dī). [Latin “the servitude of letting in a beam”] *Roman law*. An urban servitude allowing one to insert beams into a neighbor’s wall.

servitus viae (sər-vi-təs vi-ee). [Latin “the servitude of road way”] *Roman law*. The right to use a road over another’s land. • It is broader than and includes the *servitus actus* and *servitus itineris*.

servus (sər-vəs), *n.* [Latin] **1.** *Roman law*. A slave. **2.** *Hist.* A bondman; a servant. Cf. INGENUUS; LATINI JUNIANI.

sess, *n.* See CESS.

sessio (sesh-ee-oh), *n.* [Latin “a sitting”] *Hist.* A session; a sitting, as in *sessio parliamenti* (“the sitting of Parliament”).

session. **1.** A sitting together or meeting of a court, legislature, or other deliberative body so that it can conduct business <the court’s spring session>. — Also termed (for a court) *sitting*. See TERM (5). **2.** The period within any given day during which such a body is assembled and performing its duties <court is in session>.

biennial session. A legislative session held every two years. • Most state legislatures have biennial sessions, usu. held in odd-numbered years.

closed session. **1.** A session to which parties not directly involved are not admitted. **2.** *Military law*. A period during a court-martial when the members (or the judge, if trial is before a military judge) deliberate alone. — Also termed *closed court*.

extraordinary session. See *special session*.

extra session. See *special session*.

joint session. The combined meeting of two legislative bodies (such as the House of Representatives and the Senate) to pursue a common agenda.

lame-duck session. A post-election legislative session in which some of the participants are voting during their last days as elected officials. See LAME DUCK.

open session. 1. A session to which parties not directly involved are admitted. 2. *Military law.* The period during a court-martial in which all participants are in the courtroom. • Generally, the public may attend a court-martial's open session.

plenary session. A meeting of all the members of a deliberative body, not just a committee.

quarter session. 1. *English law.* The meetings held four times a year by a county's justices of the peace to transact business, including trying certain criminal and civil matters as specified by statute. • The quarter sessions were abolished in 1971 and replaced by the Crown Court system. 2. *Scots law.* A meeting formerly held four times a year by the justices to review criminal sentences. — Abbr. Q.S.

regular session. A session that takes place at fixed intervals or specified times.

special session. A legislative session, usually called by the executive, that meets outside its regular term to consider a specific issue or to reduce backlog. — Also termed *extra session*; *extraordinary session*.

session laws. 1. A body of statutes enacted by a legislature during a particular annual or biennial session. 2. The softbound booklets containing these statutes. — Also termed *acts of assembly*; *blue books*; *sheet acts*.

set-aside, n. Something (such as a percentage of funds) that is reserved or put aside for a specific purpose.

set aside, vb. (Of a court) to annul or vacate (a judgment, order, etc.) <the judge refused to set aside the default judgment>.

setback, n. *Real estate.* The minimum amount of space required between a lot line and a building line <a 12-foot setback>. • Typically contained in zoning ordinances or deed restrictions, setbacks are designed to ensure that enough light and ventilation reach the property and to keep buildings from being erected too close to property lines.

set down, vb. To schedule (a case) for trial or hearing, usu. by making a docket entry.

se te fecerit securum (see tee **fes**-ər-it si-ky-oor-əm). [Latin] See SI FECERIT TE SECURUM.

set forth. See SET OUT.

seti. *Mining law.* A lease.

set of exchange. *Commercial law.* A single bill of lading drawn in a set of parts, each of which is valid only if the goods have not been delivered against any other part. • Bills may be drawn in duplicate or triplicate, the first part being "first of exchange," the second part being "second of exchange," and so on. When one part has been paid, the other parts become void.

setoff, n. 1. A defendant's counterdemand against the plaintiff, arising out of a transaction independent of the plaintiff's claim. 2. A debtor's right to reduce the amount of a debt by any sum the creditor owes the debtor; the counterbalancing sum owed by the creditor. — Also written *set-off*. — Also termed (in civil law) *compensation*; *stoppage*. — **set off, vb.** See COUNTERCLAIM; OFFSET. Cf. RECOUPMENT (3).

"Set-off signifies the subtraction or taking away of one demand from another opposite or cross demand, so as to distinguish the smaller demand and reduce the greater by the amount of the less; or, if the opposite demands are equal, to extinguish both. It was also, formerly, sometimes called stoppage, because the amount to be set-off was *stopped* or deducted from the cross demand." Thomas W. Waterman, *A Treatise on the Law of Set-Off, Recoupment, and Counter Claim* § 1, at 1 (2d ed. 1872).

"Before considering the counter-claim, a brief reference to 'the set-off as known in former practice is necessary. By the common law, the setting off of one demand against another in the same action was unknown. If A had a cause of action in debt against B, and B had another cause of action in debt in equal amount against A, each must bring his action. One could not be set off against the other. This was changed by statute in England in 1729, by a provision which, somewhat enlarged and modified, has been generally adopted in this country." Edwin E. Bryant, *The Law of Pleading Under the Codes of Civil Procedure* 250-51 (2d ed. 1899).

"Set-off is defined to be a counter-demand, generally of a liquidated debt *growing out of an independent transaction* for which an action might be maintained by the defendant against the plaintiff." Eugene A. Jones, *Manual of Equity Pleading and Practice* 65 n.42 (1916).

set out, vb. To recite, explain, narrate, or incorporate (facts or circumstances) <set out the terms of the contract>. — Also termed *set forth*.

set over, vb. To transfer or convey (property) <to set over the land to the purchaser>.

setting, *n.* The date and time established by a court for a trial or hearing <the plaintiff sought a continuance of the imminent setting>.

special setting. A preferential setting on a court's calendar, usu. reserved for older cases or cases given priority by law, made either on a party's motion or on the court's own motion. • For example, some jurisdictions authorize a special setting for cases involving a party over the age of 70. — Also termed *special trial setting*; *trial-setting preference*.

settled estate. See ESTATE.

settlement, *n.* **1.** The conveyance of property — or of interests in property — to provide for one or more beneficiaries, usu. members of the settlor's family, in a way that differs from what the beneficiaries would receive as heirs under the statutes of descent and distribution <in marriage settlements, historically, the wife waived her right to claim dower or to succeed to her husband's property>. **2.** An agreement ending a dispute or lawsuit <the parties reached a settlement the day before trial>. **3.** Payment, satisfaction, or final adjustment <the seller shipped the goods after confirming the buyer's settlement of the account>. **4.** CLOSING <the settlement on their first home is next Friday>. **5.** *Wills & estates.* The complete execution of an estate by the executor <the settlement of the tycoon's estate was long and complex>. — **settle**, *vb.*

final settlement. *Wills & estates.* A court order discharging an executor's duties after an estate's execution.

full settlement. A settlement and release of all pending claims between the parties.

judicial settlement. The settlement of a civil case with the help of a judge who is not assigned to adjudicate the dispute. • Parties sometimes find this procedure advantageous because it capitalizes on judicial experience in evaluating the settlement value of a claim.

nuisance settlement. A settlement in which the defendant pays the plaintiff purely for economic reasons — as opposed to any notion of responsibility — because without the settlement the defendant would spend more money in legal fees and expenses caused by protracted litigation than in paying the settlement amount. • The money paid in such a settlement is often termed *nuisance money*.

out-of-court settlement. The settlement and termination of a pending suit, arrived at without the court's participation.

strict settlement. *Hist.* A property settlement that aimed to keep the estate within the family by creating successive interests in tail and shielding remainders from destruction by the interposition of a trust.

structured settlement. A settlement in which the defendant agrees to pay periodic sums to the plaintiff for a specified time.

viatical settlement (vi-at-ə-kəl). [fr. Latin *viaticus* "relating to a road or journey"] A transaction in which a terminally or chronically ill person sells the benefits of a life-insurance policy to a third party in return for a lump-sum cash payment equal to a percentage of the policy's face value. • Viatical settlements are common with AIDS patients, many of whom sell their policies at a 20% to 40% discount, depending on life expectancy. When the insured (called the "viator") dies, the investor receives the insurance benefit.

voluntary settlement. A property settlement made without valuable consideration — other than love and affection — from the beneficiary.

settlement class. See CLASS (4).

settlement credit. *Civil procedure.* A court's reduction of the amount of a jury verdict — or the effect of the verdict on nonsettling defendants — to account for settlement funds the plaintiff has received from former defendants or from other responsible parties.

settlement date. See DATE.

settlement-first method. A means by which to apply a settlement credit to a jury verdict, by first reducing the amount of the verdict by subtracting the amount of all settlements the plaintiff has received on the claim, then reducing the remainder by the percentage of the plaintiff's comparative fault. See SETTLEMENT CREDIT. Cf. FAULT-FIRST METHOD.

settlement option. See OPTION.

settlement sheet. See CLOSING STATEMENT (2).

settlement statement. See CLOSING STATEMENT (2).

settlement value. See VALUE.

settler. **1.** A person who occupies property with the intent to establish a residence. • The term

is usu. applied to an early resident of a country or region. **2.** SETTLOR.

settle up, *vb.* To collect, pay, and turn over debts and property (of a decedent, bankrupt, or insolvent business).

settlor (*set-lər*). **1.** A person who makes a settlement of property; esp., one who sets up a trust. — Also termed *creator*; *donor*; *trustor*; *grantor*; *founder*. **2.** A party to an instrument. — Also spelled (in both senses) *settler*.

set up, *vb.* To raise (a defense) <the defendant set up the insanity defense on the murder charge>.

Seventeenth Amendment. The constitutional amendment, ratified in 1913, transferring the power to elect U.S. senators from the state legislatures to the states' voters.

Seventh Amendment. The constitutional amendment, ratified with the Bill of Rights in 1791, guaranteeing the right to a jury trial in federal civil cases that are traditionally considered to be suits at common law and that have an amount in controversy exceeding \$20.

seven-years'-absence rule. The principle that a person who has been missing without explanation for at least seven years is legally presumed dead. Cf. ENOCH ARDEN LAW.

"[I]n the United States, it is quite generally held or provided by statute that a presumption of death arises from the continued and unexplained absence of a person from his home or place of residence without any intelligence from or concerning him for the period of 7 years. The presumption has been regarded as a procedural expedient and a rule of evidence." 22A Am. Jur. 2d *Death* § 551, at 527 (1988).

severability. See BLUE-PENCIL TEST.

severability clause. A provision that keeps the remaining provisions of a contract or statute in force if any portion of that contract or statute is judicially declared void or unconstitutional. — Also termed *saving clause*; *separability clause*. See *severable contract* under CONTRACT.

severable contract. See CONTRACT.

severable statute. See STATUTE.

several, *adj.* **1.** (Of a person, place, or thing) more than one or two but not a lot <several witnesses>. **2.** (Of liability, etc.) separate; particular; distinct, but not necessarily indepen-

dent <a several obligation>. **3.** (Of things, etc.) different; various <several settlement options>.

several action. See *separate action* under ACTION.

several contract. See *severable contract* under CONTRACT.

several count. See COUNT.

several covenant. See COVENANT (1).

several demises. See DEMISE.

several fishery. See FISHERY (1).

several inheritance. See INHERITANCE.

several liability. See LIABILITY.

severally, *adj.* Distinctly; separately <severally liable>.

several obligation. See OBLIGATION.

several-remedies rule. A procedural rule that tolls a statute of limitations for a plaintiff who has several available forums (such as a workers'-compensation proceeding and the court system) and who timely files in one forum and later proceeds in another forum, as long as the defendant is not prejudiced.

several tenancy. See TENANCY.

severalty (*sev-[ə]-rəl-tee*). The state or condition of being separate or distinct <the individual landowners held the land in severalty, not as joint tenants>.

severance, *n.* **1.** The act of cutting off; the state of being cut off. **2.** The separation of claims, by the court, of multiple parties either to permit separate actions on each claim or to allow certain interlocutory orders to become final. — Also termed *severance of actions*; *severance of claims*. Cf. *bifurcated trial* under TRIAL. **3.** The termination of a joint tenancy, usu. by converting it into a tenancy in common. **4.** The removal of anything (such as crops or minerals) attached or affixed to real property, making it personal property rather than a part of the land. — **sever**, *vb.* — **severable**, *adj.*

severance damages. See DAMAGES.

severance of actions. See SEVERANCE (2).

severance of claims. See SEVERANCE (2).

severance pay. Money (apart from back wages or salary) paid by an employer to a dismissed employee. ● Such a payment is often made in exchange for a release of any claims that the employee might have against the employer. — Also termed *separation pay*; *dismissal compensation*.

severance tax. See TAX.

seward. See CUSTOS MARIS.

sewer service. See SERVICE (2).

sex. 1. The sum of the peculiarities of structure and function that distinguish a male from a female organism. **2.** Sexual intercourse. **3.** SEXUAL RELATIONS (2).

sex discrimination. See DISCRIMINATION.

sexual abuse. See ABUSE.

sexual activity. See SEXUAL RELATIONS.

sexual assault. See ASSAULT.

sexual battery. See BATTERY.

sexual harassment. A type of employment discrimination consisting in verbal or physical abuse of a sexual nature. See HARASSMENT.

hostile-environment sexual harassment. Sexual harassment in which a work environment is created where an employee is subject to unwelcome verbal or physical sexual behavior that is either severe or pervasive. ● This type of harassment might occur, for example, if a group of coworkers repeatedly e-mailed pornographic pictures to a colleague who found the pictures offensive.

quid pro quo sexual harassment. Sexual harassment in which the satisfaction of a sexual demand is used as the basis of an employment decision. ● This type of harassment might occur, for example, if a boss fired or demoted an employee who refused to go on a date with the boss.

same-sex harassment. See HARASSMENT.

sexually transmitted disease. A disease transmitted only or chiefly by engaging in sexual acts with an infected person. ● Common exam-

ples are syphilis and gonorrhea. — Abbr. STD. — Also termed *venereal disease*.

sexual offense. See OFFENSE (1).

sexual orientation. A person's predisposition or inclination toward a particular type of sexual activity or behavior; heterosexuality, homosexuality, or bisexuality. ● There has been a trend in recent years to make sexual orientation a protected class, esp. in employment and hate-crime statutes.

sexual relations. 1. Sexual intercourse. **2.** Physical sexual activity that does not necessarily culminate in intercourse. ● Sexual relations usu. involve the touching of another's breast, vagina, penis, or anus. Both persons (the toucher and the person touched) engage in sexual relations. — Also termed *sexual activity*.

SF. See *sinking fund* under FUND (1).

S/F. *abbr.* STATUTE OF FRAUDS.

SG. *abbr.* **1.** SOLICITOR GENERAL. **2.** SURGEON GENERAL.

shack. *Hist.* The straying and escaping of cattle out of their owner's land into other unenclosed land; an intercommoning of cattle.

shadow jury. See JURY.

shadow stock plan. See PHANTOM STOCK PLAN.

shakedown. 1. An extortion of money using threats of violence or, in the case of a police officer, threats of arrest. **2.** See *shakedown search* under SEARCH.

shakedown search. See SEARCH.

shakeout, n. An elimination of weak or nonproductive businesses in an industry, esp. during a period of intense competition or declining prices.

shall, vb. 1. Has a duty to; more broadly, is required to <the requester shall send notice> <notice shall be sent>. **2.** Should (as often interpreted by courts) <all claimants shall request mediation>. **3.** May <no person shall enter the building without first signing the roster>. **4.** Will (as a future-tense verb) <the debtor shall then be released from all debts>. **5.** Is entitled to <the secretary shall be reim-

bursed for all expenses>. • Only sense 1 is acceptable under strict standards of drafting.

sham, n. 1. Something that is not what it seems; a counterfeit. 2. A person who pretends to be something that he or she is not; a faker. — **sham, vb.** — **sham, adj.**

sham affidavit. See AFFIDAVIT.

sham defense. See DEFENSE (1).

shame sanction. See SANCTION.

sham exception. An exception to the *Noerr-Pennington* doctrine whereby a company that petitions the government will not receive First Amendment protection or an exemption from the antitrust laws if its intent in petitioning the government is really an effort to harm its competitors rather than to obtain favorable governmental action. — Also termed *sham petitioning*; *sham litigation*. See NOERR-PENNINGTON DOCTRINE.

shaming sentence. See *shame sanction* under SANCTION.

sham litigation. See SHAM EXCEPTION.

sham marriage. See MARRIAGE (1).

sham petitioning. See SHAM EXCEPTION.

sham plea. See *sham pleading* under PLEADING (1).

sham pleading. See PLEADING (1).

sham prosecution. See PROSECUTION.

sham transaction. An agreement or exchange that has no independent economic benefit or business purpose and is entered into solely to create a tax advantage (such as a deduction for a business loss). • The Internal Revenue Service is entitled to ignore the purported tax benefits of a sham transaction.

shanghaiing (shang-hi-ing). The act or an instance of coercing or inducing someone to do something by fraudulent or other wrongful means; specif., the practice of drugging, tricking, intoxicating, or otherwise illegally inducing a person to work aboard a vessel, usu. to secure advance money or a premium. — Also termed *shanghaiing sailors*. 18 USCA § 2194.

share, n. 1. An allotted portion owned by, contributed by, or due to someone <Sean's share of the partnership's profits>. 2. One of the definite number of equal parts into which the capital stock of a corporation or joint-stock company is divided <the broker advised his customer to sell the stock shares when the price reaches \$29>. • A share represents an equity or ownership interest in the corporation or joint-stock company. Cf. STOCK (4); SECURITY (4).

share, vb. 1. To divide (something) into portions. 2. To enjoy or partake of (a power, right, etc.).

share account. See *share-draft account* under ACCOUNT.

share acquisition. The acquisition of a corporation by purchasing all or most of its outstanding shares directly from the shareholders; TAKEOVER. — Also termed *share-acquisition transaction*; *stock acquisition*; *stock-acquisition transaction*. Cf. ASSET ACQUISITION.

share and share alike. To divide (assets, etc.) in equal shares or proportions; to engage in per capita division. See PER CAPITA.

share certificate. See STOCK CERTIFICATE.

sharecropping. An agricultural arrangement in which a landowner leases land and equipment to a tenant who, in turn, gives the landlord a portion of the crop as rent. — **sharecropper, n.**

shared-appreciation mortgage. See MORTGAGE.

shared custody. See *joint custody* under CUSTODY (2).

shared-equity mortgage. See MORTGAGE.

share draft. See DRAFT.

share-draft account. See ACCOUNT.

shareholder. One who owns or holds a share or shares in a company, esp. a corporation. — Also termed *shareowner*; (in a corporation) *stockholder*.

controlling shareholder. A shareholder who is in a position to influence the corporation's activities because the shareholder either owns a majority of outstanding shares or owns a smaller percentage but a significant

number of the remaining shares are widely distributed among many others.

dummy shareholder. A shareholder who owns stock in name only for the benefit of the true owner, whose identity is usu. concealed.

majority shareholder. A shareholder who owns or controls more than half the corporation's stock.

minority shareholder. A shareholder who owns less than half the total shares outstanding and thus cannot control the corporation's management or singlehandedly elect directors.

shareholder-control agreement. See POOLING AGREEMENT.

shareholder derivative suit. See DERIVATIVE ACTION (1).

shareholder oppression. See OPPRESSION (4).

shareholder proposal. A proposal by one or more corporate stockholders to change company policy or procedure. ● Ordinarily, the corporation informs all stockholders about the proposal before the next shareholder meeting.

shareholder resolution. See RESOLUTION (2).

shareholders' equity. See OWNERS' EQUITY.

shareholder's liability. See LIABILITY.

shareholder voting agreement. See POOLING AGREEMENT.

shareowner. See SHAREHOLDER.

shares outstanding. See *outstanding stock* under STOCK.

share split. See STOCK SPLIT.

share-warrant to bearer. A warrant providing that the bearer is entitled to a certain amount of fully paid stock shares. ● Delivery of the warrant operates as a transfer of the shares of stock.

shark repellent. A measure taken by a corporation to discourage hostile takeover attempts. ● Examples include issuing new shares of stock, acquiring expensive assets, and adopting a poison-pill defense. — Also termed *takeover defense*. See POISON PILL. Cf. PORCUPINE PROVISION.

sharp, adj. (Of a clause in a mortgage, deed, etc.) empowering the creditor to take immediate and summary action upon the debtor's default.

sharp practice. Unethical action and trickery, esp. by a lawyer. — Also termed (archaically) *unhandsome dealing*. — **sharp practitioner, n.**

shave, vb. **1.** To purchase (a negotiable instrument) at a greater than usual discount rate. **2.** To reduce or deduct from (a price).

sheet acts. See SESSION LAWS.

shelf issue. See ISSUE (2).

shelf registration. See REGISTRATION (2).

shelf security. See SECURITY.

shell corporation. See CORPORATION.

Shelley's Case, Rule in. See RULE IN SHELLEY'S CASE.

shelter, n. See TAX SHELTER <the shelter saved the taxpayer over \$2,000 in taxes>. — **shelter, vb.**

shelter doctrine. *Commercial law.* The principle that a person to whom a holder in due course has transferred commercial paper; as well as any later transferee, will succeed to the rights of the holder in due course. ● As a result, transferees of holders in due course are generally not subject to defenses against the payment of an instrument. This doctrine ensures the free transferability of commercial paper. Its name derives from the idea that the transferees "take shelter" in the rights of the holder in due course.

shepardize, vb. **1.** (*often cap.*) To determine the subsequent history of (a case) by using a printed or computerized version of *Shepard's Citators*. **2.** Loosely, to check the precedential value of (a case) by the same or similar means. — **shepardization, shepardizing, n.**

sheriff. A county's chief peace officer, usu. elected, who in most jurisdictions acts as custodian of the county jail, executes civil and criminal process, and carries out judicial mandates within the county.

deputy sheriff. An officer who, acting under the direction of a sheriff, may perform most

of the duties of the sheriff's office. • Although *undersheriff* is broadly synonymous with *deputy sheriff*, writers have sometimes distinguished between the two, suggesting that a deputy is appointed for a special occasion or purpose, while an undersheriff is permanent. — Also termed *undersheriff*; *general deputy*; *vice-sheriff*.

sheriff's deed. See DEED.

sheriff's jury. See JURY.

sheriff's sale. See SALE.

Sherman Antitrust Act. A federal statute, passed in 1890, that prohibits direct or indirect interference with the freely competitive interstate production and distribution of goods. • This Act was amended by the Clayton Act in 1914. 15 USCA §§ 1-7. — Often shortened to *Sherman Act*.

shield law. 1. A statute that affords journalists the privilege not to reveal confidential sources. See *journalist's privilege* under PRIVILEGE (3). **2.** A statute that restricts or prohibits the use, in rape or sexual assault cases, of evidence about the past sexual conduct of the victim. — Also termed (in sense 2) *rape shield law*; *rape shield statute*.

"The 'rape shield law.' At common law the character of the woman as to chastity or unchastity was held to be admissible in evidence on the theory that it had probative value in determining whether she did or did not consent. Defense counsel, in unrestrained zeal for an acquittal, took advantage of this to the point that it often seemed as if it was the victim of the rape, rather than the perpetrator, who was on trial. . . . A typical 'rape shield statute' does not prevent the introduction of any relevant and otherwise admissible evidence, but requires that the relevancy of any evidence of the previous sexual conduct of the complaining witness must be determined in a pretrial hearing before the judge in camera." Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 206 (3d ed. 1982).

shifting, adj. (Of a position, place, etc.) changing or passing from one to another <a shifting estate>.

shifting clause. At common law, a clause under the Statute of Uses prescribing a substituted mode of devolution in the settlement of an estate. See STATUTE OF USES.

shifting income. A device used by a taxpayer in a high tax bracket to shelter income by moving the income to another (usu. a spouse or child)

in a lower tax bracket, and esp. by forming a Clifford trust. See *Clifford trust* under TRUST.

shifting risk. Insurance. The changing risk covered under an insurance policy insuring a stock of goods or similar property that varies in amount and composition in the course of trade.

shifting stock of merchandise. Merchandise inventory subject to change by purchases and sales in the course of trade.

shifting the burden of proof. In litigation, the transference of the duty to prove a fact from one party to the other; the passing of the duty to produce evidence in a case from one side to another as the case progresses, when one side has made a prima facie showing on a point of evidence, requiring the other side to rebut it by contradictory evidence. See BURDEN OF PROOF.

shifting trust. See TRUST.

shifting use. See USE (4).

shill. A person who poses as an innocent bystander at a confidence game but actually serves as a decoy for the perpetrators of the scheme.

shingle theory. Securities. The notion that a broker-dealer must be held to a high standard of conduct because by engaging in the securities business ("hanging out a shingle"), the broker-dealer implicitly represents to the world that the conduct of all its employees will be fair and meet professional norms.

"[I]n judging the appropriate standard of care that attaches to a broker-dealer in recommending securities to his or her customers and in dealing with the customers' accounts, the Commission has relied upon the 'shingle theory.' The shingle theory is but an extension of the common law doctrine of 'holding out.' When brokers hold themselves out as experts either in investments in general or in the securities of a particular issuer, they will be held to a higher standard of care in making recommendations." Thomas Lee Hazen, *The Law of Securities Regulation* § 10.6, at 423 (2d ed. 1994).

shin plaster. Hist. Slang. 1. A bank note that has greatly depreciated in value, esp. the paper money of the Republic of Texas in relation to the U.S. dollar. **2.** Paper money in denominations less than one dollar.

ship, n. A type of vessel used or intended to be used in navigation. See VESSEL.

chartered ship. A ship specially hired to transport the goods of only one person or company.

general ship. A ship that is put up for a particular voyage to carry the goods of any persons willing to ship goods on it for that voyage.

ship, vb. To send (goods, documents, etc.) from one place to another, esp. by delivery to a carrier for transportation.

ship broker. *Maritime law.* **1.** The business agent of a shipowner or charterer; an intermediary between an owner or charterer and a shipper. **2.** One who negotiates the purchase and sale of a ship.

shipmaster. See MASTER OF A SHIP.

shipment. 1. The transportation of goods; esp., the delivery of goods to a carrier and subsequent issuance of a bill of lading. **2.** The goods so shipped; an order of goods.

shipment contract. See CONTRACT.

Ship Mortgage Act. A federal law regulating mortgages on ships registered as U.S. vessels by, among other things, providing for enforcement of maritime liens in favor of those who furnish supplies or maintenance to the vessels. 46 USCA §§ 911 et seq.

shipowner-negligence doctrine. The principle that a shipowner is liable for an assault on a crew member if the crew member was assaulted by a superior, in the context of an activity undertaken for the benefit of the ship's business, and if the ship's officers could reasonably have foreseen the assault.

shipper. 1. One who ships goods to another. **2.** One who tenders goods to a carrier for transportation.

shipping articles. *Maritime law.* A document (provided by a master of a vessel to the mariners) detailing voyage information, such as the voyage term, the number of crew, and the wage rates. 46 USCA § 10302.

shipping document. Any paper that covers a shipment in trade, such as a bill of lading or letter of credit.

shipping law. See LAW OF SHIPPING.

shipping order. A copy of the shipper's instructions to a carrier regarding the disposition of goods to be transported.

ship's husband. *Maritime law.* A person appointed to act as general agent of all the coowners of a ship, as by contracting for all necessary services, equipment, and supplies. Cf. EXERCITOR.

ship's papers. *Maritime law.* The papers that a vessel is required to carry to provide the primary evidence of the ship's national character, ownership, nature and destination of cargo, and compliance with navigation laws. • This evidence includes certificates of health, charterparty, muster-rolls, licenses, and bills of lading.

shipwreck. *Maritime law.* **1.** A ship's wreckage. **2.** The injury or destruction of a vessel because of circumstances beyond the owner's control, rendering the vessel incapable of carrying out its mission.

shire. A county in Great Britain (esp. England), originally made up of many hundreds but later consisting of larger divisions set off by metes and bounds.

shire-reeve. See REEVE.

Shively presumption (shiv-lee). The doctrine that any prestatehood grant of public property does not include tidelands unless the grant specifically indicates otherwise. *Shively v. Boulby*, 152 U.S. 1, 14 S.Ct. 548 (1894); *United States v. Holt State Bank*, 270 U.S. 49, 46 S.Ct. 197 (1925). See EQUAL-FOOTING DOCTRINE.

shock, n. A profound and sudden disturbance of the physical or mental senses; a sudden and violent physical or mental impression depressing the body's vital forces, as by a sudden injury or medical procedure.

mental shock. Shock caused by agitation of the mental senses and resulting in extreme grief or joy, as by winning the lottery or witnessing the horrific death of a family member. Cf. EMOTIONAL DISTRESS.

physical shock. Shock caused by agitation of the physical senses, as from a sudden violent blow, impact, collision, or concussion.

shock incarceration. See INCARCERATION.

shock probation. See PROBATION.

shop, *n.* A business establishment or place of employment; a factory, office, or other place of business.

agency shop. A shop in which a union acts as an agent for the employees, regardless of their union membership.

closed shop. A shop in which the employer, by agreement with a union, hires and retains in employment only union members in good standing. • Closed shops were made illegal under the federal Labor-Management Relations Act. Cf. *closed union* under UNION.

open shop. A shop in which union membership is not a condition of employment. See RIGHT-TO-WORK LAW. Cf. *open union* under UNION.

preferential shop. A shop in which union members are given preference over nonunion members in employment matters.

union shop. A shop in which the employer may hire nonunion employees on the condition that they join a union within a specified time (usu. at least 30 days).

shop-book rule. *Evidence.* An exception to the hearsay rule permitting the admission into evidence of original bookkeeping records if the books' entries were made in the ordinary course of business and the books are introduced by somebody who maintains them.

shop books. Records of original entry maintained in the usual course of business by a shopkeeper, trader, or other businessperson. — Also termed *books of account*; *account books*.

shop committee. A union committee that resolves employee complaints within a union shop. See *union shop* under SHOP.

shoplifting, *n.* Theft of merchandise from a store or business; specif., larceny of goods from a store or other commercial establishment by willfully taking and concealing the merchandise with the intention of converting the goods to one's personal use without paying the purchase price. See LARCENY. — **shoplift**, *vb.*

"Shoplifting is a form of larceny As a practical matter, however, the difficulty of proving the wrongful taking and the felonious intent requisites for a conviction under the general larceny statutes, together with the risk of retributory civil action against the shopkeeper consequent to acquittal of an accused shoplifter, have caused shoplifting to be established as a specific statutory crime in many jurisdictions." 50 Am. Jur. 2d *Larceny* § 71, at 79-80 (1995).

shop-right doctrine. The principle that an employer is entitled to a nonexclusive free license to use an employee's invention that the employee developed in the course of employment while using the employer's materials.

shop steward. See STEWARD (2).

shore, **1.** Land lying between the lines of high- and low-water mark; lands bordering on the shores of navigable waters below the line of ordinary high water. **2.** Land adjacent to a body of water regardless of whether it is below or above the ordinary high- or low-water mark. — Also termed *shore land*.

short, *adj.* **1.** Not holding at the time of sale the security or commodity that is being sold in anticipation of a fall in price <the trader was short at the market's close>. **2.** Of or relating to a sale of securities or commodities not in the seller's possession at the time of sale <a short position>. See *short sale* under SALE. Cf. LONG.

short, *adv.* By a short sale <sold the stock short>. See *short sale* under SALE.

short, *vb.* To sell (a security or commodity) by a short sale <shorted 1,000 shares of Pantheon stock>. See *short sale* under SALE.

short-form agreement. *Labor law.* A contract usu. entered into by a small independent contractor whereby the contractor agrees to be bound by the terms of a collective-bargaining agreement negotiated between a union and a multiemployer bargaining unit.

short-form merger. See MERGER.

short interest. *Securities.* In a short sale, the number of shares that have not been purchased for return to lenders. See *short sale* under SALE.

short lease. See LEASE.

short position. The position of an investor who borrowed stock to make a short sale but has not yet purchased the stock to repay the lender. See *short sale* under SALE.

short sale. See SALE.

short sale against the box. See SALE.

short summons. See SUMMONS.

- short-swing profits.** Profits made by a corporate insider on the purchase and sale (or sale and purchase) of company stock within a six-month period. • These profits are subject to being returned to the company.
- short-term capital gain.** See CAPITAL GAIN.
- short-term debt.** See DEBT.
- short-term loan.** See LOAN.
- short-term security.** See SECURITY.
- short-term trading.** Investment in securities only to hold them long enough to profit from market-price fluctuations.
- short-term trust.** See *Clifford trust* under TRUST.
- short title.** See TITLE (3).
- short ton.** See TON.
- shotgun instruction.** See ALLEN CHARGE.
- shotgun pleading.** See PLEADING (1).
- show, *vb.*** To make (facts, etc.) apparent or clear by evidence; to prove.
- show-cause order.** See ORDER (2).
- show-cause proceeding.** A usu. expedited proceeding on a show-cause order. — Also termed *rule to show cause*; *summary process*; *summary procedure*; *expedited proceeding*.
- shower (shoh-ər), *n.*** A person commissioned by a court to take jurors to a place so that they may observe it as they consider a case on which they are sitting. See VIEW (3).
- showing, *n.*** The act or an instance of establishing through evidence and argument; proof < *prima facie* showing >.
- show trial.** A trial, usu. in a nondemocratic country, that is staged primarily for propagandistic purposes, with the outcome predetermined.
- showup, *n.*** A pretrial identification procedure in which a suspect is confronted with a witness to or the victim of a crime. • Unlike a lineup, a showup is a one-on-one confrontation. Cf. LINEUP.
- shrinkage.** The reduction in inventory caused by theft, breakage, or waste.
- shrink-wrap license.** See LICENSE.
- shutdown.** A cessation of work production, esp. in a factory.
- shut-in royalty.** See ROYALTY (2).
- shuttle diplomacy.** See DIPLOMACY.
- shyster (shis-tər).** A person (esp. a lawyer) whose business affairs are unscrupulous, deceitful, or unethical.
- si actio (sī ak-shee-oh), *n.*** [Latin] *Hist.* The closing statement in a defendant's plea demanding judgment.
- sic (sik).** [Latin "so, thus"] Spelled or used as written. • *Sic*, invariably bracketed and usu. set in italics, is used to indicate that a preceding word or phrase in a quoted passage is reproduced as it appeared in the original document < "that case peeked [*sic*] the young lawyer's interest" >.
- sick leave. 1.** An employment benefit allowing a worker time off for sickness, either with or without pay, but without loss of seniority or other benefits. **2.** The time so taken by an employee.
- sickness and accident insurance.** See *health insurance* under INSURANCE.
- si constet de persona (sī kon-stet dee pār-soh-nə).** [Latin] If it is certain who is the person meant.
- si contingat (sī kon-ting-at).** [Law Latin] If it happens. • This term was formerly used to describe conditions in a conveyance.
- sicut alias (sī-kət ay-lee-əs), *n.*** [Latin "as at another time"] *Hist.* A second writ issued when the first one was not executed.
- "But where a defendant absconds, and the plaintiff would proceed to an outlawry against him, an original writ must then be sued out regularly, and after that a *capias*. And if the sheriff cannot find the defendant upon the first writ . . . there issues out an *alias* writ, and after that a *pluries*, to the same effect as the former: only after these words 'we command you,' this clause is

inserted, 'as we have *formerly*,' or, 'as we have *often* commanded you;' 'sicut alias' . . ." 3 William Blackstone, *Commentaries on the Laws of England* 283 (1768).

sicut me Deus adjuvet (sik-ət mee dee-əs aj-əvet). [Latin] So help me God.

side, n. **1.** The position of a person or group opposing another <the law is on our side>. **2.** Either of two parties in a transaction or dispute <both sides put on a strong case>. **3. Archaic.** The field of a court's jurisdiction <equity side> <law side>.

sidebar. 1. A position at the side of a judge's bench where counsel can confer with the judge beyond the jury's earshot <the judge called the attorneys to sidebar>. **2.** SIDEBAR CONFERENCE <during the sidebar, the prosecutor accused the defense attorney of misconduct>. **3.** A short, secondary article within or accompanying a main story in a publication <the sidebar contained information on related topics>.

sidebar comment. An unnecessary, often argumentative remark made by an attorney or witness, esp. during a trial or deposition. — Often shortened to *sidebar*. — Also termed *sidebar remark*.

sidebar conference. 1. A discussion among the judge and counsel, usu. over an evidentiary objection, outside the jury's hearing. — Also termed *bench conference*. **2.** A discussion, esp. during voir dire, between the judge and a juror or prospective juror. — Often shortened to *sidebar*.

sidebar remark. See SIDEBAR COMMENT.

sidebar rule. *Hist. English law.* An order or rule allowed by the court without formal application, such as an order to plead within a particular time. • Formerly, the rules or orders were made on the motion of the attorneys at the sidebar in court.

side judge. See JUDGE.

side lines. 1. The margins of something, such as property. **2.** A different type of business or goods than one principally engages in or sells. **3. Mining law.** The boundary lines of a mining claim not crossing the vein running on each side of it. — Also written *sidelines*. Cf. END LINES.

sidenote. See MARGINAL NOTE.

side reports. 1. Unofficial volumes of case reports. **2.** Collections of cases omitted from the official reports.

sidesman. *Eccles. law.* A church officer who originally reported to the bishop on clerical and congregational misdeeds, including heretical acts, and later became a standing officer whose duties gradually devolved by custom on the churchwarden. — Also termed *synodsmen*; *questman*.

Sierra-Mobile doctrine. See MOBILE-SIERRA DOCTRINE.

si fecerit te securum (si fes-ər-it tee si-kyoor-əm). [Law Latin] *Hist.* If he has made you secure. • These were the initial words of a writ ordering the sheriff, upon receipt of security from the plaintiff, to compel the defendant's appearance in court. — Also spelled (erroneously) *se te fecerit securum*.

sight. A drawee's acceptance of a draft <payable after sight>. • The term *after sight* means "after acceptance."

sight draft. See DRAFT.

sigil (sij-əl), *n.* A seal or an abbreviated signature used as a seal; esp., a seal formerly used by civil-law notaries.

sigillum (si-jil-əm), *n.* [Latin] A seal, esp. one impressed on wax.

sigla (sig-lə), *n.* [Latin] *Roman law.* Abbreviations and signs used in writing.

sign, vb. 1. To identify (a record) by means of a signature, mark, or other symbol with the intent to authenticate it as an act or agreement of the person identifying it <both parties signed the contract>. **2.** To agree with or join <the commissioner signed on for a four-year term>.

signal. 1. A means of communication, esp. between vessels at sea or between a vessel and the shore. • The international code of signals assigns arbitrary meanings to different arrangements of flags or light displays. **2.** In the citation of legal authority, an abbreviation or notation supplied to indicate some basic fact about the authority. • For example, according to the *Bluebook*, the signal *See* means that the cited authority directly states or supports the proposition, while *Cf.* means that the cited au-

thority supports a proposition analogous to (but slightly different from) the main proposition. For these and other signals, see *The Bluebook: A Uniform System of Citation* § 1.2, at 22–24 (16th ed. 1996). — Also termed (in sense 2) *citation signal*.

signatorius anulus (sig-nə-tor-ee-əs an-yə-ləs), *n.* [Latin] *Roman law*. A signet ring.

signatory (sig-nə-tor-ee), *n.* A party that signs a document, personally or through an agent, and thereby becomes a party to an agreement <eight countries are signatories to the treaty>. — **signatory**, *adj.*

signature. **1.** A person's name or mark written by that person or at the person's direction. **2.** *Commercial law*. Any name, mark, or writing used with the intention of authenticating a document. UCC §§ 1–201(39), 3–401(b). — Also termed *legal signature*.

“The signature to a memorandum may be any symbol made or adopted with an intention, actual or apparent, to authenticate the writing as that of the signer.” Restatement (Second) of Contracts § 134 (1979).

digital signature. A secure, digital code attached to an electronically transmitted message that uniquely identifies and authenticates the sender. • Digital signatures are esp. important for electronic commerce and are a key component of many electronic message-authentication schemes. Several states have passed legislation recognizing the legality of digital signatures. See E-COMMERCE.

facsimile signature. **1.** A signature that has been prepared and reproduced by mechanical or photographic means. **2.** A signature on a document that has been transmitted by a facsimile machine. See FAX.

private signature. *Civil law*. A signature made on a document (such as a will) that has not been witnessed or notarized.

unauthorized signature. A signature made without actual, implied, or apparent authority. • It includes a forgery. UCC § 1–201(43).

signature card. A financial-institution record consisting of a customer's signature and other information that assists the institution in monitoring financial transactions, as by comparing the signature on the record with signatures on checks, withdrawal slips, and other documents.

signature crime. See CRIME.

signature evidence. See EVIDENCE.

signature loan. See LOAN.

signed, sealed, and delivered. In a certificate of acknowledgment, a statement that the instrument was executed by the person acknowledging it. — Often shortened to *sealed and delivered*.

signet. **1.** *Civil law*. An elaborate hand-drawn symbol (usu. incorporating a cross and the notary's initials) formerly placed at the base of notarial instruments, later replaced by a seal. **2.** *Scots law*. A seal used to authenticate summonses in civil matters before the Court of Session.

significant-relationship theory. See CENTER-OF-GRAVITY DOCTRINE.

significavit (sig-ni-fi-kay-vit), *n.* [Latin “he has signified”] *Eccles. law*. **1.** A bishop's certificate that a person has been in a state of excommunication for more than 40 days. **2.** A notice to the Crown in chancery, based on the bishop's certificate, whereby a writ *de contumace capiendo* (or, earlier, a writ *de excommunicato capiendo*) would issue for the disobedient person's arrest and imprisonment. See DE CONTUMACE CAPIENDO.

signum (sig-nəm), *n.* [Latin] *Roman law*. **1.** A sign; a seal.

“Signum. (On written documents.) A seal (a stamp) put on to close a document in order to make its contents inaccessible to unauthorized persons and protect against forgery, or at the end of it after the written text. In the latter case the seal (without or with a signature) indicated that the sealer recognized the written declaration as his *Signum* is also the seal of a witness who was present at the making of a document.” Adolf Berger, *Encyclopedic Dictionary of Roman Law* 707 (1953).

2. An indication of something seen or otherwise perceived by the senses, such as a bloodstain on a murder suspect. Pl. **signa**.

si ita est (SI I-tə est). [Latin] If it be so. • This phrase was formerly used in a mandamus writ to order a judge to affix a seal to a bill of exceptions, if the facts were accurately stated.

si judicas, cognosce (SI joo-di-kəs, kog-nos-ee). [Latin] If you judge, inquire.

silence, *n.* **1.** A restraint from speaking. • In criminal law, silence includes an arrestee's statements expressing the desire not to speak and requesting an attorney. **2.** A failure to reveal something required by law to be re-

vealed. See *estoppel by silence* under ESTOPPEL. — **silent**, *adj.*

silent confirmation. See CONFIRMATION.

silentiary (SI-len-shee-air-ee), *n.* **1.** *Roman law.* An official who maintains order in the imperial palace and on the imperial council; a chamberlain. **2.** *Hist.* An officer who is sworn to silence about state secrets; esp., a privy councillor so sworn. **3.** *Hist.* A court usher who maintains order and esp. silence in the court. — Also termed *silentarius*.

silent partner. See PARTNER.

silent record. See RECORD.

silent-witness theory. *Evidence.* A method of authenticating and admitting evidence (such as a photograph), without the need for a witness to verify its authenticity, upon a sufficient showing of the reliability of the process of producing the evidence, including proof that the evidence has not been altered.

silk gown. **1.** The professional robe worn by Queen's Counsel. **2.** One who is a Queen's Counsel. — Often shortened (in sense 2) to *silk*. Cf. STUFF GOWN.

silver certificates. U.S. paper money formerly in circulation and redeemable in silver. • Silver certificates have been replaced by Federal Reserve notes, which are not so redeemable.

silver parachute. See TIN PARACHUTE.

silver-platter doctrine. *Criminal procedure.* The principle that a federal court could allow the admission of evidence obtained illegally by a state police officer as long as a federal officer did not participate in or request the search. • The Supreme Court rejected this doctrine in *Elkins v. United States*, 364 U.S. 206, 80 S.Ct. 1437 (1960).

similar happenings. *Evidence.* Events that occur at a time different from the time in dispute and are therefore usu. inadmissible except to the extent that they provide relevant information on issues that would be fairly constant, such as the control of and conditions on land on the day in question.

similar sales. See SALE.

similiter (si-mil-i-tər). [Latin "similarly"] *Common-law pleading.* A party's written acceptance of an opponent's issue or argument; a set form of words by which a party accepts or joins in an issue of fact tendered by the other side. See *joinder of issue* (2) under JOINDER.

simony (sim-ə-nee or si-mə-nee), *n.* [fr. Latin *simonia* "payment for things spiritual," fr. the proper name *Simon Magus* (see below)] *Hist. Eccles. law.* The unlawful practice of giving or receiving money or gifts in exchange for spiritual promotion; esp., the unlawful buying or selling of a right to present clergy to a vacant benefice.

"By *simony*, the right of presentation to a living is forfeited, and vested *pro hac vice* in the crown. Simony is the corrupt presentation of any one to an ecclesiastical benefice for money, gift, or reward. It is so called from the resemblance it is said to bear to the sin of Simon Magus, though the purchasing of holy orders seems to approach nearer to his offence. It was by the canon law a very grievous crime: and is so much the more odious, because, as sir Edward Coke observes, it is ever accompanied with perjury; for the presentee is sworn to have committed no simony." 2 William Blackstone, *Commentaries on the Laws of England* 278 (1766).

"Simony is an offence which consists in the buying and selling of holy orders, and any bond or contract involving simony is illegal and void." John Indermaur, *Principles of the Common Law* 195 (Edmund H. Bennett ed., 1st Am. ed. 1878).

simple, *adj.* **1.** (Of a crime) not accompanied by aggravating circumstances. Cf. AGGRAVATED. **2.** (Of an estate or fee) inheritable by the owner's heirs with no conditions concerning tail. **3.** (Of a contract) not made under seal.

simple agreement. See AGREEMENT.

simple assault. See ASSAULT.

simple average. See *particular average* under AVERAGE.

simple battery. See BATTERY.

simple bond. See BOND (2).

simple contract. See *parol contract* (2) under CONTRACT.

simple-contract debt. See DEBT.

simple interest. See INTEREST (3).

simple kidnapping. See KIDNAPPING.

simple larceny. See LARCENY.

simple listing. See *open listing* under LISTING (1).

simple majority. See MAJORITY.

simple mortgage clause. See *open mortgage clause* under MORTGAGE CLAUSE.

simple negligence. See NEGLIGENCE (1).

simple obligation. See OBLIGATION.

simple resolution. See RESOLUTION (1).

simple robbery. See ROBBERY.

simple state. See *unitary state* under STATE (1).

simple-tool rule. The principle that an employer has no duty to warn its employees of dangers that are obvious to everyone involved, and has no duty to inspect a tool that is within the exclusive control of an employee when that employee is fully acquainted with the tool's condition.

simple trust. See TRUST.

simplex (sim-pleks), *adj.* [Latin] Simple; pure; unconditional.

simplex dictum. See DICTUM.

simplex passagium (sim-pleks pə-say-jee-əm). [Law Latin] *Hist.* Simple passage (to the holy land alone). • This type of pilgrimage served as an excuse for absence from court during the Crusades. — Also termed *simplex peregrinatio*. Cf. IN GENERALI PASSAGIO.

simpliciter (sim-plis-i-tər), *adv.* [Latin] **1.** In a simple or summary manner; simply. **2.** Absolutely; unconditionally; per se.

simplified employee pension plan. See EMPLOYEE BENEFIT PLAN.

simplum (sim-pləm). [Latin] *Roman law.* The single value of something. Cf. DUPLUM.

simulated contract. See CONTRACT.

simulated fact. A fabricated fact intended to mislead; a lie.

simulated judgment. See JUDGMENT.

simulated sale. See SALE.

simulated transaction. See *simulated sale* under SALE.

simulatio latens (sim-yə-lay-shee-oh lay-tenz). [Latin “hidden pretence”] *Hist.* Feigned enhancement of illness, as when symptoms are present but not nearly as severe as is pretended.

simulation. **1.** An assumption of an appearance that is feigned, false, or deceptive. **2.** *Civil law.* A feigned, pretended act, usu. to mislead or deceive. **3.** See *simulated contract* under CONTRACT.

simul cum (sɪ-məl kəm). [Latin] Together with. • This phrase was formerly used in an indictment or other instrument to indicate that a defendant had committed an injury jointly with others unknown.

simul et semel (sɪ-məl et sem-əl). [Latin] Together at one time.

simultaneous death. See DEATH.

simultaneous-death act. A statute providing that when two persons die under circumstances making it impossible to determine the order of their deaths (as in a common disaster), each person is presumed to have survived the other for purposes of distributing their respective estates. • Many states' simultaneous-death acts have been amended to require that a person survive the decedent by at least 120 hours to qualify as an heir or beneficiary. See COMMORIANTES.

simultaneous-death clause. A clause in a will providing for the disposition of property in the event of a simultaneous death. See *simultaneous death* under DEATH.

sine (sɪ-nee or sin-ay), *prep.* [Latin] Without.

sine animo revertendi (sɪ-nee ən-ə-moh ree-vər-ten-dɪ). [Latin] Without the intention of returning. See *animus revertendi* under ANIMUS.

sine assensu capituli (sɪ-nee ə-sen-s[y]oo kə-pich-[y]ə-lɪ), *n.* [Law Latin “without the consent of the chapter”] *Hist.* A writ for a successor to recover land that the former bishop,

abbot, or prior had alienated without the chapter's permission.

sine consideratione curiae (SI-nee kən-sid-ə-ray-shee-oh-nee **kyoor-ee-i**). [Law Latin] Without the judgment of the court.

sinecure (SI-nə-kyoor or **sin-ə-kyoor**). [fr. Latin *sine cura* "without duties"] *Hist.* A post without any duties attached; an office for which the holder receives a salary but has no responsibilities. — **sinecural** (SI-nə-kyoor-əl or SI-nə-**kyoor-əl**), *adj.*

sine decreto (SI-nee di-kree-toh). [Latin] Without a judge's authority.

sine die (SI-nee di-ee or **di** or **sin-ay dee-ay**). [Latin "without day"] With no day being assigned (as for resumption of a meeting or hearing). See GO HENCE WITHOUT DAY.

sine hoc quod (SI-nee hok kwod). [Law Latin] Without this, that. See ABSQUE HOC.

sine numero (SI-nee n[y]oo-mər-oh). [Law Latin "without number"] Countless; without limit.

sine prole (SI-nee proh-lee). [Latin] Without issue. • This phrase was used primarily in genealogical tables. — Abbr. s.p.

sine qua non (SI-nee kway **non** or **sin-ay kwah nohn**), *n.* [Latin "without which not"] An indispensable condition or thing; something on which something else necessarily depends.

single, *adj.* **1.** Unmarried <single tax status>. **2.** Consisting of one alone; individual <single condition> <single beneficiary>.

single-act statute. See LONG-ARM STATUTE.

single adultery. See ADULTERY.

single bill. See *bill single* under BILL (7).

single bond. See *bill obligatory* under BILL (7).

single combat. See DUEL (2).

single condition. See CONDITION (2).

single-controversy doctrine. See ENTIRE-CONTROVERSY DOCTRINE.

single creditor. See CREDITOR.

single-criminal-intent doctrine. See SINGLE-LARCENY DOCTRINE.

single-date-of-removal doctrine. *Civil procedure.* The principle that the deadline for removing a case from state court to federal court is 30 days from the day that any defendant receives a copy of the state-court pleading on which the removal is based. • If a later-served defendant seeks to remove a case to federal court more than 30 days after the day any other defendant received the pleading, the removal is untimely even if effectuated within 30 days after the removing defendant received the pleading. One theory underlying this doctrine is that all defendants must consent to remove a case to federal court, and a defendant who has waited longer than 30 days to remove does not have the capacity to consent to removal. 28 USCA § 1446(b). See NOTICE OF REMOVAL.

single demise. See DEMISE.

single-entry bookkeeping. See BOOKKEEPING.

single-filing rule. *Civil-rights law.* The principle that an administrative charge filed by one plaintiff in a civil-rights suit (esp. a Title VII suit) will satisfy the administrative-filing requirements for all coplaintiffs who are making claims for the same act of discrimination. • But this rule will not usu. protect a coplaintiff's claims if the coplaintiff also filed an administrative charge, against the same employer, in which different discriminatory acts were complained of, because the administrative agency (usu. the EEOC) and the employer are entitled to rely on the allegations someone makes in an administrative charge.

single-impulse plan. See SINGLE-LARCENY DOCTRINE.

single-juror instruction. See JURY INSTRUCTION.

single-larceny doctrine. *Criminal law.* The principle that the taking of different items of property either belonging to the same or different owners at the same time and place constitutes one act of larceny if the theft is part of one larcenous plan, as when it involves essentially one continuous act or if control over the property is exercised simultaneously. • The intent of the thief determines the number of occurrences. — Also termed *single-impulse plan*; *single-larceny rule*; *single-criminal-intent doctrine*.

single-name paper. A negotiable instrument signed by only one maker and not backed by a surety.

single obligation. See OBLIGATION.

single original. An instrument executed singly, not in duplicate.

single-premium insurance. See INSURANCE.

single-publication rule. The doctrine that a plaintiff in a libel suit against a publisher has only one claim for each mass publication, not a claim for every book or issue in that run.

single-purpose project. A facility that is designed, built, and used for one reason only, such as to generate electricity. • This term most often refers to large, complex, expensive projects such as power plants, chemical-processing plants, mines, and toll roads. Projects of this type are often funded through project financing, in which a special-purpose entity is established to perform no function other than to develop, own, and operate the facility, the idea being to limit the number of the entity's creditors and thus provide protection for the project's lenders. See *project financing* under FINANCING; SPECIAL-PURPOSE ENTITY; BANKRUPTCY-REMOTE ENTITY.

single-recovery rule. See ONE-SATISFACTION RULE.

singular, adj. **1.** Individual; each <all and singular>. **2.** *Civil law.* Of or relating to separate interests in property, rather than the estate as a whole <singular succession>.

singular successor. See SUCCESSOR.

singular title. See TITLE (2).

sinking fund. See FUND (1).

sinking-fund bond. See BOND (3).

sinking-fund debenture. See DEBENTURE.

sinking-fund depreciation method. See DEPRECIATION METHOD.

sinking-fund reserve. See RESERVE.

sinking-fund tax. See TAX.

si non omnes (si non om-nee-z). [Latin "if not all"] *Hist.* A writ allowing two or more judges to proceed in a case if the whole commission cannot be present on the assigned day.

sin tax. See TAX.

SIPA (see-pə). *abbr.* SECURITIES INVESTOR PROTECTION ACT.

si paret (si par-et). [Latin] If it appears. • In Roman law, this phrase was part of the praetor's formula by which judges were appointed and told how they were to decide.

SIPC. *abbr.* SECURITIES INVESTOR PROTECTION CORPORATION.

si prius (si pri-əs). [Law Latin] If before. • This phrase is used in a writ summoning a jury.

si quis (si kwis). [Latin] *Roman law.* If any one. • This term was used in praetorian edicts. In England, it was also mentioned in notices posted in parish churches requesting anyone who knows of just cause why a candidate for holy orders should not be ordained to inform the bishop.

SIR. *abbr.* SELF-INSURED RETENTION.

si recognoscat (si rek-əg-nos-kat). [Latin "if he acknowledges"] *Hist.* A writ allowing a creditor to obtain money counted — that is, a specific sum that the debtor had acknowledged in county court to be owed.

sister. A female with the same parents as another.

sister corporation. See CORPORATION.

sister-in-law. **1.** The sister of one's spouse. **2.** The wife of one's brother. **3.** The wife of one's spouse's brother.

sistership exclusion. See EXCLUSION (3).

sistren, n. Sisters, esp. those considered spiritual kin (such as female colleagues on a court). Cf. BRETHREN.

sit, vb. **1.** (Of a judge) to occupy a judicial seat <Judge Wilson sits on the trial court for the Eastern District of Arkansas>. **2.** (Of a judge) to hold court or perform official functions <is the judge sitting this week?>. **3.** (Of a court or

legislative body) to hold proceedings <the U.S. Supreme Court sits from October to June>.

sit-down strike. See STRIKE.

site. **1.** A place or location; esp., a piece of property set aside for a specific use. **2.** SCITE.

site plan. A proposal for the development or use of a particular piece of real property. • Some zoning ordinances require a developer to present a site plan to the city council, and to receive council approval, before certain projects may be completed.

sitting, *n.* A court session; esp., a session of an appellate court.

en banc sitting. A court session in which all the judges (or a quorum) participate. See EN BANC.

in camera sitting. A court session conducted by a judge in chambers or elsewhere outside the courtroom. See IN CAMERA.

situation. **1.** Condition; position in reference to circumstances <dangerous situation>. **2.** The place where someone or something is occupied; a location <situation near the border>.

situation of danger. See DANGEROUS SITUATION.

situs (si-təs). [Latin] The location or position (of something) for legal purposes, as in *lex situs*, the law of the place where the thing in issue is situated.

Six Clerks. *Hist.* A collective name for the clerks of the English Court of Chancery who filed pleadings and other papers. • The office was abolished in 1842, and its duties transferred to the Clerk of Enrollments in Chancery and to the Clerks of Records and Writs.

Sixteenth Amendment. The constitutional amendment, ratified in 1913, allowing Congress to tax income.

Sixth Amendment. The constitutional amendment, ratified with the Bill of Rights in 1791, guaranteeing in criminal cases the right to a speedy and public trial by jury, the right to be informed of the nature of the accusation, the right to confront witnesses, the right to counsel, and the right to compulsory process for obtaining favorable witnesses.

sixth-sentence remand. See REMAND.

sixty clerks. See SWORN CLERKS IN CHANCERY.

sixty-day notice. *Labor law.* Under the Taft-Hartley Act, the 60-day advance notice required for either party to a collective-bargaining agreement to reopen or terminate the contract. • During this period, strikes and lockouts are prohibited. 29 USCA § 158(d)(1).

S.J.D. See DOCTOR OF JURIDICAL SCIENCE.

skeleton bill. See BILL (7).

skeleton bill of exceptions. See BILL (2).

skill. Ability; proficiency, esp. the practical and familiar knowledge of the principles and processes of an art, science, or trade, combined with the ability to apply them appropriately, with readiness and dexterity.

skilled witness. See *expert witness* under WITNESS.

skilled work. See WORK.

skip bail. See JUMP BAIL.

skip person. *Tax.* A beneficiary who is more than one generation removed from the transferor and to whom assets are conveyed in a generation-skipping transfer. IRC (26 USCA) § 2613(a). See GENERATION-SKIPPING TRANSFER.

"Since a skip person is necessary to trigger a generation-skipping tax, it is important to have a precise definition of 'skip person.' In most cases, it suffices to say that a skip person is a person who is two or more generations younger than the transferor." John K. McNulty, *Federal Estate and Gift Taxation in a Nutshell* 63 (5th ed. 1994).

skiptracing agency. A service that locates persons (such as delinquent debtors, missing heirs, witnesses, stockholders, bondholders, etc.) or missing assets (such as bank accounts).

S.L. *abbr.* **1.** Session law. See SESSION LAWS. **2.** Statute law.

slamming. The practice by which a long-distance telephone company wrongfully appropriates a customer's service from another company, usu. through an unauthorized transfer or by way of a transfer authorization that is disguised as something else, such as a form to sign up for a free vacation.

slander, *n.* **1.** A defamatory statement expressed in a transitory form, esp. speech. • Damages for

slander — unlike those for libel — are not presumed and thus must be proved by the plaintiff (unless the defamation is slander *per se*). **2.** The act of making such a statement. — **slander, *vb.*** — **slanderous, *adj.*** See DEFAMATION. Cf. LIBEL (1).

“Although libel and slander are for the most part governed by the same principles, there are two important differences: (1) Libel is not merely an actionable tort, but also a criminal offence, whereas slander is a civil injury only. (2) Libel is in all cases actionable *per se*; but slander is, save in special cases, actionable only on proof of actual damage. This distinction has been severely criticised as productive of great injustice.” R.F.V. Heuston, *Salmond on the Law of Torts* 139 (17th ed. 1977).

slander *per quod*. Slander that does not qualify as slander *per se*, thus forcing the plaintiff to prove special damages.

slander *per se*. Slander for which special damages need not be proved because it imputes to the plaintiff any one of the following: (1) a crime involving moral turpitude, (2) a loathsome disease (such as a sexually transmitted disease), (3) conduct that would adversely affect one’s business or profession, or (4) unchastity (*esp.* of a woman).

slanderer, *n.* One who commits slander.

slander of goods. See DISPARAGEMENT.

slander of title. A false statement, made orally or in writing, that casts doubt on another person’s ownership of property. See DISPARAGEMENT.

slander *per quod*. See SLANDER.

slander *per se*. See SLANDER.

SLAPP (slap). *abbr.* A strategic lawsuit against public participation — that is, a suit brought by a developer, corporate executive, or elected official to stifle those who protest against some type of high-dollar initiative or who take an adverse position on a public-interest issue (often involving the environment). — Also termed *SLAPP suit*.

slate. A list of candidates, *esp.* for political office or a corporation’s board of directors.

slavery. 1. A situation in which one person has absolute power over the life, fortune, and liberty of another. **2.** The practice of keeping individuals in such a state of bondage or servitude. • Slavery was outlawed by the 13th Amendment to the U.S. Constitution.

“Slavery was a big problem for the Constitution makers. Those who profited by it insisted on protecting it; those who loathed it dreaded even more the prospect that to insist on abolition would mean that the Constitution would die aborning. So the Framers reached a compromise, of sorts. The words ‘slave’ and ‘slavery’ would never be mentioned, but the Constitution would safeguard the ‘peculiar institution’ from the abolitionists.” Jethro K. Lieberman, *The Evolving Constitution* 493 (1992).

slavery, badge of. See BADGE OF SLAVERY.

slay, *vb.* To kill (a person), *esp.* in battle.

slayer’s rule. The doctrine that neither a person who kills another nor the killer’s heirs can share in the decedent’s estate.

SL/C. See *standby letter of credit* under LETTER OF CREDIT.

SLC. *abbr.* SPECIAL LITIGATION COMMITTEE.

sleeper. A security that has strong market potential but is underpriced and lacks investor interest.

sleeping partner. See *secret partner* under PARTNER.

sliding scale. A pricing method in which prices are determined by a person’s ability to pay.

slight care. See CARE.

slight diligence. See DILIGENCE.

slight evidence. See EVIDENCE.

slight negligence. See NEGLIGENCE.

slip-and-fall case. 1. A lawsuit brought by a plaintiff for injuries sustained in slipping and falling, *usu.* on the defendant’s property. **2.** Loosely, any minor case in tort.

slip decision. See *slip opinion* under OPINION (1).

slip law. An individual pamphlet in which a single enactment is printed immediately after its passage but before its inclusion in the general laws (such as the session laws or the *U.S. Statutes at Large*). — Also termed *slip-law print*.

slip opinion. See OPINION (1).

slough. **1.** (sloo) An arm of a river, separate from the main channel. **2.** (slow) A bog; a place filled with deep mud.

slowdown. An organized effort by workers to decrease production to pressure the employer to take some desired action.

slump, n. A temporary downturn in the economy and in the stock market in particular, characterized by falling market prices.

slush fund. Money that is set aside for undesignated purposes, often corrupt ones, and that is not subject to financial procedures designed to ensure accountability.

Small Business Administration. A federal agency that assists and protects the interests of small businesses, often by making low-interest loans. — Abbr. SBA.

small-business concern. A business qualifying for an exemption from freight undercharges because it is independently owned and operated and is not dominant in its field of operation, with limited numbers of employees and business volume. 15 USCA § 632. — Often shortened to *small business*.

small-business corporation. See CORPORATION.

Small Business Investment Act. A federal law, originally enacted in 1958, under which investment companies may be formed and licensed to supply long-term equity capital to small businesses. • The statute is implemented by the Small Business Administration. 15 USCA §§ 661 et seq.

small-business investment company. A corporation created under state law to provide long-term equity capital to small businesses, as provided under the Small Business Investment Act and regulated by the Small Business Administration. 15 USCA §§ 661 et seq. — Abbr. SBIC.

small claim. A claim for damages at or below a specified monetary amount. See *small-claims court* under COURT.

small-claims court. See COURT.

small-debts court. See *small-claims court* under COURT.

small-estate probate. See PROBATE.

small-loan act. A state law fixing the maximum legal rate of interest and other terms on small, short-term loans by banks and finance companies.

small-loan company. See *consumer finance company* under FINANCE COMPANY.

smart money. **1.** Funds held by sophisticated, usu. large investors who are considered capable of minimizing risks and maximizing profits <the smart money has now left this market>. **2.** See *punitive damages* under DAMAGES <although the jury awarded only \$7,000 in actual damages, it also awarded \$500,000 in smart money>.

Smith Act. A 1948 federal antisedition law that criminalizes advocating the forcible or violent overthrow of the government. 18 USCA § 2385.

"The Smith Act is aimed at the advocacy and teaching of concrete action for the forcible overthrow of the government, and not at advocacy of principles divorced from action. The essential distinction is that those to whom the advocacy is addressed must be urged to do something, now or in the future, rather than merely to believe in something." 70 Am. Jur. 2d *Sedition, Etc.* § 63, at 59 (1987).

smoking gun. A piece of physical or documentary evidence that conclusively impeaches an adversary on an outcome-determinative issue or destroys the adversary's credibility.

smuggling, n. The crime of importing or exporting illegal articles or articles on which duties have not been paid. — **smuggle, vb.** See CONTRABAND.

sober, adj. **1.** (Of a person) not drunk. **2.** (Of a person) regularly abstinent or moderate in the use of intoxicating liquors. **3.** (Of a situation, person, etc.) serious; grave. **4.** (Of facts, arguments, etc.) basic; unexaggerated. **5.** (Of a person) rational; having self-control.

sobrestadia. See ESTADIA.

sobriety checkpoint. A part of a roadway at which police officers maintain a roadblock to stop motorists and ascertain whether the drivers are intoxicated.

sobriety test. A method of determining whether a person is intoxicated. • Among the common sobriety tests are coordination tests and the use of mechanical devices to measure the blood

alcohol content of a person's breath sample. See BREATHALYZER.

field sobriety test. A motor-skills test administered by a peace officer during a stop to determine whether a suspect has been driving while intoxicated. • The test usu. involves checking the suspect's speaking ability or coordination (as by reciting the alphabet or walking in a straight line). — Abbr. FST.

sobrini (sə-brī-nī), *n.* [Latin] *Roman law.* Children of first cousins; second cousins.

soca (sok-ə or soh-kə), *n.* [Law Latin] *Hist.* A seignior granted the privilege of holding a tenant's court.

socage (sok-ij). *Hist.* A type of tenure in which a tenant held lands in exchange for providing the lord husbandry-related (rather than military) service. • Socage, the great residuary tenure, was any free tenure that did not fall within the definition of knight-service, serjeanty, or franalmoin. Cf. KNIGHT-SERVICE; VILLEINAGE.

"If they [the peasant's duties] were fixed — for instance, helping the lord with sowing or reaping at specified times — the tenure was usually called *socage*. This was originally the tenure of *socmen*; but it became . . . a generic term for all free services other than knight-service, serjeanty, or spiritual service." J.H. Baker, *An Introduction to English Legal History* 260 (3d ed. 1990).

free socage. Socage in which the services were both certain and honorable. • By the statute 12 Car. 2, ch. 24 (1660), all the tenures by knight-service were, with minor exceptions, converted into free socage. — Also termed *free and common socage*; *liberum socagium*.

villein socage (vil-ən). Socage in which the services, though certain, were of a baser nature than those provided under free socage.

socager (sok-ij-ər). A tenant by socage; SOCMAN.

socer (soh-sər), *n.* [Latin] *Roman law.* A father-in-law.

social contract. The express or implied agreement between citizens and their government by which individuals agree to surrender certain freedoms in exchange for mutual protection; an agreement forming the foundation of a political society. • The term is primarily associated with political philosophers, such as Thomas Hobbes, John Locke, and esp. Jean Jacques Rousseau, though it can be traced back to the Greek Sophists.

social cost. See COST (1).

social guest. See GUEST.

social harm. See HARM.

social insurance. See INSURANCE.

social justice. See JUSTICE (1).

Social Security Act. A federal law, originally established in 1935 in response to the Great Depression, creating a system of benefits, including old-age and survivors' benefits, and establishing the Social Security Administration. 42 USCA §§ 401-433.

Social Security Administration. A federal agency created by the Social Security Act to institute a national program of social insurance. — Abbr. SSA.

social-service state. See STATE (1).

socida (sə-sī-də), *n.* [Latin] *Civil law.* A contract of bailment by which the bailee assumes the risk of loss; specif., a bailment by which a person delivers animals to another for a fee, on the condition that if any animals perish, the bailee will be liable for the loss.

societas (sə-sī-ə-tas), *n.* [Latin] *Roman law.* A partnership between two or more people agreeing to share profits and losses; a partnership contract.

societas leonina (sə-sī-ə-tas lee-ə-nī-nə), *n.* [Latin "partnership with a lion"] *Roman law.* An illegal partnership in which the profits are distributed to only a few partners to the exclusion of the others; a partnership in which one person takes the lion's share. — Also termed *leonina societas*.

"But an arrangement by which one party should have all the gain was not recognized as binding; it was considered as contrary to the nature and purposes of the *societas*, the aim of which was gain for all the parties concerned. Such an arrangement the lawyers called *societas leonina*, a partnership like that which the lion in the fable imposed upon the cow, the sheep, and the she-goat, his associates in the chase." James Hadley, *Introduction to Roman Law* 231-32 (1881).

societas navalis (sə-sī-ə-tas nə-vay-lis), *n.* [Latin] *Hist.* A naval partnership; an assembly of vessels for mutual protection. — Also termed *admiralitas*.

societas universorum bonorum (sə-sī-ə-tas yoo-ni-vər-sor-əm bə-nor-əm), *n.* *Hist.* An entire partnership, including all the individual partners' property.

société (soh-see-ay-tay), *n.* [French] *French law.* A partnership.

société anonyme (soh-see-ay-tay an-aw-neem), *n.* [French] *French law.* An incorporated joint-stock company.

société d'acquêts (soh-see-ay-tay dah-kay), *n.* [French] *French law.* A written agreement between husband and wife designating community property to be only that property acquired during marriage.

société en commandite (soh-see-ay-tay awn koh-mawn-deet), *n.* [French] *French law.* A limited partnership.

société en nom collectif (soh-see-ay-tay awn nawn koh-lek-teef), *n.* [French] *French law.* A partnership in which all members are jointly and severally liable for the partnership debts; an ordinary partnership.

société en participation (soh-see-ay-tay awn pahr-tee-see-pah-syaww), *n.* *French law.* A joint venture.

société par actions (soh-see-ay-tay pahr ak-syaww), *n.* *French law.* A joint-stock company.

society. **1.** A community of people, as of a state, nation, or locality, with common cultures, traditions, and interests.

civil society. The political body of a state or nation; the body politic.

2. An association or company of persons (usu. unincorporated) united by mutual consent, to deliberate, determine, and act jointly for a common purpose. **3.** The general love, affection, and companionship that family members share with one another.

sociological jurisprudence. See JURISPRUDENCE.

sociology of law. See *sociological jurisprudence* under JURISPRUDENCE.

sociopath, *n.* See PSYCHOPATH. — **sociopathy,** *n.* — **sociopathic,** *adj.*

socius (soh-shee-əs), *n.* [Latin] *Roman law.* **1.** A business partner. **2.** An accomplice; an accessory. **3.** A political ally. Pl. **socii** (soh-shee-i).

socius criminis (soh-shee-əs krim-ə-nis). An associate in crime; an accomplice.

sockman. See SOCMAN.

socman (sok-mən). *Hist.* A person who holds land by socage tenure. — Also spelled *sokeman*; *sockman*. — Also termed *socager*; *gainor*. See SOCAGE.

socmanry (sok-mən-ree). *Hist.* **1.** Free tenure by socage. **2.** Land and tenements held only by simple services; land enfranchised by the sovereign from ancient demesne. ● The tenants were socmen. **3.** The state of being a socman.

socna (sok-nə). *Hist.* A privilege; a liberty; a franchise.

Socratic method. A technique of philosophical discussion — and of law-school instruction — by which the questioner (a law professor) questions one or more followers (the law students), building on each answer with another question, esp. an analogy incorporating the answer. ● This method takes its name from the Greek philosopher Socrates, who lived in Athens from about 469–399 B.C. His method is a traditional one in law schools, primarily because it forces law students to think through issues rationally and deductively — a skill required in the practice of law. Most law professors who employ this method call on students randomly, an approach designed to teach students to think quickly, without stage fright.

“[Socrates] himself did not profess to be capable of teaching anything, except consciousness of ignorance. . . . He called his method of discussion (the *Socratic method*) *obstetrics* . . . because it was an art of inducing his interlocutors to develop their own ideas under a catechetical system.” 5 *The Century Dictionary and Cyclopaedia* 5746 (rev. ed. 1914).

SODDI defense (sahd-ee). *Slang.* The someone-dude-did-it defense; a claim that somebody else committed a crime, usu. made by a criminal defendant who cannot identify the third party.

sodomy (sod-ə-mee), *n.* **1.** Oral or anal copulation between humans, esp. those of the same sex. **2.** Oral or anal copulation between a human and an animal; bestiality. — Also termed *buggery*; *crime against nature*; *abominable and detestable crime against nature*; *unnatural offense*; *unspeakable crime*; (archaically) *sodomistry*. — **sodomize,** *vb.* — **sodomitic,** *adj.* — **sodomist, sodomite,** *n.* Cf. PEDERASTY.

"Sodomy is a carnal copulation against nature; to wit, of man or woman in the same sex, or of either of them with beasts." Sir Henry Finch, *Law, or a Discourse Thereof* 219 (1759).

"Sodomy was not a crime under the common law of England but was an ecclesiastical offense only. It was made a felony by an English statute so early that it is a common-law felony in this country, and statutes expressly making it a felony were widely adopted. 'Sodomy' is a generic term including both 'bestiality' and 'buggery.'" Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 465 (3d ed. 1982).

aggravated sodomy. Criminal sodomy that involves force or results in serious bodily injury to the victim in addition to mental injury and emotional distress. • Some laws provide that sodomy involving a minor is automatically aggravated sodomy.

SOF. *abbr.* STATUTE OF FRAUDS.

soft currency. See CURRENCY.

soft dollars. 1. *Securities.* The credits that brokers give their clients in return for the clients' stock-trading business. 2. The portion of an equity investment that is tax-deductible in the first year. Cf. HARD DOLLARS.

soft goods. See GOODS.

soft law. 1. Collectively, rules that are neither strictly binding nor completely lacking in legal significance. 2. *Int'l law.* Guidelines, policy declarations, or codes of conduct that set standards of conduct but are not directly enforceable.

softmarket. See MARKET.

soft sell. A low-key sales practice characterized by sincerity and professionalism. Cf. HARD SELL.

so help me God. The final words of the common oath. • The phrase is a translation, with a change to first person, of the Latin phrase *ita te Deus adjuvet* "so help you God." See ITA TE DEUS ADJUVET.

soil bank. A federal agricultural program in which farmers are paid to not grow crops or to grow noncommercial vegetation, to preserve the quality of the soil and stabilize commodity prices by avoiding surpluses.

soit (swah). [Law French] Be; let it be. • This term was used in English-law phrases, esp. to indicate the will of the sovereign in a formal communication with Parliament.

soit baile aux commons (swah bayl oh kom-ənz). [Law French] Let it be delivered to the commons. • This is an indorsement on a bill sent to the House of Commons.

soit baile aux seigneurs (swah bayl oh sen-yərz). [Law French] Let it be delivered to the lords. • This is an indorsement on a bill sent to the House of Lords.

soit droit fait al partie (swah droyt [or drwah] fayt [or fay] ahl pahr-tee). [Law French] *Hist.* Let right be done to the party. • This phrase is written on a petition of right and subscribed by the Crown.

soit fait comme il est desire (swah fay[t] kawm eel ay day-zeer-ay). [Law French] Let it be as it is desired. • This is the phrase indicating royal assent to a private act of Parliament.

sojourn (soh-jərn), *n.* A temporary stay by someone who is not just passing through a place but is also not a permanent resident <she set up a three-month sojourn in France>. — **sojourn** (soh-jərn or soh-jərn), *vb.* — **sojourner** (soh-jər-nər or soh-jər-nər), *n.*

sokeman. See SOCMAN.

soke-reeve (sohk-reev). *Hist.* The lord's rent-collector in the soca.

solar day. See DAY.

solar easement. See EASEMENT.

solarium (sə-lair-ee-əm), *n.* [Latin fr. *solum* "soil"] *Roman law.* Rent paid for building on public land; ground rent.

solar month. See MONTH.

solatium (sə-lay-shee-əm), *n.* [Latin "solace"] *Scots law.* Compensation; esp., damages allowed for hurt feelings or grief, as distinguished from damages for physical injury.

Soldiers' and Sailors' Civil Relief Act. A federal law, originally enacted in 1940, protecting the civil rights of persons in military service, as by modifying their civil liability, placing limits on interest rates charged against their obligations, and prescribing specific procedures for claims made against them. 50 USCA app. §§ 501 et seq.

soldier's will. See WILL.

sold note. **1.** See NOTE. **2.** See CONFIRMATION SLIP.

sole-actor doctrine. *Agency.* The rule charging a principal with knowledge of the agent's actions, even if the agent acted fraudulently.

sole and separate use. See *entire use* under USE (4).

sole and unconditional owner. See OWNER.

sole cause. See CAUSE (1).

sole corporation. See CORPORATION.

sole custody. See CUSTODY (2).

solemn admission. See *judicial admission* under ADMISSION (1).

solemnnes legum formulae (sə-lem-nee-z lee-gəm for-myə-lee). [Latin] *Roman law.* Legal formalities required in early Roman law, esp. in civil as opposed to praetorian law.

solemnitas attachamentorum (sə-lem-ni-tas ə-tach-ee-ə-men-tor-əm). [Law Latin] *Hist.* The formality required in issuing attachments of property.

solemnity (sə-lem-nə-tee). **1.** A formality (such as a ceremony) required by law to validate an agreement or action <solemnity of marriage>. **2.** The state of seriousness or solemn respectfulness or observance <solemnity of contract>.

solemnity of contract. The concept that two people may enter into any contract they wish and that the resulting contract is enforceable if formalities are observed and no defenses exist.

solemnization. The performance of a formal marriage ceremony before witnesses, as distinguished from a clandestine or common-law marriage.

solemnize (sol-əm-nīz), *vb.* To enter into (a marriage, contract, etc.) by a formal act, usu. before witnesses. — **solemnization** (sol-əm-nī-zay-shən), *n.*

solemn occasion. In some states, the serious and unusual circumstance in which the supreme court is constitutionally permitted to render advisory opinions to the remaining branches of government, as when the legislature doubts the legality of proposed legislation

and a determination must be made to allow the legislature to exercise its functions. • Some factors that have been considered in determining if a solemn occasion exists include whether an important question of law is presented, whether the question is urgent, whether the matter is ripe for an opinion, and whether the court has enough time to consider the question.

solemn war. See WAR.

sole practitioner. A lawyer who practices law without any partners or associates. — Also termed *solo practitioner*. — Often shortened to *solo*.

sole proprietorship. **1.** A business in which one person owns all the assets, owes all the liabilities, and operates in his or her personal capacity. **2.** Ownership of such a business. — Also termed *individual proprietorship*.

sole-source rule. In a false-advertising action at common law, the principle that a plaintiff may not recover unless it can demonstrate that it has a monopoly in the sale of goods possessing the advertised trait, because only then is it clear that the plaintiff would be harmed by the defendant's advertising.

sole use. See *entire use* under USE (4).

solicitation, n. **1.** The act or an instance of requesting or seeking to obtain something; a request or petition <a solicitation for volunteers to handle at least one pro bono case per year>. **2.** The criminal offense of urging, advising, commanding, or otherwise inciting another to commit a crime <convicted of solicitation of murder>. • Solicitation is an inchoate offense distinct from the solicited crime. — Also termed *criminal solicitation*; *incitement*. Cf. ATTEMPT (2). **3.** An offer to pay or accept money in exchange for sex <the prostitute was charged with solicitation>. **4.** An attempt or effort to gain business <the attorney's solicitations took the form of radio and television ads>. • The Model Rules of Professional Conduct place certain prohibitions on lawyers' direct solicitation of potential clients. **5. Securities.** A request for a proxy; a request to execute, not execute, or revoke a proxy; the furnishing of a form of proxy; or any other communication to security holders under circumstances reasonably calculated to result in the procurement, withholding, or revocation of a proxy. — **solicit, vb.**

solicitation for bids. See INVITATION TO NEGOTIATE.

solicitation of bribe. The crime of asking or enticing another to commit bribery. 18 USCA § 201. See BRIBERY.

solicitee. One who is solicited. See SOLICITATION.

soliciting agent. See AGENT.

solicitor. 1. A person who seeks business or contributions from others; an advertiser or promoter. 2. A person who conducts matters on another's behalf; an agent or representative. 3. The chief law officer of a governmental body or a municipality. 4. In the United Kingdom, a legal adviser who consults with clients and prepares legal documents but is not generally heard in High Court or (in Scotland) Court of Session unless specially licensed. Cf. BARRISTER. 5. See *special agent* under INSURANCE AGENT.

solicitor general. The second-highest-ranking legal officer in a government (after the attorney general); esp., the chief courtroom lawyer for the executive branch. — Abbr. SG. Pl. **solicitors general.**

solidarity. The state of being jointly and severally liable (as for a debt). See *solidary obligation* under OBLIGATION.

solidary (sol-ə-der-ee), adj. (Of a liability or obligation) joint and several. See JOINT AND SEVERAL.

"It is a single debt of £100 owing by each of them, in such fashion that each of them may be compelled to pay the whole of it, but that when it is once paid by either of them, both are discharged from it. Obligations of this description may be called solidary, since in the language of Roman law, each of the debtors is bound in *solidum* instead of *pro parte*; that is to say, for the whole, and not for a proportionate part. A solidary obligation, therefore, may be defined as one in which two or more debtors owe the same thing to the same creditor." John Salmond, *Jurisprudence* 462–63 (Glanville L. Williams ed., 10th ed. 1947).

solidary liability. See LIABILITY.

solidary obligation. See OBLIGATION.

solidum (sol-ə-dəm), n. [Latin] *Roman law.* A whole; an undivided thing. See SOLIDARY.

solinum (sə-lī-nəm), n. [Law Latin] *Hist.* 1. Slightly less than two and a half plowlands. 2. A single plowland.

solitary confinement. Separate confinement that gives a prisoner extremely limited access to other people; esp., the complete isolation of a prisoner.

solo, n. See SOLE PRACTITIONER.

solo practitioner. See SOLE PRACTITIONER.

solum italicum (soh-ləm ɪ-tal-ə-kəm), n. [Latin "Italian land"] *Roman law.* Land in Italy (an extension of the old *ager Romanus*) usu. held by one having full ownership and power to transfer the property by formal methods, such as *mancipatio*. Cf. *solum provinciale*.

solum provinciale (soh-ləm prə-vin-shee-ay-lee), n. [Latin "provincial land"] *Roman law.* Provincial land (an extension of the old *ager Publicus*) ultimately held by the Emperor or state, with private holders having only a possessory title without the right to transfer the property by formal methods, as distinguished from *solum italicum*. • Justinian abolished all distinctions between the two, simplifying the conveyance of both types of land. Cf. SOLUM ITALICUM.

"Ownership of provincial land. The *dominium* of this was in Caesar or the *populus* according as it was an imperial or a senatorial province The holders were practically owners, but as they were not *domini* formal methods of transfer were not applicable. The holdings were however transferable informally The case disappeared when Justinian abolished the distinction between Italic and provincial land. Not all land in the provinces was *solum provinciale*: many provincial communities were given *ius italicum*, the chief result being that the land was in the *dominium* of the holder and not of the State, so that it could be transferred and claimed at law by civil law methods." W.W. Buckland, *A Textbook of Roman Law: From Augustus to Justinian* 190 (Peter Stein ed., 3d ed. 1963).

solutio (sə-loo-shee-oh), n. [Latin fr. *solvere* "to pay"] *Roman law.* Payment of an obligation; satisfaction.

solutio indebiti (sə-loo-shee-oh in-deb-ə-ti). [Latin "payment of what is not owing"] *Roman law.* Payment of a nonexistent debt. • If the payment was made by a mistake of fact, the recipient had a duty to give back the money.

solutio obligationis (sə-loo-shee-oh ob-li-gay-shee-oh-nis). *Roman law.* The unfastening of a legal bond, so that a party previously bound need not perform any longer. Cf. VINCULUM JURIS.

solutus (sə-loo-təs). [Latin fr. *solvere* "to loose"]
1. Roman law. Set free; released from confinement. **2. Scots law.** Purged, esp. in reference to counsel.

solvabilité (sawl-vah-beel-ee-tay), *n.* [French]
French law. Solvency.

solvency, *n.* The ability to pay debts as they come due. — **solvent**, *adj.* Cf. INSOLVENCY.

solvendo esse (sol-ven-doh es-ee). [Latin] *Hist.*
 To be solvent; to be able to pay an obligation.

solvendum in futuro (sol-ven-dəm in f[y]oo-
 t[y]oor-oh). [Latin "to be paid in the future"]
Hist. (Of a debt) due now but payable in the future.

solvere (sol-və-ree), *vb.* [Latin "to unbind"] *Roman law.* To pay (a debt); to release (a person) from an obligation.

solvere poenas (səl-veer-ee pee-nəs). [Latin]
Hist. To pay the penalty.

solvit (sol-vit). [Latin] He paid; paid.

solvit ad diem (sol-vit ad dī-əm). [Law Latin
 "he paid on the day"] *Hist.* In a debt action, a plea that the defendant paid the debt on the due date.

solvit ante diem (sol-vit an-tee dī-əm). [Law Latin
 "he paid before the day"] *Hist.* In a debt action, a plea that the defendant paid the money before the due date.

solvit post diem (sol-vit pohst dī-əm). [Law Latin
 "he paid after the day"] *Hist.* In a debt action on a bond, a plea that the defendant paid the debt after the due date but before commencement of the lawsuit.

somnambulism (sahm-nam-byə-liz-əm). Sleepwalking. • Generally, a person will not be held criminally responsible for an act performed while in this state.

somnolentia (sahm-nə-len-shee-ə). **1.** The state of drowsiness. **2.** A condition of incomplete sleep resembling drunkenness, during which part of the faculties are abnormally excited while the others are dormant; the combined condition of sleeping and wakefulness producing a temporary state of involuntary intoxication. • To the extent that it destroys moral

agency, somnolentia may be a defense to a criminal charge.

son. 1. A person's male child. **2.** An immediate male descendant. **3.** An adopted male child or dependent. **4.** Loosely, any young male person.

son assault demesne (sohn ə-sawlt di-mayn). [French "his own assault"] The plea of self-defense in a tort action, by which the defendant alleges that the plaintiff originally engaged in an assault and that the defendant used only the force necessary to repel the plaintiff's assault and to protect person and property. See SELF-DEFENSE.

son-in-law. The husband of one's daughter.

Son-of-Sam law. A state statute that prohibits a convicted criminal from profiting by selling his or her story rights to a publisher or filmmaker. • State law usu. authorizes prosecutors to seize royalties from a convicted criminal and to place the money in an escrow account for the crime victim's benefit. Such a law was first enacted in New York in 1977, in response to the lucrative book deals that publishers offered David Berkowitz, the serial killer who called himself "Son of Sam." In 1992, the U.S. Supreme Court declared New York's Son-of-Sam law unconstitutional as a content-based speech regulation, prompting many states to amend their laws in an attempt to avoid constitutionality problems. *Simon & Schuster, Inc. v. New York State Crime Victims Bd.*, 502 U.S. 105, 112 S.Ct. 501 (1992).

sonticus (sahn-ti-kəs), *n.* [Latin] *Roman law.* Serious, more than trivial. • The term was used in the Twelve Tables to refer to a serious illness (*morbis sonticus*) that gave a defendant a valid reason not to appear in court.

soror (sor-or), *n.* [Latin] *Roman law.* A sister.

sororicide (sə-ror-ə-sīd). **1.** The act of killing one's own sister. **2.** A person who kills his or her sister.

sors (sors), *n.* [Latin] **1. Roman law.** A lot; a chance. **2. Scots law.** A partnership's capital. **3. Hist.** Principal, as distinguished from interest. **4. Hist.** Something recovered in an action, as distinguished from mere costs.

sortition (sor-tish-ən), *n.* [fr. Latin *sortiri* "to cast lots"] *Roman law.* The drawing of lots, used, for example, in selecting judges for a criminal trial. — Also termed *sortitio*.

sound, *adj.* **1.** (Of health, mind, etc.) good; whole; free from disease or disorder. **2.** (Of property) good; marketable. **3.** (Of discretion) exercised equitably under the circumstances. — **soundness**, *n.*

sound, *vb.* **1.** To be actionable (in) <her claims for physical injury sound in tort, not in contract>. **2.** To be recoverable (in) <his tort action sounds in damages, not in equitable relief>.

sound health. See HEALTH.

source, *n.* The originator or primary agent of an act, circumstance, or result <she was the source of the information> <the side business was the source of income>.

source of law. Something (such as a constitution, treaty, statute, or custom) that provides authority for legislation and for judicial decisions; a point of origin for law or legal analysis. — Also termed *fons juris*.

“The term ‘sources of law’ is ordinarily used in a much narrower sense than will be attributed to it here. In the literature of jurisprudence the problem of ‘sources’ relates to the question: Where does the judge obtain the rules by which to decide cases? In this sense, among the sources of law will be commonly listed: statutes, judicial precedents, custom, the opinion of experts, morality, and equity. In the usual discussions these various sources of law are analyzed and some attempt is made to state the conditions under which each can appropriately be drawn upon in the decision of legal controversies. Curiously, when a legislature is enacting law we do not talk about the ‘sources’ from which it derives its decision as to what the law shall be, though an analysis in these terms might be more enlightening than one directed toward the more restricted function performed by judges. Our concern here will be with ‘sources’ in a much broader sense than is usual in the literature of jurisprudence. Our interest is not so much in sources of laws, as in sources of law. From whence does the law generally draw not only its content but its force in men’s lives?” Lon L. Fuller, *Anatomy of the Law* 69 (1968).

“In the context of legal research, the term ‘sources of law’ can refer to three different concepts which should be distinguished. One, sources of law can refer to the origins of legal concepts and ideas. . . . Two, sources of law can refer to governmental institutions that formulate legal rules. . . . Three, sources of law can refer to the published manifestations of the law. The books, computer databases, microforms, optical disks, and other media that contain legal information are all sources of law.” J. Myron Jacobstein & Roy M. Mersky, *Fundamentals of Legal Research* 1–2 (5th ed. 1990).

South Eastern Reporter. A set of regional lawbooks that, being part of the West Group’s National Reporter System, contain every published decision from Georgia, North Carolina,

South Carolina, Virginia, and West Virginia, from 1887 to date. • The first series ran from 1887 to 1939; the second series is the current one. — Abbr. S.E.; S.E.2d.

Southern Reporter. A set of regional lawbooks that, being part of the West Group’s National Reporter System, contain every published decision from Alabama, Florida, Louisiana, and Mississippi, from 1887 to date. • The first series ran from 1887 to 1941; the second series is the current one. — Abbr. So.; So.2d.

South Western Reporter. A set of regional lawbooks that, being part of the West Group’s National Reporter System, contain every published decision from Arkansas, Kentucky, Missouri, Tennessee, and Texas, from 1886 to date. • The first series ran from 1886 to 1928; the second series is the current one. — Abbr. S.W.; S.W.2d.

sovereign, *n.* **1.** A person, body, or state vested with independent and supreme authority. **2.** The ruler of an independent state. — Also spelled *souvan*. See SOVEREIGNTY.

sovereign immunity. See IMMUNITY (1).

sovereign people. The political body consisting of the collective number of citizens and qualified electors who possess the powers of sovereignty and exercise them through their chosen representatives.

sovereign political power. See POLITICAL POWER.

sovereign power. The power to make and enforce laws.

sovereign right. A unique right possessed by a state or its agencies that enables it to carry out its official functions for the public benefit, as distinguished from certain proprietary rights that it may possess like any other private person.

sovereign state. A state that possesses an independent existence, being complete in itself, without being merely part of a larger whole to whose government it is subject; a political community whose members are bound together by the tie of common subjection to some central authority, whose commands those members must obey. — Also termed *independent state*. Cf. CLIENT STATE.

part-sovereign state. A political community in which part of the powers of external sovereignty are exercised by the home government, and part are vested in or controlled by some other political body or bodies. • Such a state is not fully independent because by the conditions of its existence it is not allowed full freedom of action in external affairs.

sovereignty (sahv-[ə]-rin-tee). **1.** Supreme dominion, authority, or rule. **2.** The supreme political authority of an independent state. **3.** The state itself.

“It is well to [distinguish] the senses in which the word Sovereignty is used. In the ordinary popular sense it means Supremacy, the right to demand obedience. Although the idea of actual power is not absent, the prominent idea is that of some sort of title to exercise control. An ordinary layman would call that person (or body of persons) Sovereign in a State who is obeyed because he is acknowledged to stand at the top, whose will must be expected to prevail, who can get his own way, and make others go his, because such is the practice of the country. Etymologically the word of course means merely superiority, and familiar usage applies it in monarchies to the monarch, because he stands first in the State, be his real power great or small.” James Bryce, *Studies in History and Jurisprudence* 504-05 (1901).

external sovereignty. The power of dealing on a nation's behalf with other national governments.

internal sovereignty. The power that rulers exercise over their own subjects.

sovrän. See SOVEREIGN.

s.p. *abbr.* **1.** SINE PROLE. **2.** Same principle; same point. • This notation, when inserted between two citations, indicates that the second involves the same principles as the first.

space arbitrage. See ARBITRAGE.

spado (spay-doh), *n.* [Latin] *Roman law.* **1.** A eunuch. **2.** One who is incapable of sexual intercourse by reason of impotence. Pl. *spadones* (spə-doh-nee-z).

sparsim (spahr-sim). [Latin] *Hist.* Scattered; here and there. • This term was used in several cases — for example, when an action to recover for waste not only when the injury was complete, but also when the injury was partial or scattered.

“And if waste be done *sparsim*, or here and there, all over a wood, the whole wood shall be recovered; or if in several rooms of a house, the whole house shall be forfeited; because it is impracticable for the reversioner to enjoy only the identical places wasted, when lying interspersed with the other. But if waste be done only in

one end of a wood (or perhaps in one room of a house) if that can be conveniently separated from the rest, that part only is the *locus vastatus*, or thing wasted, and that only shall be forfeited to the reversioner.” 2 William Blackstone, *Commentaries on the Laws of England* 283-84 (1766).

spatae placitum (spay-tee plas-ə-təm), *n.* [Latin “the plea of the sword”] *Hist.* During the reign of Henry II, a court providing swift justice in military matters.

SPE. *abbr.* SPECIAL-PURPOSE ENTITY.

speaker. **1.** One who speaks or makes a speech <the slander claim was viable only against the speaker>. **2.** The president or chair of a legislative body, esp. the House of Representatives <Speaker of the House>.

speaking demurrer. See DEMURRER.

speaking motion. See MOTION.

speaking objection. See OBJECTION.

speaking statute. See STATUTE.

spec. *abbr.* SPECIFICATION.

special, adj. **1.** Of, relating to, or designating a species, kind, or individual thing. **2.** (Of a statute, rule, etc.) designed for a particular purpose. **3.** (Of powers, etc.) unusual; extraordinary.

special acceptance. See ACCEPTANCE (4).

special act. See *special law* under LAW.

special administration. See ADMINISTRATION.

special administrator. See ADMINISTRATOR (1).

special agency. See AGENCY (1).

special agent. See AGENT; INSURANCE AGENT.

special agreement. See *ad hoc compromis* under COMPROMIS.

special allocatur. See ALLOCATUR.

special appearance. See APPEARANCE.

special assessment. See ASSESSMENT.

special-assessment bond. See *special-tax bond* under BOND (3).

special assumpsit. See ASSUMPSIT.

special attorney. See *special counsel* under COUNSEL.

special authority. See AUTHORITY (1).

special bail. See *bail to the action* under BAIL (3).

special bailiff. See BAILIFF.

special benefit. See BENEFIT.

special calendar. See CALENDAR (2).

special case. See *case reserved* (1) under CASE.

special charge. See *special instruction* under JURY INSTRUCTION.

special-circumstances rule. See SPECIAL-FACTS RULE.

special committee. See COMMITTEE.

special contract. See CONTRACT.

special-contract debt. See DEBT.

special counsel. See COUNSEL.

special count. See COUNT.

special court-martial. See COURT-MARTIAL.

special covenant against encumbrances. See COVENANT (4).

special custom. See *local custom* under CUSTOM.

special damages. See DAMAGES.

special demurrer. See DEMURRER.

special deposit. See DEPOSIT (2).

special deputy. See DEPUTY.

special deterrence. See DETERRENCE.

special diligence. See DILIGENCE.

special district. See DISTRICT.

special dividend. See *extraordinary dividend* under DIVIDEND.

special-duty doctrine. *Torts.* The rule that a governmental entity (such as a state or municipality) can be held liable for an individual plaintiff's injury when the entity owed a duty to the plaintiff but not to the general public. • This is an exception to the public-duty doctrine. The special-duty doctrine applies only when the plaintiff has reasonably relied on the governmental entity's assumption of the duty. — Also termed *special-duty exception*. See PUBLIC-DUTY DOCTRINE.

special-duty exception. 1. SPECIAL-DUTY DOCTRINE. 2. SPECIAL-ERRAND DOCTRINE.

special election. See ELECTION.

special employee. See *borrowed employee* under EMPLOYEE.

special employer. See EMPLOYER.

special-errand doctrine. The principle that an employee will be covered by workers' compensation for injuries occurring while the employee is on a journey or special duty for the employer away from the workplace. • This is an exception to the general rule that an employee is not covered for injuries occurring away from work. — Also termed *special-duty exception*; *special-mission exception*. See GOING-AND-COMING RULE.

special exception. 1. A party's objection to the form rather than the substance of an opponent's claim, such as an objection for vagueness or ambiguity. See DEMURRER. Cf. *general exception* (1) under EXCEPTION (1). 2. An allowance in a zoning ordinance for special uses that are considered essential and are not fundamentally incompatible with the original zoning regulations. — Also termed (in sense 2) *conditional use*; *special use*. Cf. VARIANCE (2).

special execution. See EXECUTION.

special executor. See EXECUTOR.

special-facts rule. *Corporations.* The principle that a director or officer has a fiduciary duty to disclose material inside information to a shareholder when engaging in a stock transaction under special circumstances, as when the

shareholder lacks business acumen, the shares are closely held with no readily ascertainable market value, or the director or officer instigated the transaction. • This is an exception to the “majority rule.” — Also termed *special-circumstances rule*. Cf. MAJORITY RULE (2).

special finding. See FINDING OF FACT.

special franchise. See FRANCHISE (2).

special grand jury. See GRAND JURY.

special guaranty. See GUARANTY.

special guardian. See GUARDIAN.

special-hazard rule. The principle that an employee is covered by workers' compensation for injuries received while traveling to or from work if the route used contains unique risks or hazards and is not ordinarily used by the public except in dealing with the employer. • This is an exception to the general rule that an employee is not covered for injuries occurring during the employee's commute. See GOING-AND-COMING RULE. Cf. SPECIAL-MISSION EXCEPTION.

special imparlance. See IMPARLANCE.

special indorsement. See INDORSEMENT.

special injunction. See INJUNCTION.

special instruction. See JURY INSTRUCTION.

special-interest group. An organization that seeks to influence legislation or government policy in favor of a particular interest or issue, esp. by lobbying. — Also termed *special interest*.

special interrogatory. See INTERROGATORY.

special issue. **1.** See ISSUE (1). **2.** See *special interrogatory* under INTERROGATORY.

specialist. **1.** A lawyer who has been board-certified in a specific field of law. See BOARD OF LEGAL SPECIALIZATION. **2.** *Securities.* A securities-exchange member who makes a market in one or more listed securities. • The exchange assigns securities to various specialists and expects them to maintain a fair and orderly market as provided by SEC standards.

special judge. See JUDGE.

special jurisdiction. See *limited jurisdiction* under JURISDICTION.

special jury. See JURY.

special law. See LAW.

special legacy. See *specific legacy* under LEGACY.

special letter of credit. See LETTER OF CREDIT.

special lien. See *particular lien* under LIEN.

special limitation. See LIMITATION.

special litigation committee. *Corporations.* A committee of independent corporate directors assigned to investigate the merits of a shareholder derivative suit and, if appropriate, to recommend maintaining or dismissing the suit. — Abbr. SLC. — Also termed *independent investigation committee; authorized committee*. See DERIVATIVE ACTION.

special malice. See *particular malice* under MALICE.

special master. See MASTER.

special matter. See MATTER.

special meaning. See SECONDARY MEANING.

special meeting. See MEETING.

special message. See MESSAGE.

special-mission exception. See SPECIAL-ER-RAND DOCTRINE.

special mortgage. See MORTGAGE.

special motion. See MOTION.

special-needs analysis. *Criminal procedure.* A balancing test used by the Supreme Court to determine whether certain searches (such as administrative, civil-based, or public-safety searches) impose unreasonably on individual rights.

special occupant. See OCCUPANT.

special offering. See OFFERING.

special owner. See OWNER.

special partner. See *limited partner* under PARTNER.

special partnership. See PARTNERSHIP.

special permit. See SPECIAL-USE PERMIT.

special plea. See PLEA (3).

special pleader. See PLEADER.

special pleading. 1. The common-law system of pleading that required the parties to exchange a series of court papers (such as replications, rebutters, and surrebutters) setting out their contentions in accordance with hypertechnical rules before a case could be tried. • Often, therefore, cases were decided on points of pleading and not on the merits. 2. The art of drafting pleadings under this system. 3. An instance of drafting such a pleading. 4. A responsive pleading that does more than merely deny allegations, as by introducing new matter to justify an otherwise blameworthy act. 5. An argument that is unfairly slanted toward the speaker's viewpoint because it omits unfavorable facts or authorities and develops only favorable ones.

special plea in bar. See PLEA IN BAR.

special plea in error. At common law, a plea alleging some extraneous matter as a ground for defeating a writ of error (such as a release or expiration of the time within which error can be brought), to which the plaintiff in error must reply or demur.

special power. See POWER.

special power of appointment. See *limited power of appointment* under POWER OF APPOINTMENT.

special power of attorney. See POWER OF ATTORNEY.

special prayer. See PRAYER FOR RELIEF.

special privilege. See PRIVILEGE (1).

special proceeding. See PROCEEDING.

special property. See PROPERTY.

special prosecutor. See PROSECUTOR.

special-purpose entity. A business established to perform no function other than to develop, own, and operate a large, complex project (usu. called a *single-purpose project*), esp. so as to limit the number of creditors claiming against the project. • A special-purpose entity provides additional protection for project lenders, which are usu. paid only out of the money generated by the entity's business, because there will be fewer competing claims for that money and because the entity will be less likely to be forced into bankruptcy. A special-purpose entity will sometimes issue securities instead of just receiving a direct loan. — Abbr. SPE. — Also termed *special-purpose vehicle* (SPV). See BANKRUPTCY-REMOTE ENTITY; SINGLE-PURPOSE PROJECT; *project financing* under FINANCING.

special-purpose vehicle. See SPECIAL-PURPOSE ENTITY.

special reference. See REFERENCE.

special registration. See REGISTRATION (1).

special relationship. A nonfiduciary relationship having an element of trust, arising esp. when one person trusts another to exercise a reasonable degree of care and the other knows or ought to know about the reliance. Cf. FIDUCIARY RELATIONSHIP.

special-relationship doctrine. The theory that if a state has assumed control over an individual sufficient to trigger an affirmative duty to protect that individual (as in an involuntary hospitalization or custody), then the state may be liable for the harm inflicted on the individual by a third party. • This is an exception to the general principle prohibiting members of the public from suing state employees for failing to protect them from third parties. — Also termed *special-relationship exception*. Cf. DANGER-CREATION DOCTRINE.

special replication. See REPLICATION.

special reprisal. See REPRISAL.

special retainer. See RETAINER.

special rule. See RULE.

special-sensitivity rule. See EGGHELL-SKULL RULE.

special session. See SESSION.

special setting. See SETTING.

special statute. See STATUTE.

special tail. See *tail special* under TAIL.

special tax. See TAX.

special-tax bond. See BOND (3).

special term. See TERM (5).

special traverse. See TRAVERSE.

special trial setting. See *special setting* under SETTING.

special trust. See *active trust* under TRUST.

specialty. 1. See *contract under seal* under CONTRACT. **2.** See DOCTRINE OF SPECIALTY. **3. Eminent domain.** Unique property (such as a church or cemetery) that is essentially not marketable, so that its value for condemnation purposes is determined by measuring the property's reproduction cost less any depreciation. — Also termed (in sense 3) *specialty property*.

specialty bar. See BAR.

specialty contract. See *contract under seal* under CONTRACT.

specialty debt. See *special-contract debt* under DEBT.

specialty doctrine. See DOCTRINE OF SPECIALTY.

specialty property. See SPECIALTY (3).

special use. See SPECIAL EXCEPTION (2).

special-use permit. A zoning board's authorization to use property in a way that is identified as a special exception in a zoning ordinance. • Unlike a variance, which is an authorized violation of a zoning ordinance, a special-use permit is a permitted exception. — Abbr. SUP. — Also termed *conditional-use permit*; *special permit*. See SPECIAL EXCEPTION (2). Cf. VARIANCE.

special-use valuation. See VALUATION.

special verdict. See VERDICT.

special warranty. See WARRANTY (1).

special warranty deed. See DEED.

specie (spee-shee). See IN SPECIE.

species (spee-sheez). A taxonomic class of organisms uniquely distinguished from other classes by shared characteristics and usu. by an inability to interbreed with members of other classes.

endangered species. A species in danger of becoming extinct; esp., under federal law, a species that is in danger of extinction throughout all or a significant part of its range. • Federal law excludes from the definition a species of the class Insecta if the Environmental Protection Agency determines that it constitutes a pest whose protection would present a significant risk to the human population. 50 CFR § 81.1(c).

threatened species. A species that, within the foreseeable future, is likely to become an endangered species throughout all or a significant part of its range. 16 USCA § 1532(20).

specific, adj. 1. Of, relating to, or designating a particular or defined thing; explicit <specific duties>. **2.** Of or relating to a particular named thing <specific item>. **3.** Conformable to special requirements <specific performance>. — **specificity** (spes-ə-fis-i-tee), *n.* — **specifically, adv.**

specificatio (spes-ə-fi-kay-shee-oh), *n.* [Latin fr. *species* "form" + *facere* "to make"] *Roman & civil law.* A giving of form to materials; making something new from existing property. See ACCESSION.

"**Specificatio.** This may be described as acquisition of a new thing by making it, out of materials wholly or partly belonging to another person. We shall deal only with the case in which the materials are wholly another's. There was in classical law a conflict of opinion on this topic . . . Justinian tells us that there had been a *media sententia* according to which it belonged to the maker if (i) it was irreducible to its former state, and (ii) it really was a *nova species*, where *species* means thing. And this view he adopts as law." W.W. Buckland, *A Manual of Roman Private Law* 143 (2d ed. 1953).

specification. 1. The act of making a detailed statement, esp. of the measurements, quality, materials, or other items to be provided under a contract. **2.** The statement so made. **3. Patents.** A patent applicant's written description of how an invention is constructed and used. Cf.

CLAIM (6). **4. Military law.** A statement of charges against one who is accused of a military offense. **5.** The acquisition of title to materials belonging to another person by converting those materials into a new and different form, as by changing grapes into wine, lumber into shelving, or corn into liquor. • The effect is that the original owner of the materials loses the property rights in them and is left with a right of action for their original value. — Abbr. *spec.*

specific bequest. See BEQUEST.

specific denial. See DENIAL.

specific deposit. See *special deposit* under DEPOSIT (2).

specific devise. See DEVISE.

specific enforcement. See *primary right* under RIGHT.

specific guaranty. See GUARANTY.

specific intent. See INTENT (1).

specific jurisdiction. See JURISDICTION.

specific legacy. See LEGACY.

specific legatee. See LEGATEE.

specific lien. See LIEN.

specific performance. A court-ordered remedy that requires precise fulfillment of a legal or contractual obligation when monetary damages are inappropriate or inadequate, as when the sale of real estate or a rare article is involved. • Specific performance is an equitable remedy that lies within the court's discretion to award whenever the common-law remedy is insufficient, either because damages would be inadequate or because the damages could not possibly be established. — Also termed *specific relief*.

"In essence, the remedy of specific performance enforces the execution of a contract according to its terms, and it may therefore be contrasted with the remedy of damages, which is compensation for non-execution. In specific performance, execution of the contract is enforced by the power of the Court to treat disobedience of its decree as contempt, for which the offender may be imprisoned until he is prepared to comply with the decree. Actually, ... it is not strictly accurate to say that the Court enforces execution of the contract according to its terms, for the Court will not usually intervene until default

upon the contract has occurred, so that enforcement by the Court is later in time than performance carried out by the person bound, without the intervention of the Court." G.W. Keeton, *An Introduction to Equity* 304 (5th ed. 1961).

specific remedy. See REMEDY.

specific tax. See TAX.

specific traverse. See *common traverse* under TRAVERSE.

spectrograph. An electromagnetic machine that analyzes sound, esp. a human voice, by separating and mapping it into elements of frequency, time lapse, and intensity (represented by a series of horizontal and vertical bar lines) to produce a final voiceprint. See VOICEPRINT.

speculation, n. **1.** The buying or selling of something with the expectation of profiting from price fluctuations <he engaged in speculation in the stock market>. **2.** The act or practice of theorizing about matters over which there is no certain knowledge <the public's speculation about the assassination of John F. Kennedy>. — **speculate, vb.** — **speculative, adj.**

speculative damages. See DAMAGES.

speculative risk. See RISK.

speculative security. See SECURITY.

speculator. A knowledgeable, aggressive investor who trades securities to profit from fluctuating market prices.

speech. 1. The expression or communication of thoughts or opinions in spoken words; something spoken or uttered. See FREEDOM OF SPEECH.

commercial speech. Communication (such as advertising and marketing) that involves only the commercial interests of the speaker and the audience, and is therefore afforded lesser First Amendment protection than social, political, or religious speech. Cf. *pure speech*.

corporate speech. Speech deriving from a corporation and protected under the First Amendment. • It does not lose protected status simply because of its corporate source.

hate speech. Speech that carries no meaning other than the expression of hatred for some group, such as a particular race, esp. in cir-

cumstances where the communication is likely to provoke violence. Cf. *group libel* under LIBEL.

pure speech. Words or conduct limited in form to what is necessary to convey the idea. • This type of speech is given the greatest constitutional protection. Cf. *commercial speech*; *symbolic speech*.

sedition speech. Speech advocating the violent overthrow of government. See SEDITION.

symbolic speech. Conduct that expresses opinions or thoughts, such as a hunger strike or the wearing of a black armband. • Symbolic speech does not enjoy the same constitutional protection that pure speech does. — Also termed *speech-plus*. Cf. *pure speech*.

2. English law. An opinion delivered by a Law Lord; JUDGMENT (2).

Speech or Debate Clause. The clause of the U.S. Constitution giving members of Congress immunity for statements made during debate in either the House or the Senate. • This immunity is extended to other areas where it is necessary to prevent impairment of deliberations and other legitimate legislative activities, such as subpoenaing bank records for an investigation. U.S. Const. art. I, § 6., cl. 1. — Also termed *Speech and Debate Clause*. See *congressional immunity* under IMMUNITY (1).

speech-plus. See *symbolic speech* under SPEECH.

speedy execution. See EXECUTION.

speedy remedy. See REMEDY.

speedy trial. *Criminal procedure.* A trial that the prosecution, with reasonable diligence, begins promptly and conducts expeditiously. • The Sixth Amendment secures the right to a speedy trial. In deciding whether an accused has been deprived of that right, courts generally consider the length of the delay, the reason for the delay, and the prejudice to the accused.

Speedy Trial Act of 1974. A federal statute establishing time limits for carrying out the major events (such as information, indictment, arraignment, and trial commencement) in the prosecution of federal criminal cases. 18 USCA §§ 3161–3174.

spending power. See POWER.

spendthrift, n. One who spends lavishly and wastefully; a profligate. — **spendthrift, adj.**

spendthrift trust. See TRUST.

sperate (speer-ət), adj. Archaic. (Of a debt) recoverable; not hopeless. • In determining whether a debt could be collected, consideration was formerly given to whether the debt was *desperate* or *sperate*.

spes accrescendi (speez ak-rə-sen-dī). [Latin “hope of accrual”] Hope of acquiring an extra share of a legacy or inheritance by survival.

spes recuperandi (speez ri-k[y]oo-pə-ran-dī). [Latin “hope of recovery”] Hope of recovering a prize, as from a captured vessel.

spes successionis (speez sək-sesh-ee-oh-nis). [Latin “hope of succession”] Hope of succeeding to a right.

“A mere *spes successionis* must be distinguished from a contingent right. If Matilda has nursed her invalid friend for thirty years, she may have every hope of succeeding to the property, but she has no right.” George Whitecross Paton, *A Textbook of Jurisprudence* 306 (G.W. Paton & David P. Derham eds., 4th ed. 1972).

Spielberg doctrine. *Labor law.* The policy of the National Labor Relations Board to defer to an arbitrator’s decision regarding a contract dispute if (1) the decision is not repugnant to the National Labor Relations Board, (2) the arbitration proceedings provided a hearing as fair as would have been provided before the NLRB, and (3) the contract requires binding arbitration. *Spielberg Mfg. Co.*, 112 NLRB Dec. (CCH) 86 (1955). Cf. COLLYER DOCTRINE.

“In *Spielberg Mfg. Co.* (1955), the Board announced its policy of dismissing an unfair labor practice complaint in deference to an arbitration award already rendered, provided the arbitral procedures were fair and the award was not repugnant to the policies of the Labor Act. . . . The Supreme Court in several cases cited the Board’s deferral policy with approval, noting that the Board has discretion to respect an arbitration award and that arbitration of disputes contributes to industrial peace and stability.” Robert A. Gorman, *Basic Text on Labor Law: Unionization and Collective Bargaining* 751 (1976).

spigurnel (spig-ər-nel), n. *Hist.* An early officer of the Chancery, equivalent to the Sealer of the king’s writs in later times.

spillover. See EXTERNALITY.

spillover theory. The principle that a severance must be granted only when a defendant can show that trial with a codefendant would substantially prejudice the defendant’s case, as when the jury might wrongly use evidence against the defendant.

"The spillover theory involves the question of whether a jury's unfavorable impression of a defendant against whom the evidence is properly admitted will influence the way the jurors view a codefendant The test . . . is whether the jury can keep separate the evidence that is relevant to each defendant and render a fair and impartial verdict." 22A C.J.S. *Criminal Law* § 571, at 190-91 (1989).

spin-off, n. 1. A corporate divestiture in which a division of a corporation becomes an independent company and stock of the new company is distributed to the corporation's shareholders. **2.** The company created by this divestiture. Cf. SPLIT-OFF; SPLIT-UP.

spirit of the law. The general meaning or purpose of the law, as opposed to its literal content. Cf. LETTER OF THE LAW.

spiritual, adj. Of or relating to ecclesiastical rather than secular matters <spiritual corporation>.

spiritual corporation. See CORPORATION.

spiritual court. See *ecclesiastical court* under COURT.

spiritual lord. An archbishop or bishop having a seat in the House of Lords.

spiritual tenure. See TENURE.

spital (spit-əl). *Archaic.* A hospital. — Also termed *spittle*.

spite fence. A fence erected solely to annoy a neighbor, as by blocking the neighbor's view or preventing the neighbor from acquiring an easement of light <the court temporarily enjoined the completion of the 25-foot spite fence>.

spittle. See SPITAL.

split, vb. 1. To divide (a cause of action) into segments or parts. **2.** To issue two or more shares for each old share without changing the shareholder's proportional ownership interest. See STOCK SPLIT.

split-dollar insurance. See INSURANCE.

split fund. See *dual fund* under MUTUAL FUND.

split-funded plan. See EMPLOYEE BENEFIT PLAN.

split gift. See GIFT.

split income. See INCOME.

split-interest trust. See *charitable-remainder trust* under TRUST.

split-level statute. See STATUTE.

split-off, n. 1. The creation of a new corporation by an existing corporation that gives its shareholders stock in the new corporation in return for their stock in the original corporation. **2.** The corporation created by this process. Cf. SPIN-OFF; SPLIT-UP.

split order. See ORDER (4).

split sentence. See SENTENCE.

splitting a cause of action. Separating parts of a demand and pursuing it piecemeal; presenting only a part of a claim in one lawsuit, leaving the rest for a second suit. • This practice has long been considered procedurally impermissible.

split-up, n. The division of a corporation into two or more new corporations. • The shareholders in the original corporation typically receive shares in the new corporations, and the original corporation goes out of business. Cf. SPIN-OFF; SPLIT-OFF.

split verdict. See VERDICT.

spoils of war. See BOOTY (1).

spoils system. The practice of awarding government jobs to supporters and friends of the victorious political party. Cf. MERIT SYSTEM.

spoliation (spoh-lee-ay-shən), n. 1. The intentional destruction, mutilation, alteration, or concealment of evidence, usu. a document. • If proved, spoliation may be used to establish that the evidence was unfavorable to the party responsible. **2.** The seizure of personal or real property by violent means; the act of pillaging. **3.** The taking of a benefit properly belonging to another. **4. Eccles. law.** The wrongful deprivation of a cleric of his benefice. — **spoliate (spoh-lee-ayt), vb.** — **spoliator (spoh-lee-ay-tər), n.**

spolium (spoh-lee-əm), n. [Latin] *Roman law.* Something illegally and violently taken from

another. ● The plural *spolia* was more common than the singular.

Spondesne? Spondeo (spon-deez spon-dee-oh). [Latin] *Roman law*. Do you agree to undertake? I undertake. ● This was a common phrase used to create a stipulation. See STIPULATIO.

spondet peritiam artis (spon-det pə-rish-ee-əm ahr-tis). [Latin “he guarantees his professional skill”] *Hist.* He promised to use the skill of his art. ● This phrase is used in construction contracts to indicate an implied agreement to perform in a workmanlike manner.

sponsalia (spon-say-lee-ə), *n.* [Latin] *Hist.* A betrothal; an espousal. — Also termed *stipulatio sponsalitia*.

sponsalia per verba de futuro (spon-say-lee-ə pər vər-bə dee f[y]oo-t[y]oor-oh). [Latin “espousals by words about the future”] *Hist.* A promise to marry in the future.

“[A] promise to marry in the future (*sponsalia per verba de futuro*) gave rise only to an executory contract of marriage. The regular way of executing the contract was to solemnise the marriage, using present words. But the Canon law acknowledged that it could also be turned into the indissoluble bond of present matrimony by physical consummation Thus, in the absence of carnal copulation, the validity of a marriage had come to depend on whether the contract was by words *de praesenti* or *de futuro* It is hardly surprising that it gave rise to so much wrangling and fraud, and that the commonest species of matrimonial suit in the medieval consistory courts was to interpret and enforce ‘espousals.’” J.H. Baker, *An Introduction to English Legal History* 546 (3d ed. 1990).

sponsio (spon-shee-oh), *n.* [Latin] *Roman law*. An undertaking in the form of an answer to a question in a *stipulatio*, esp. by way of suretyship. See STIPULATIO.

sponsio judicialis (spon-shee-oh joo-dish-ee-ay-lis). [Latin] *Roman law*. A formal promise that the judge is entitled to acquire by virtue of his office.

sponsio ludicra (spon-shee-oh loo-di-krə). [Latin “a laughable promise”] **1.** *Civil law*. An informal understanding that is not enforceable. **2.** *Scots law*. An obligation that a court will not enforce because it does not concern a serious subject; e.g., a gambling agreement.

sponsion (spon-shən), *n.* [fr. Latin *sponsere* “to engage”] **1.** The formal pledge by which a person becomes a surety. **2.** *Int’l law*. An ultra vires promise of an official agent (such as a

general in wartime), requiring later ratification by the principal. **3.** *Roman law*. A form of adpromission accessory to an oral contract. ● Only Roman citizens could make this type of adpromission. See ADPROMISSION. — **sponsional** (spon-shən-əl), *adj.*

sponsor. **1.** One who acts as a surety for another. **2.** A legislator who proposes a bill. **3.** *Civil law*. One who voluntarily intervenes for another without being requested to do so.

spontaneous declaration. *Evidence.* A statement that is made without time to reflect or fabricate and that is related to the circumstances of the perceived occurrence. — Also termed *spontaneous statement*; *spontaneous exclamation*; *spontaneous utterance*. See EXCITED UTTERANCE; PRESENT SENSE IMPRESSION.

sponte oblata (spon-tee ə-blay-tə). [Latin “freely offered”] *Hist.* A gift to the Crown.

sports franchise. See FRANCHISE (3).

sportula (spor-chə-lə), *n.* [Latin] *Roman law*. **1.** A present; a donation, as to the poor. **2.** A fee paid to certain officials for performing judicial duties. — Also termed *sportella*.

spot, *adj.* Made, paid, or delivered immediately <a spot sale> <spot commodities>.

spot market. See MARKET.

spot price. See PRICE.

spot zoning. See ZONING.

spousal abuse. See ABUSE.

spousal allowance. See ALLOWANCE (1).

spousal consortium. See CONSORTIUM.

spousal privilege. See *marital privilege* under PRIVILEGE.

spousals. *Hist.* Mutual promises to marry.

spousal support. See ALIMONY.

spouse. One’s husband or wife by lawful marriage; a married person.

spouse-breach. See ADULTERY.

spray trust. See *sprinkling trust* under TRUST.

spread, n. **1. Banking.** The difference between the interest rate that a financial institution must pay to attract deposits and the rate at which money can be loaned. **2. Securities.** The difference between the highest price a buyer will pay for a security (the *bid price*) and the lowest price at which a seller will sell a security (the *asked price*). **3. Securities.** The simultaneous buying and selling of one or more options or futures contracts on the same security in order to profit from the price difference. **4.** In investment banking, the difference between the price the underwriter pays the issuer of the security and the price paid by the public in the initial offering. • The spread compensates the underwriter for its services; it is made up of the manager's fee, the underwriter's discount, and the selling-group concession or discount. — Also termed (in sense 4) *gross spread*; *underwriting spread*.

spread eagle. See STRADDLE.

spreadsheet. A multicolumned worksheet used esp. by accountants and auditors to summarize and analyze financial transactions.

springing use. See USE (4).

spring tide. See TIDE.

sprinkling trust. See TRUST.

spurious (spyoor-ee-əs), adj. **1.** Deceptively suggesting an erroneous origin; fake <spurious trademarks>. **2.** Of doubtful or low quality <spurious goods that fell apart>. **3. Archaic.** Of illegitimate birth <spurious offspring>.

spurious bank bill. See *spurious banknote* under BANKNOTE.

spurious banknote. See BANKNOTE.

spurious class action. See CLASS ACTION.

spurius (sp[y]oor-ee-əs), n. [Latin] *Roman law.* A bastard; the offspring of unlawful intercourse. See NOTHUS.

SPV. abbr. Special-purpose vehicle. See SPECIAL-PURPOSE ENTITY.

spy. One who secretly observes and collects secret information or intelligence about what another government or company is doing or plans

to do; one who commits espionage. See ESPIONAGE.

square, n. **1.** A certain portion of land within a city limit. — Also termed *block*. **2.** A space set apart for public use. **3.** In a government survey, an area measuring 24 by 24 miles.

squatter. 1. A person who settles on property without any legal claim or title. **2.** A person who settles on public land under a government regulation allowing the person to acquire title upon fulfilling specified conditions.

squatter's rights. The right to acquire title to real property by adverse possession, or by preemption of public lands. See ADVERSE POSSESSION.

squeeze-out, n. An action taken in an attempt to eliminate or reduce a minority interest in a corporation. Cf. FREEZE-OUT.

ss. abbr. **1.** Sections. **2. Subscripti** (i.e., signed below). **3. Sans** (i.e., without). **4.** (Erroneously) *scilicet*.

"Many possible etymologies have been suggested for this mysterious abbreviation. One is that it signifies *scilicet* (= namely, to wit), which is usually abbreviated *sc.* or *scil.* Another is that *ss.* represents '[t]he two gold letters at the ends of the chain of office or "collar" worn by the Lord Chief Justice of the King's Bench' Max Radin, *Law Dictionary* 327 (1955). Mellinkoff suggests that the precise etymology is unknown: 'Lawyers have been using *ss* for nine hundred years and still are not sure what it means.' David Mellinkoff, *The Language of the Law* 296 (1963). In fact, though, it is a flourish deriving from the Year Books — an equivalent of the paragraph mark: '¶.' Hence Lord Hardwicke's statement that *ss.* is nothing more than a division mark. See *Jodderrell v. Cowell*, 95 Eng. Rep. 222, 222 (K.B. 1737) An early formbook writer incorporated it into his forms, and ever since it has been mindlessly perpetuated by one generation after another." Bryan A. Garner, *A Dictionary of Modern Legal Usage* 825 (2d ed. 1995).

SSA. abbr. SOCIAL SECURITY ADMINISTRATION.

SSI. abbr. SUPPLEMENTAL SECURITY INCOME.

SSS. abbr. SELECTIVE SERVICE SYSTEM.

stabilize, vb. **1.** To make firm or steadfast <to stabilize the ship>. **2.** To maintain a particular level or amount <stabilize prices>.

stable stand. Hist. In forest law, a person found standing in a forest either with a bow bent, ready to shoot a deer, or close to a tree with greyhounds on a leash and ready to slip, being

presumptive evidence of an intent to steal the Crown's deer.

stacking, 1. Insurance. The process of obtaining benefits from a second policy on the same claim when recovery from the first policy alone would be inadequate.

judicial stacking. The principle that a court can construe insurance policies to permit stacking, under certain circumstances, when the policies do not specifically provide for stacking but public policy is best served by permitting it.

policy stacking. Stacking that is permitted by the express terms of an insurance policy.

2. A gerrymandering technique in which a large political or racial group is combined in the same district with a larger opposition group. Cf. CRACKING; PACKING.

staff attorney, 1. A lawyer who works for a court, usu. in a permanent position, on matters such as reviewing motions, screening docketing statements, preparing scheduling orders, and examining habeas corpus petitions. • Staff attorneys do not rule on motions or decide cases, but they review, research, and recommend proposed rulings to judges, as well as drafting the orders implementing those rulings. **2.** An in-house lawyer for a corporation.

staff judge advocate. See JUDGE ADVOCATE.

stagflation (stag-flay-shən), *n.* A period of slow economic growth or recession characterized by high inflation, stagnant consumer demand, and high unemployment. — **stagflationary**, *adj.*

staggered board of directors. See BOARD OF DIRECTORS.

stagiarius (stay-jee-air-ee-əs), *n.* [Latin] *Hist.*

1. Eccles. law. A resident canon; an ecclesiastic bound to keep terms of residence. **2.** A stagiary; a law student keeping terms before admission to the bar.

stake, n. 1. Something (such as property) deposited by two or more parties with a third party pending the resolution of a dispute; the subject matter of an interpleader. **2.** An interest or share in a business venture. **3.** Something (esp. money) bet in a wager, game, or contest. **4.** A boundary marker used in land surveys.

stakeholder, 1. A disinterested third party who holds money or property, the right to which is

disputed between two or more other parties. See INTERPLEADER. **2.** A person who has an interest or concern in a business or enterprise, though not necessarily as an owner. **3.** One who holds the money or valuables bet by others in a wager.

stale check. See CHECK.

stale claim. A claim that is barred by the statute of limitations or the defense of laches. — Also termed *stale demand*.

stalking, 1. The act or an instance of following another by stealth. **2.** The offense of following or loitering near another, often surreptitiously, with the purpose of annoying or harassing that person or committing a further crime such as assault or battery. • Some statutory definitions include an element that the person being stalked must reasonably feel harassed, alarmed, or distressed about personal safety or the safety of one or more persons for whom that person is responsible. And some definitions stipulate that acts such as telephoning another and remaining silent during the call amount to stalking.

stallage (stawl-ij), *n. Hist. 1.* The right to erect stalls in public markets. **2.** The cost for that right.

stamp, n. An official mark or seal placed on a document, esp. to indicate that a required tax (such as duty or excise tax) has been paid.

stamp acts. English statutes requiring and regulating stamps on deeds, contracts, legal papers, bills, or other documents.

stamp duty. Hist. A tax raised by requiring stamps sold by the government to be affixed to designated documents, thus forming part of the perpetual revenue. See *stamp tax* under TAX.

“A fifth branch of the perpetual revenue consists in the stamp duties, which are a tax imposed upon all parchment and paper whereon any legal proceedings, or private instruments of almost any nature whatsoever, are written; and also upon licenses . . . and pamphlets containing less than six sheets of paper. These imposts are very various, according to the nature of the thing stamped, rising gradually from a penny to ten pounds.”
1 William Blackstone, *Commentaries on the Laws of England* 312–13 (1765).

stamp tax. See TAX.

standard, n. 1. A model accepted as correct by custom, consent, or authority <what is the standard in the ant-farm industry?>. **2.** A cri-

terion for measuring acceptability, quality, or accuracy <the attorney was making a nice living — even by New York standards>. — **standard**, *adj.*

objective standard. A legal standard that is based on conduct and perceptions external to a particular person. ● In tort law, for example, the reasonable-person standard is considered an objective standard because it does not require a determination of what the defendant was thinking.

subjective standard. A legal standard that is peculiar to a particular person and based on the person's individual views and experiences. ● In criminal law, for example, premeditation is determined by a subjective standard because it depends on the defendant's mental state.

standard deduction. See DEDUCTION.

standard-form contract. See CONTRACT.

standard instruction. See JURY INSTRUCTION.

standard mortgage clause. See MORTGAGE CLAUSE.

standard of care. *Torts.* In the law of negligence, the degree of care that a reasonable person should exercise. See CARE (2).

standard of need. In public-assistance law, the total subsistence resources required by an individual or family unit as determined by a state and, when unsatisfied by available resources, entitles the individual or family unit to public assistance.

standard of proof. The degree or level of proof demanded in a specific case, such as "beyond a reasonable doubt" or "by a preponderance of the evidence." See BURDEN OF PERSUASION.

standard policy. See INSURANCE POLICY.

standby commitment. An arrangement between an underwriter and an issuer of securities whereby the underwriter agrees, for a fee, to buy any unsold shares remaining after the public offering. — Also termed *standby underwriting agreement*.

standby counsel. See COUNSEL.

standby letter of credit. See LETTER OF CREDIT.

standby underwriting. See UNDERWRITING.

standby underwriting agreement. See STANDBY COMMITMENT.

standing, *n.* A party's right to make a legal claim or seek judicial enforcement of a duty or right. ● To have standing in federal court, a plaintiff must show (1) that the challenged conduct has caused the plaintiff actual injury, and (2) that the interest sought to be protected is within the zone of interests meant to be regulated by the statutory or constitutional guarantee in question. — Also termed *standing to sue*. Cf. JUSTICIABILITY.

"Have the appellants alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions? This is the gist of the question of standing." *Baker v. Carr*, 369 U.S. 186, 204, 82 S.Ct. 691, 703 (1962) (Brennan, J.).

"The word *standing* is rather recent in the basic judicial vocabulary and does not appear to have been commonly used until the middle of our own century. No authority that I have found introduces the term with proper explanations and apologies and announces that henceforth *standing* should be used to describe who may be heard by a judge. Nor was there any sudden adoption by tacit consent. The word appears here and there, spreading very gradually with no discernible pattern. Judges and lawyers found themselves using the term and did not ask why they did so or where it came from." Joseph Vining, *Legal Identity* 55 (1978).

third-party standing. Standing held by someone claiming to protect the rights of others.

standing aside a juror. The prosecution practice of provisionally placing a juror aside until the panel is exhausted, without providing a reason, instead of challenging the juror or showing cause. ● The practice originally developed as a method of avoiding the Challenge of Jurors Act (1305), which prohibited the Crown from challenging a juror without showing cause. A similar practice was formerly used in Pennsylvania.

standing by. 1. The awaiting of an opportunity to respond, as with assistance. 2. Silence or inaction when there is a duty to speak or act; esp., the tacit possession of knowledge under circumstances requiring the possessor to reveal the knowledge. See *estoppel by silence* under ESTOPPEL.

standing committee. See COMMITTEE.

Standing Committee on Rules of Practice and Procedure. A group of judges, lawyers, and legal scholars appointed by the Chief Justice of the United States to advise the Judicial Conference of the United States on possible amendments to the procedural rules in the various federal courts and on other issues relating to the operation of the federal courts. 28 USCA § 331.

"[Under 28 USCA § 331], the Judicial Conference of the United States has created a Standing Committee on Rules of Practice and Procedure and has authorized the appointment from time to time of various advisory committees. These committees make recommendations regarding amendments of the rules to the Judicial Conference, which in turn transmits those recommendations it approves to the Supreme Court. Under this new plan, as under the machinery in effect from 1934 to 1956, the Court retains the ultimate responsibility for the adoption of amendments to the rules." 4 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1007, at 35 (2d ed. 1987).

standing master. See MASTER.

standing mortgage. See *interest-only mortgage* under MORTGAGE.

standing offer. See OFFER.

standing order. See ORDER (2).

standing seised to uses. Holding title for the benefit or use of another, such as a relative in consideration of blood or marriage. ● A covenant to stand seised to uses is a type of conveyance that depends on the Statute of Uses for its effect. — Often shortened to *seised to uses*. See STATUTE OF USES.

standing to sue. See STANDING.

stand mute. 1. (Of a defendant) to refuse to enter a plea to a criminal charge. ● Standing mute is treated as a plea of not guilty. **2.** (Of any party) to raise no objections.

standstill agreement. Any agreement to refrain from taking further action; esp., an agreement by which a party agrees to refrain from further attempts to take over a corporation (as by making no tender offer) for a specified period, or by which financial institutions agree not to call bonds or loans when due.

stand trial. To submit to a legal proceeding, esp. a criminal prosecution.

staple (stay-pəl). *Hist. 1.* A key commodity such as wool, leather, tin, lead, butter, or cheese (collectively termed *the staple*). **2.** A town appointed by the Crown as an exclusive market for staple products. See STATUTE STAPLE.

Star Chamber. 1. *Hist.* An English court having broad civil and criminal jurisdiction at the king's discretion and noted for its secretive, arbitrary, and oppressive procedures, including compulsory self-incrimination, inquisitorial investigation, and the absence of juries. ● The Star Chamber was abolished in 1641 because of its abuses of power. — Also termed *Court of Star Chamber. 2.* (*usu. l.c.*) Any secretive, arbitrary, or oppressive tribunal or proceeding.

stare decisis (stahr-ee di-si-sis or stair-ee), n. [Latin "to stand by things decided"] The doctrine of precedent, under which it is necessary for a court to follow earlier judicial decisions when the same points arise again in litigation. See PRECEDENT; NON QUIETA MOVERE. Cf. RES JUDICATA; LAW OF THE CASE.

"The rule of adherence to judicial precedents finds its expression in the doctrine of stare decisis. This doctrine is simply that, when a point or principle of law has been once officially decided or settled by the ruling of a competent court in a case in which it is directly and necessarily involved, it will no longer be considered as open to examination or to a new ruling by the same tribunal, or by those which are bound to follow its adjudications, unless it be for urgent reasons and in exceptional cases." William M. Lile et al., *Brief Making and the Use of Law Books* 321 (3d ed. 1914).

"The general orthodox interpretation of *stare decisis* ... is *stare rationibus decidendis* ('keep to the *rationes decidendi* of past cases'), but a narrower and more literal interpretation is sometimes employed. To appreciate this narrower interpretation it is necessary to refer ... to Lord Halsbury's assertion that a case is only authority for what it actually decides. We saw that situations can arise in which all that is binding is the decision. According to Lord Reid, such a situation arises when the *ratio decidendi* of a previous case is obscure, out of accord with authority or established principle, or too broadly expressed." Rupert Cross & J.W. Harris, *Precedent in English Law* 100-01 (4th ed. 1991).

stare decisis et non quieta movere (stair-ee di-si-sis et non kwi-ee-tə moh-veer-ee). [Latin] To stand by things decided, and not to disturb settled points. See STARE DECISIS.

stare in judicio (stair-ee in joo-dish-ee-oh). [Latin] *Hist.* To appear before a tribunal as either a plaintiff or a defendant.

star paging, n. 1. A method of referring to a page in an earlier edition of a book, esp. a legal source. ● This method correlates the pagination

of the later edition with that of the earlier (usu. the first) edition. **2.** By extension, the method of displaying on a computer screen the page breaks that occur in printed documents such as law reports and law reviews. — Also termed *star pagination*. — **star page**, *n.*

starr (stahr), *n.* [fr. Latin *starrum* fr. Hebrew *sh'tar* "a writing"] *Hist.* A Jewish contract (esp. for release of an obligation) that Richard I declared to be invalid unless it was placed in a lawful repository, the largest being in the king's Exchequer at Westminster. — Also termed *starra*.

"It is well known that, before the banishment of the Jews under Edward I, their contracts and obligations were denominated in our ancient records *starra* or *starrs*, from a corruption of the Hebrew word, *shet'ar*, a covenant. . . . These starrs, by an ordinance of Richard the first . . . were commanded to be enrolled and deposited in chests under three keys in certain places; one, and the most considerable, of which was in the king's exchequer at Westminster. . . . [T]he room at the exchequer, where the chests containing these starrs were kept, was probably called the *starr-chamber*, and, when the Jews were expelled the kingdom, was applied to the use of the king's council, when sitting in their judicial capacity." 4 William Blackstone, *Commentaries on the Laws of England* 263 n.a (1769).

stash, *vb.* To hide or conceal (money or property).

stat. *abbr.* STATUTE.

state, *n.* **1.** The political system of a body of people who are politically organized; the system of rules by which jurisdiction and authority are exercised over such a body of people <separation of church and state>. — Also termed *political society*. Cf. NATION.

"A state or political society is an association of human beings established for the attainment of certain ends by certain means. It is the most important of all the various kinds of society in which men unite, being indeed the necessary basis and condition of peace, order, and civilization. What then is the difference between this and other forms of association? In what does the state differ from such other societies as a church, a university, a joint-stock company, or a trade union? The difference is clearly one of *function*. The state must be defined by reference to such of its activities and purposes as are essential and characteristic." John Salmond, *Jurisprudence* 129 (Glanville L. Williams ed., 10th ed. 1947).

"A state is an *institution*, that is to say, it is a system of relations which men establish among themselves as a means of securing certain objects, of which the most fundamental is a system of order within which their activities can be carried on. Modern states are territorial; their governments exercise control over persons and things within their frontiers, and today the whole of the habitable world is divided between about seventy of

these territorial states. A state should not be confused with the whole community of persons living on its territory; it is only one among a multitude of other institutions, such as churches and corporations, which a community establishes for securing different objects, though obviously it is one of tremendous importance; none the less it is not, except in the ideology of totalitarianism, an all-embracing institution, not something from which, or within which, all other institutions and associations have their being; many institutions, e.g. the Roman Catholic Church, and many associations, e.g. federations of employers and of workers, transcend the boundaries of any single state." J.L. Brierly, *The Law of Nations* 118 (5th ed. 1955).

composite state. A state that comprises an aggregate or group of constituent states.

dependent state. See *nonsovereign state*.

federal state. A composite state in which the sovereignty of the entire state is divided between the central or federal government and the local governments of the several constituent states; a union of states in which the control of the external relations of all the member states has been surrendered to a central government so that the only state that exists for international purposes is the one formed by the union. Cf. *confederation of states* under CONFEDERATION.

imperial state. *Archaic.* A composite state in which a common or central government possesses in itself the entire sovereignty, so that the constituent states possess no portion of this sovereignty.

nonsovereign state. A state that is a constituent part of a greater state that includes both it and one or more others, and to whose government it is subject; a state that is not complete and self-existent. — Also termed *dependent state*.

police state. A state in which the political, economic, and social life of its citizens is subject to repressive governmental control and arbitrary uses of power by the ruling elite, which uses the police as the instrument of control; a totalitarian state.

simple state. See *unitary state*.

social-service state. A state that uses its power to create laws and regulations to provide for the welfare of its citizens.

sovereign state. See SOVEREIGN STATE.

unitary state. A state that is not made up of territorial divisions that are states themselves. — Also termed (archaically) *simple state*.

2. An institution of self-government within a larger political entity; esp., one of the constituent parts of a nation having a federal govern-

ment <the 50 states>. — Also termed *nonsovereign state*. **3.** (*often cap.*) The prosecution as the representative of the people <the State rests its case>.

state action. Anything done by a government; esp., in constitutional law, an intrusion on a person's rights (esp. civil rights) either by a governmental entity or by a private requirement that can be enforced only by governmental action (such as a racially restrictive covenant, which requires judicial action for enforcement).

state-action doctrine. *Antitrust.* The principle that the antitrust laws do not prohibit a state's anticompetitive acts, or official acts directed by a state. *Parker v. Brown*, 317 U.S. 341, 63 S.Ct. 307 (1943). — Also termed *Parker doctrine*. See MIDCAL TEST.

state auditor. The appointed or elected official responsible for overseeing state fiscal transactions and auditing state-agency accounts. See AUDIT.

state bank. See BANK.

state bar association. See BAR ASSOCIATION.

state bond. See BOND (3).

state-compulsion test. *Civil-rights law.* The rule that a state is responsible for discrimination that a private party commits while acting under the requirements of state law, as when a restaurant owner is required by state law to refuse service to minorities. *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 90 S.Ct. 1598 (1970). See SYMBIOTIC-RELATIONSHIP TEST; NEXUS TEST.

state court. See COURT.

state criminal. See CRIMINAL.

stated, adj. **1.** Fixed; determined; settled <at the stated time> <settlement for a stated amount>. **2.** Expressed; declared <stated facts>.

stated account. See *account stated* under ACCOUNT.

stated capital. See CAPITAL.

State Department. An executive department, headed by the Secretary of State, responsible

for analyzing, making recommendations on, and carrying out matters of foreign policy (including trade relations, environmental concerns, and human-rights issues), as by negotiating treaties and other international agreements, and representing the United States in the United Nations and other international organizations. — Also termed *Department of State*. 22 USCA §§ 2651-2728.

stated interest rate. See *nominal rate* under INTEREST RATE.

stated meeting. See *annual meeting* under MEETING.

stated rate. See *nominal rate* under INTEREST RATE.

stated term. See *general term* under TERM (5).

stated value. See PAR VALUE.

state government. See GOVERNMENT.

state law. A body of law in a particular state consisting of the state's constitution, statutes, regulations, and common law. Cf. FEDERAL LAW.

stateless person. *Int'l law.* A natural person who is not considered a national by any country. • The Stateless Persons Convention (1954) provides these people with certain protections, as well as obliging them to abide by the laws of the country where they reside.

"It is, of course, quite possible that a person may be without any nationality, in which case he is referred to as a *stateless person*." Oscar Svarlien, *An Introduction to the Law of Nations* 428 (1955).

statement. **1. Evidence.** A verbal assertion or nonverbal conduct intended as an assertion. **2.** A formal and exact presentation of facts. **3. Criminal procedure.** An account of a person's (usu. a suspect's) knowledge of a crime, taken by the police pursuant to their investigation of the offense. Cf. CONFESSION.

consonant statement. A prior declaration of a witness, testified to by a person to whom the declaration was made and allowed into evidence only after the witness's testimony has been impeached. • This type of evidence would, but for the impeachment of the witness, be inadmissible hearsay.

false statement. See FALSE STATEMENT.

financial statement. See FINANCIAL STATEMENT.

incriminating statement. A statement that tends to establish the guilt of an accused.

prior consistent statement. See PRIOR CONSISTENT STATEMENT.

prior inconsistent statement. See PRIOR INCONSISTENT STATEMENT.

sworn statement. 1. A statement given under oath; an affidavit. 2. A contractor-builder's listing of suppliers and subcontractors, and their respective bids, required by a lending institution for interim financing.

voluntary statement. A statement free from duress, coercion, or inducement.

Statement and Account Clause. The clause of the U.S. Constitution requiring the regular publication of the receipts and expenditures of the federal government. U.S. Const. art. I, § 9, cl. 7.

statement of account. 1. A report issued periodically (usu. monthly) by a bank to a customer, providing certain information on the customer's account, including the checks drawn and cleared, deposits made, charges debited, and the account balance. — Also termed *bank statement*. 2. A report issued periodically (usu. monthly) by a creditor to a customer, providing certain information on the customer's account, including the amounts billed, credits given, and the balance due. — Also termed *account statement*.

statement of affairs. 1. STATEMENT OF FINANCIAL AFFAIRS. 2. A balance sheet showing immediate liquidation values (rather than historical costs), usu. prepared when insolvency is imminent.

statement of claim. 1. COMPLAINT (1). 2. *English law.* A plaintiff's initial pleading in a civil case; DECLARATION (7).

statement of condition. See BALANCE SHEET.

statement of confession. See CONFESSION OF JUDGMENT.

statement of defense. The assertions by a defendant; esp., in England, the defendant's answer to the plaintiff's statement of claim.

statement of facts. A party's written presentation of the facts leading up to or surrounding a legal dispute, usu. recited toward the beginning of a brief.

agreed statement of facts. A narrative statement of facts that is stipulated to be correct by the parties and is submitted to a tribunal for a ruling. • When the narrative statement is filed on appeal instead of a report of the trial proceedings, it is called an *agreed statement on appeal*.

statement of financial affairs. *Bankruptcy.* A document that an individual or corporate debtor must file to answer questions about its past and present financial status, including any previous bankruptcy, the location of any current accounts, and its recent or current debt. — Also termed *statement of affairs*.

statement of financial condition. See BALANCE SHEET.

statement of financial position. See BALANCE SHEET.

statement of income. See INCOME STATEMENT.

statement of intention. *Bankruptcy.* A preliminary statement filed by the debtor in a Chapter 7 case, in which the debtor details whether property secured by consumer debt will be retained or surrendered and whether the property is claimed as exempt. • The statement usu. must be filed before the first creditors' meeting or within 30 days from the petition-filing date, whichever is earlier. 11 USCA § 521.

statement of particulars. See BILL OF PARTICULARS.

state of art. See STATE OF THE ART.

state officer. See OFFICER (1).

state of mind. 1. The condition or capacity of a person's mind; MENS REA. 2. Loosely, a person's reasons or motives for committing an act, esp. a criminal act.

state-of-mind exception. *Evidence.* The principle that an out-of-court declaration of an existing motive is admissible, even when the declarant cannot testify in person. • This principle constitutes an exception to the hearsay rule.

state of nature. The lack of a politically organized society. • The term is a fictional construct for the period in human history predating any type of political society.

"[W]e may make use of the contrast, familiar to the philosophy of the seventeenth and eighteenth centuries,

between the civil state and the state of nature. This state of nature is now commonly rejected as one of the fictions which flourished in the era of the social contract, but such treatment is needlessly severe. The term certainly became associated with much false or exaggerated doctrine touching the golden age, on the one hand, and the *bellum omnium contra omnes* of Hobbes, on the other, but in itself it nevertheless affords a convenient mode for the expression of an undoubted truth. As long as there have been men, there has probably been some form of human society. The state of nature, therefore, is not the absence of society, but the absence of a society so organized on the basis of physical force as to constitute a state. Though human society is coeval with mankind, the rise of political society, properly so called, is an event in human history." John Salmond, *Jurisprudence* 103-04 (Glanville L. Williams ed., 10th ed. 1947).

state of the art. *Products liability.* The level of pertinent scientific and technical knowledge existing at the time of a product's manufacture, and the best technology reasonably available at the time the product was sold. — Also termed *state of art.* — **state-of-the-art**, *adj.*

"While the statutes in effect in some jurisdictions speak in terms of a state of the art defense, statutes in other jurisdictions provide that state of the art evidence is admissible or may be considered by the trier of fact by statute, and that in determining whether a product was in a defective condition or unreasonably dangerous at the time it left the control of the manufacturer or seller, consideration is given to the state of scientific and technical knowledge available to the manufacturer or seller at the time the product was placed on the market, and to the customary designs, methods, standards, and techniques of manufacturing, inspecting, and testing used by other manufacturers or sellers of similar products." 63A Am. Jur. 2d *Products Liability* § 1319, at 472 (1997).

state of the case. The posture of litigation as it develops, as in discovery, at trial, or on appeal.

State of the Union. See *Presidential message* under MESSAGE.

state of war. A situation in which war has been declared or armed conflict is in progress.

state paper. **1.** A document prepared by or relating to a state or national government and affecting the administration of that government in its political or international relations. **2.** A newspaper officially designated for the publication of public statutes, resolutions, notices, and advertisements.

state paper office. *Hist.* An office established in London in 1578, headed by the Clerk of the Papers, to maintain custody of state documents.

state police. The department or agency of a state government empowered to maintain order, as by investigating and preventing crimes, and making arrests.

state police power. The power of a state to enforce laws for the health, welfare, morals, and safety of its citizens, if enacted so that the means are reasonably calculated to protect those legitimate state interests.

state's attorney. See DISTRICT ATTORNEY.

state seal. See *great seal* under SEAL.

state secret. A governmental matter that would be a threat to the national defense or diplomatic interests of the United States if revealed, and is therefore protected against disclosure by a witness in an ordinary judicial proceeding.

state-secrets privilege. See PRIVILEGE (3).

state's evidence. See EVIDENCE.

state's evidence, turn. See TURN STATE'S EVIDENCE.

state sovereignty. The right of a state to self-government; the supreme authority exercised by each state.

states' rights. Under the Tenth Amendment, rights neither conferred on the federal government nor forbidden to the states.

state tax. See TAX.

state trial. See TRIAL.

stateway, n. A governmental policy or law. • This term is formed on the analogy of *folkway*.

statim (stay-tim). [Latin] *Hist.* Immediately; at the earliest possible time when an act might lawfully be completed.

station. **1.** Social position or status. See STATUS. **2.** A place where military duties are performed or military goods are stored. **3.** A headquarters, as of a police department. **4.** A place where both freight and passengers are received for transport or delivered after transport. **5.** *Civil law.* A place where ships may safely travel.

Stationers' Company. *Hist.* An association of stationers and their successors, established in

London in 1557 and entrusted, by order of the Privy Council, with censorship of the press.

Stationers' Hall. *Hist.* The hall of the Stationers' Company, established in London in 1553, at which every person claiming a copyright was required to register as a condition precedent to filing an infringement action.

"Accordingly 'Entered at Stationers' Hall' on the title page of books was a form of warning to pirates that the owner of the copyright could and might sue. This requirement disappeared with the Copyright Act, 1911." David M. Walker, *The Oxford Companion to Law* 1182 (1980).

Stationery Office. *Hist. English law.* A government office established in 1786 as a department of the treasury, to supply government offices (including Parliament) with stationery and books, and to print and publish government papers. — Also termed *Her Majesty's Stationery Office*.

stationhouse. 1. A police station or precinct. **2.** The lockup at a police precinct. See *cash bail* under BAIL (1).

stationhouse bail. See *cash bail* under BAIL.

statist (stay-tist). 1. *Archaic.* A statesman; a politician. **2.** A statistician.

statistical-decision theory. A method for determining whether a panel of potential jurors was selected from a fair cross-section of the community, by calculating the probabilities of selecting a certain number of jurors from a particular group to analyze whether it is statistically probable that the jury pool was selected by mere chance. • This method has been criticized because a pool of potential jurors is not ordinarily selected by mere chance; potential jurors are disqualified for a number of legitimate reasons. See FAIR-CROSS-SECTION REQUIREMENT; ABSOLUTE DISPARITY; COMPARATIVE DISPARITY; DUREN TEST.

statuliber (stach-ə-lī-bər), *n.* [Latin] *Roman law.* A person whose freedom under a will is made conditional or postponed; a person who will be free at a particular time or when certain conditions are met. — Also written *statu liber* (stay-t[y]oo lī-bər).

"The *statuliber* is one who has freedom arranged to take effect on completion of a period or fulfillment of a condition. Men become *statuliberi* as a result of an express condition, or by the very nature of the case. The meaning of 'express condition' presents no problem. The status arises from the very nature of the case when men

are manumitted for the purpose of defrauding a creditor; for so long as it is uncertain whether the creditor will use his right, the men remain *statuliberi*, since fraud is taken in the *lex Aelia Sentia* to involve actual damage." *Digest of Justinian* 40.7.1 (Paul, ad Sabinum 5).

status. 1. A person's legal condition, whether personal or proprietary; the sum total of a person's legal rights, duties, liabilities, and other legal relations, or any particular group of them separately considered <the status of a landowner>. **2.** A person's legal condition regarding personal rights but excluding proprietary relations <the status of a father> <the status of a wife>. **3.** A person's capacities and incapacities, as opposed to other elements of personal status <the status of minors>. **4.** A person's legal condition insofar as it is imposed by the law without the person's consent, as opposed to a condition that the person has acquired by agreement <the status of a slave>.

"By the status (or standing) of a person is meant the position that he holds with reference to the rights which are recognized and maintained by the law — in other words, his capacity for the exercise, and enjoyment of legal rights." James Hadley, *Introduction to Roman Law* 106 (1881).

"The word 'status' itself originally signified nothing more than the position of a person before the law. Therefore, every person (except slaves, who were not regarded as persons, for legal purposes) had a *status*. But, as a result of the modern tendency towards legal equality formerly noticed, differences of *status* became less and less frequent, and the importance of the subject has greatly diminished, with the result that the term *status* is now used, at any rate in English Law, in connection only with those comparatively few classes of persons in the community who, by reason of their conspicuous differences from normal persons, and the fact that by no decision of their own can they get rid of these differences, require separate consideration in an account of the law. But professional or even political differences do not amount to *status*; thus peers, physicians, clergymen of the established Church, and many other classes of persons, are not regarded as the subjects of *status*, because the legal differences which distinguish them from other persons, though substantial, are not enough to make them legally abnormal. And landowners, merchants, manufacturers, and wage-earners are not subjects of the Law of Status, though the last-named are, as the result of recent legislation, tending to approach that position." Edward Jenks, *The Book of English Law* 109 (P.B. Fairest ed., 6th ed. 1967).

status, law of. See LAW OF STATUS.

status crime. See CRIME.

status de manerio (stay-təs dee mə-neer-ee-oh). [Law Latin "the state of a manor"] *Hist.* The assembly of tenants to attend the lord's court.

status offender. See OFFENDER.

status offense. See OFFENSE (1).

status of irremovability. *Hist.* A pauper's right not to be removed from a parish after residing there for one year.

status quo (*stay-təs or stat-əs kwoh*). [Latin] The situation that currently exists.

status quo ante (*stay-təs kwoh an-tee*). [Latin] The situation that existed before something else (being discussed) occurred.

statutable (*stach-ə-tə-bəl*), *adj.* **1.** Prescribed or authorized by statute. **2.** Conformed to the legislative requirements for quality, size, amount, or the like. **3.** (Of an offense) punishable by law. See STATUTORY.

statute. A law passed by a legislative body. — Abbr. s.; stat.

"[W]e are not justified in limiting the statutory law to those rules only which are promulgated by what we commonly call 'legislatures.' Any positive enactment to which the state gives the force of a law is a 'statute,' whether it has gone through the usual stages of legislative proceedings, or has been adopted in other modes of expressing the will of the people or other sovereign power of the state. In an absolute monarchy, an edict of the ruling sovereign is statutory law. Constitutions, being direct legislation by the people, must be included in the statutory law, and indeed they are examples of the highest form that the statute law can assume. Generally speaking, treaties also are statutory law, because in this country, under the provisions of the United States Constitution, treaties have not the force of law until so declared by the representatives of the people." William M. Lile et al., *Brief Making and the Use of Law Books* 8 (3d ed. 1914).

affirmative statute. A law requiring that something be done; one that directs the doing of an act. Cf. *negative statute*.

codifying statute. A law that purports to be exhaustive in restating the whole of the law on a particular topic, including prior caselaw as well as legislative provisions. • Courts generally presume that a codifying statute supersedes prior caselaw. Cf. *consolidating statute*.

compiled statutes. Laws that have been arranged by subject but have not been substantively changed; COMPILATION. Cf. *revised statutes*.

"The term 'compiled statutes' is properly applied to a methodical arrangement, without revision or reenactment, of the existing statutes of a State, all the statutes on a given subject being collected in one place. The work is usually performed by private persons; and the former statutes, as they were before the compilation, remain the

authority." Frank Hall Childs, *Where and How to Find the Law* 12 (1922).

consolidating statute. A law that collects the legislative provisions on a particular subject and embodies them in a single statute, often with minor amendments and drafting improvements. • Courts generally presume that a consolidating statute leaves prior case-law intact. Cf. *codifying statute*.

"A distinction of greater importance in this field is that between consolidating and codifying statutes. A consolidating statute is one which collects the statutory provisions relating to a particular topic, and embodies them in a single Act of Parliament, making only minor amendments and improvements. A codifying statute is one which purports to state exhaustively the whole of the law on a particular subject (the common law as well as previous statutory provisions) . . . The importance of the distinction lies in the courts' treatment of the previous case law, the existence of special procedural provisions with regard to consolidating statutes and the existence of a presumption that they do not change the law." Rupert Cross, *Statutory Interpretation* 5 (1976).

criminal statute. A law that defines, classifies, and sets forth punishment for specific crimes. — Also termed *criminal code*.

declaratory statute. A law enacted to clarify prior law by reconciling conflicting judicial decisions or by explaining the meaning of a prior statute.

directory statute. A law that indicates only what should be done, with no provision for enforcement. Cf. *mandatory statute*.

disabling statute. A law that limits or curbs certain rights.

enabling statute. A law that permits what was previously prohibited or that creates new powers; esp., a congressional statute conferring powers on an executive agency to carry out various delegated tasks. — Also termed *enabling act*.

expository statute. A law enacted to explain the meaning of a previously enacted law.

general statute. A law pertaining to an entire community or all persons generally. — Also termed *public statute*. See PUBLIC LAW (2).

imperfect statute. A law that prohibits, but does not render void, an objectionable transaction. • Such a statute provides a penalty for disobedience without depriving the violative transaction of its legal effect.

local statute. See LOCAL LAW (1), (2).

mandatory statute. A law that requires a course of action as opposed to merely permitting it. Cf. *directory statute*.

negative statute. A law prohibiting something; a law expressed in negative terms. Cf. *affirmative statute*.

nonclaim statute. 1. STATUTE OF LIMITATIONS. 2. A law extinguishing a claim that is not timely asserted, esp. in the context of another proceeding. • An example is a statutory deadline for a creditor to file a claim in a probate proceeding. Unlike a statute of limitations, most nonclaim statutes are not subject to tolling.

organic statute. A law that establishes an administrative agency or local government. — Also termed *organic act*. Cf. ORGANIC LAW.

penal statute. A law that defines an offense and prescribes its corresponding fine, penalty, or punishment. — Also termed *penal law*; *punitive statute*.

perpetual statute. A law containing no provision for repeal, abrogation, or expiration at a future time.

personal statute. *Civil law.* A law that primarily affects a person's condition or status (such as a statute relating to capacity or majority) and affects property only incidentally.

private statute. See *special statute*.

prospective statute. A law that applies to future events.

public statute. See PUBLIC LAW (2).

punitive statute. See *penal statute*.

real statute. *Civil law.* A law primarily affecting the operation, status, and condition of property, and addressing persons only incidentally.

reference statute. A law that incorporates and adopts by reference provisions of other laws.

remedial statute. A law that affords a remedy.

retrospective statute. A law that applies to past events.

revised statutes. Laws that have been collected, arranged, and reenacted as a whole by a legislative body. — Abbr. Rev. Stat.; R.S. See CODE (1). Cf. *compiled statutes*.

revival statute. A law that provides for the renewal of actions, of wills, and of the legal effect of documents.

severable statute. A law that remains operative in its remaining provisions even though a portion of the law is declared unconstitutional.

single-act statute. See LONG-ARM STATUTE.

speaking statute. A statute to be interpreted in light of the understanding of its terms prevailing at the time of interpretation.

special statute. A law that applies only to specific individuals, as opposed to everyone. — Also termed *private statute*.

"It is ancient wisdom, tracing back at least as far as the Roman taboo against the *privilegium*, that laws ought to be *general*, they ought to be addressed, not to particular persons, but to persons generally or to classes of persons (say, 'all householders'). Accordingly, a number of American states have inserted in their constitutions prohibitions against 'private or special' statutes. These have given rise to endless difficulties." Lon L. Fuller, *Anatomy of the Law* 102-03 (1968).

split-level statute. A law that has connected with it officially promulgated explanatory materials, so that courts are left with two levels of documents to construe.

statute of frauds. See STATUTE OF FRAUDS.

temporary statute. 1. A law that specifically provides that it is to remain in effect for a fixed, limited period. 2. A law (such as an appropriation statute) that, by its nature, has only a single and temporary operation.

validating statute. A law that is amended either to remove errors or to add provisions to conform to constitutional requirements. — Also termed *validation statute*.

statute book. A bound collection of statutes, usu. as part of a larger set of books containing a complete body of statutory law, such as the United States Code Annotated.

statute fair. *Hist.* A fair during which the fixed labor rates are announced and laborers of both sexes offer themselves for hire. — Also termed *mop*.

statute law. See STATUTORY LAW.

statute merchant. *Hist.* 1. (*cap.*) One of two 13th-century statutes establishing procedures to better secure and recover debts by, among other things, providing for a commercial bond that, if not timely paid, resulted in swift execution on the lands, goods, and body of the debtor. 13 Edw., ch. 6 (1283); 15 Edw., ch. 6 (1285). • These statutes were repealed in 1863. 2. The commercial bond so established. Cf. STATUTE STAPLE.

"It is not a little remarkable that our common law knew no process whereby a man could pledge his body or liberty for payment of a debt . . . Under Edward I, the tide turned. In the interest of commerce a new form of security, the so-called 'statute merchant,' was invented, which gave the creditor power to demand the seizure and

imprisonment of his debtor's body." 2 Frederick Pollock & Frederic W. Maitland, *The History of English Law Before the Time of Edward I* 596-97 (2d ed. 1899).

statute mile. See MILE (1).

Statute of Accumulations. *Hist.* A statute forbidding the accumulation, beyond a certain period, of property settled by deed or will. 39 & 40 Geo. 3, ch. 98 (1800).

Statute of Allegiance de Facto. *Hist.* A statute requiring subjects to give allegiance to the actual (de facto) king, and protecting them in so doing. 11 Hen. 7, ch. 1.

Statute of Amendments and Jeofails (jef-aylz). *Hist.* One of several 15th- and 16th-century statutes allowing a party who acknowledges a pleading error to correct it. 1 Hen. 5, ch. 5 (1413); 32 Hen. 8, ch. 30 (1540); 37 Hen. 8, ch. 6 (1545). See JEOFAIL.

Statute of Anne. *Hist.* 1. The Copyright Act of 1709, which first granted copyright protection to book authors. 8 Anne, ch. 19 (1709). 2. The statute that modernized the English bankruptcy system and first introduced the discharge of the debtor's existing debts. 4 Anne, ch. 17 (1705).

statute of bread and ale. See ASSISA PANIS ET CEREVISIAE.

statute of distribution. A state law regulating the distribution of an estate among an intestate's heirs and relatives.

Statute of Elizabeth. *Hist.* The Bankrupts Act of 1705, which contained provisions against conveyances made to defraud creditors. 13 Eliz., ch. 5.

statute of frauds. 1. (*cap.*) An English statute enacted in 1677 declaring certain contracts judicially unenforceable (but not void) if they are not committed to writing and signed by the party to be charged. • The statute was entitled "An Act for the Prevention of Frauds and Perjuries" (29 Car. 2, ch. 3). — Also termed *Statute of Frauds and Perjuries*.

"The best known, and until recently, most important, Act prescribing written formalities for certain contracts only required that those contracts should be evidenced in writing, or to put it another way, that the contract would be unenforceable in a Court (but not void) in the absence of writing. This was the Statute of Frauds 1677, sections 4 and 17 of which required written evidence of a somewhat curious list of contracts. Today, all that is left of

these provisions is that part of section 4, which requires contracts of guarantee to be evidenced in writing, and section 40 of the Law of Property Act 1925 (replacing another part of section 4), which deals with contracts of sale of an interest in land." P.S. Atiyah, *An Introduction to the Law of Contract* 141 (3d ed. 1981).

2. A statute (based on the English Statute of Frauds) designed to prevent fraud and perjury by requiring certain contracts to be in writing and signed by the party to be charged. • Statutes of frauds traditionally apply to the following types of contracts: (1) a contract for the sale or transfer of an interest in land, (2) a contract that cannot be performed within one year of its making, (3) a contract for the sale of goods valued at \$500 or more, (4) a contract of an executor or administrator to answer for a decedent's debt, (5) a contract to guarantee the debt or duty of another, and (6) a contract made in consideration of marriage. UCC § 2-201. — Abbr. S/F; SOF.

"[T]he primary theory of statutes of frauds, past and present, is that they are means to the end of preventing successful courtroom perjury. The means to this end is simply the requirement of a writing signed by the party to be charged. . . . [B]ut the statute of frauds writing requirement is . . . so far from any kind of guarantee against successful perjury that it is inappropriate even to call it a means to fraud prevention at all." 1 James J. White & Robert S. Summers, *Uniform Commercial Code* § 2-8, at 82 (4th ed. 1995).

Statute of Frauds and Perjuries. See STATUTE OF FRAUDS (1).

Statute of Gloucester (glos-tər). *Hist.* A statute providing for the award of costs in legal actions. 6 Edw., ch. 1 (1278).

statute of limitations. 1. A statute establishing a time limit for suing in a civil case, based on the date when the claim accrued (as when the injury occurred or was discovered). • The purpose of such a statute is to require diligent prosecution of known claims, thereby providing finality and predictability in legal affairs and ensuring that claims will be resolved while evidence is reasonably available and fresh. — Also termed *nonclaim statute*.

"Statutes of limitations, like the equitable doctrine of laches, in their conclusive effects are designed to promote justice by preventing surprises through the revival of claims that have been allowed to slumber until evidence has been lost, memories have faded, and witnesses have disappeared." *Order of R.R. Telegraphers v. Railway Express Agency*, 321 U.S. 342, 348-49, 64 S.Ct. 582, 586 (1944).

2. A statute establishing a time limit for prosecuting a crime, based on the date when the offense occurred. Cf. STATUTE OF REPOSE.

"The purpose of a statute of limitations is to limit exposure to criminal prosecution to a certain fixed period of time following the occurrence of those acts the legislature had decided to punish by criminal sanctions. Such a limitation is designed to protect individuals from having to defend themselves against charges when the basic facts have become obscured by the passage of time and to minimize the danger of official punishment because of acts in the far-distant past. Such a time limit may also have the salutary effect of encouraging law enforcement officials promptly to investigate suspected criminal activity." *Toussie v. United States*, 397 U.S. 112, 90 S.Ct. 858 (1970).

statute of mortmain. See MORTMAIN STATUTE.

statute of repose. A statute that bars a suit a fixed number of years after the defendant acts in some way (as by designing or manufacturing a product), even if this period ends before the plaintiff has suffered any injury. Cf. STATUTE OF LIMITATIONS.

"A statute of repose . . . limits the time within which an action may be brought and is not related to the accrual of any cause of action; the injury need not have occurred, much less have been discovered. Unlike an ordinary statute of limitations which begins running upon accrual of the claim, the period contained in a statute of repose begins when a specific event occurs, regardless of whether a cause of action has accrued or whether any injury has resulted." 54 C.J.S. *Limitations of Actions* § 4, at 20-21 (1987).

Statute of Uses. *Hist.* An English statute of 1535 that converted the equitable title held by a cestui que use (i.e., a beneficiary) to a legal one in order to make the cestui que use liable for feudal dues, as only a legal owner (the *feoffee to uses*) could be. • This statute was the culmination of a series of enactments designed by the Tudors to stop the practice of creating uses in land that deprived feudal lords of the valuable incidents of feudal tenure. The statute discouraged the granting of property subject to another's use by deeming the person who enjoys the use to have legal title with the right of absolute ownership and possession. So after the statute was enacted, if A conveyed land to B subject to the use of C, then C became the legal owner of the land in fee simple. Ultimately, the statute was circumvented by the courts' recognition of the use of equitable trusts in land-conveyancing. See CESTUI QUE USE; GRANT TO USES; USE (4).

"The Statute of 27 H.8. hath advanced Uses, and hath established Surety for him that hath the Use against the Feoffees: for before the Statute the Feoffees were Owners of the Land, but now it is destroyed, and the *cestuy que use* is the Owner of the same: before the Possession ruled the Use, but since the Use governeth the Possession." William Noy, *A Treatise of the Principal Grounds*

and *Maxims of the Laws of This Nation* 73 (4th ed. 1677; repr. C. Sims ed., 1870).

Statute of Westminster the First. See WESTMINSTER THE FIRST, STATUTE OF.

statute of wills. **1.** (*cap.*) An English statute (enacted in 1540) that established the right of a person to devise real property by will. — Also termed *Wills Act*. **2.** A state statute, usu. derived from the English statute, providing for testamentary disposition in that jurisdiction.

Statute of Winchester. See WINCHESTER, STATUTE OF.

Statute of York. See YORK, STATUTE OF.

statute roll. *Hist.* A roll upon which a statute was formally entered after receiving the royal assent.

Statutes at Large. An official compilation of the acts and resolutions that become law from each session of Congress, printed in chronological order.

statute staple. *Hist.* **1.** A 1353 statute establishing procedures for settling disputes among merchants who traded in staple towns. • The statute helped merchants receive swift judgments for debt. Cf. STATUTE MERCHANT. **2.** A bond for commercial debt. • A statute staple gave the lender a possessory right in the land of a debtor who failed to repay a loan. See STAPLE.

"A popular form of security after 1285 . . . was the . . . 'statute staple' — whereby the borrower could by means of a registered contract charge his land and goods without giving up possession; if he failed to pay, the lender became a tenant of the land until satisfied. . . . The borrower under a statute or recognizance remained in possession of his land, and it later became a common practice under the common-law forms of mortgage likewise to allow the mortgagor to remain in possession as a tenant at will or at sufferance of the mortgagee." J.H. Baker, *An Introduction to English Legal History* 354 (3d ed. 1990).

statuti (stā-t[y]oo-ti). [Latin] *Roman law.* Licensed advocates whose names are inscribed in registers of matriculation, forming part of the college of advocates. Cf. SUPERNUMERARI.

statuto mercatorio. See DE STATUTO MERCATORIO.

statutory (stach-ə-tor-ee), *adj.* **1.** Of or relating to legislation <statutory interpretation>. **2.**

Legislatively created <the law of patents is purely statutory>. **3.** Conformable to a statute <a statutory act>.

statutory action. See ACTION.

statutory agent. See AGENT.

statutory arson. See ARSON (2).

statutory bond. See BOND (2), (3).

statutory burglary. See BURGLARY.

statutory construction. **1.** The act or process of interpreting a statute. **2.** Collectively, the principles developed by courts for interpreting statutes. — Also termed *statutory interpretation*. See CONSTRUCTION (2).

“[T]here is not, and probably never can be, anything meriting the description of a coherent body of case-law on statutory interpretation as a whole as distinct from the interpretation of a particular statute.” Rupert Cross, *Statutory Interpretation* 39 (1976).

statutory crime. See CRIME.

statutory damages. See DAMAGES.

statutory dedication. See DEDICATION.

statutory deed. See DEED.

statutory employee. See EMPLOYEE.

statutory employer. See EMPLOYER.

statutory exception. See EXCEPTION (2).

statutory exposition. A statute’s special interpretation of the ambiguous terms of a previous statute <the statute contained a statutory exposition of the former act>.

statutory extortion. See EXTORTION.

statutory forced share. See ELECTIVE SHARE.

statutory foreclosure. See *power-of-sale foreclosure* under FORECLOSURE.

statutory guardian. See GUARDIAN.

statutory instrument. A British administrative regulation or order.

statutory interpretation. See STATUTORY CONSTRUCTION.

statutory law. The body of law derived from statutes rather than from constitutions or judicial decisions. — Also termed *statute law*; *legislative law*; *ordinary law*. Cf. COMMON LAW (1); CONSTITUTIONAL LAW.

statutory lien. See LIEN.

statutory merger. See MERGER.

statutory obligation. See OBLIGATION.

statutory omnibus clause. *Insurance.* An omnibus clause provided by statute. See OMNIBUS CLAUSE (1).

statutory partnership association. See PARTNERSHIP ASSOCIATION.

statutory penalty. See PENALTY.

statutory presumption. See PRESUMPTION.

statutory rape. See RAPE.

statutory redemption. See REDEMPTION.

statutory release. *Hist.* A conveyance superseding the compound assurance by lease and release, created by the Conveyance by Release Without Lease Act of 1841 (St. 4 & 5 Vict., ch. 21).

statutory right of redemption. The right of a mortgagor in default to recover property after a foreclosure sale by paying the principal, interest, and other costs that are owed, together with any other measure required to cure the default. • This statutory right exists in many states but is not uniform. See REDEMPTION.

statutory share. See ELECTIVE SHARE.

statutory staple. *Hist.* A writ to seize the lands, goods, and person of a debtor for forfeiting a statute staple. See STATUTE STAPLE.

statutory successor. The person to whom all corporate assets pass upon a corporation’s dissolution according to the statute of the state of incorporation applicable at the time of the dissolution. See Restatement (Second) of Conflict of Laws § 388 cmt. a (1971).

statuto stapulae. See DE STATUTO STAPULAE.

statutum (stā-t[y]oo-təm), *adj.* Established; determined.

statutum, *n.* **1.** *Hist.* An act of Parliament, esp. one that has been approved by the monarch. Cf. ACTUS (2). **2.** *Roman law.* An ordinance; esp., an imperial law.

Statutum de Nova Custuma (stā-t[y]oo-təm dee noh-və kəs-chə-mə or kəs-tyə-mə). See CARTA MERCATORIA.

stay, *n.* **1.** The postponement or halting of a proceeding, judgment, or the like. **2.** An order to suspend all or part of a judicial proceeding or a judgment resulting from that proceeding. — Also termed *stay of execution*. — **stay**, *vb.* — **stayable**, *adj.*

automatic stay. *Bankruptcy.* A bar to all judicial and extrajudicial collection efforts against the debtor or the debtor's property. ● The policy behind the automatic stay, which is effective upon the filing of the bankruptcy petition, is that all actions against the debtor should be halted pending the determination of creditors' rights and the orderly administration of the debtor's assets free from creditor interference. — Also termed *automatic suspension*.

stay of execution. See STAY.

stay-put rule. *School law.* The principle that a child must remain in his or her current educational placement while an administrative claim under the Individuals with Disabilities Education Act (usu. for an alternative placement or for mainstreaming) is pending. 20 USCA § 1415(j).

STB. *abbr.* Surface Transportation Board. See INTERSTATE COMMERCE COMMISSION.

STD. *abbr.* SEXUALLY TRANSMITTED DISEASE.

steady course. *Maritime law.* A ship's path that can be readily ascertained either because the ship is on a straight heading or because the ship's future positions are easy to plot based on the ship's current position and movements.

steal, *vb.* **1.** To take (personal property) illegally with the intent to keep it unlawfully. **2.** To take (something) by larceny, embezzlement, or false pretenses.

stealth. **1.** *Hist.* Theft; an act or instance of stealing. ● Etymologically, this term is the noun corresponding to the verb *steal*.

"Stealth is the wrongful taking of goods without pretence of title: and therefore altereth not the property, as a trespass doth, so as upon an appeal the party shall receive them." Sir Henry Finch, *Law, or a Discourse Thereof* 210 (1759).

2. Surreptitiousness; furtive slyness.

stellionatus (stel-ee-ə-nay-təs or stel-yə-). [Latin "underhand dealing"] *Roman & Scots law.* Conduct that is fraudulent but does not fall within a specific class of offenses. ● This term applies primarily to fraudulent practices in the sale or hypothecation of land. — Also termed (in Scots law) *stellionate*. Cf. COZENING.

"Though *pignus* and hypothec are almost different names for the same thing, there were differences. Hypothec was used mainly for land, which cannot be removed. A thing could be pledged only to one, but successive hypothecs might be created over a thing. There was no fraud in this but it was the offence of *stellionatus* to give a hypothec without declaring existing hypothecs." W.W. Buckland, *A Manual of Roman Private Law* 355 (2d ed. 1953).

"STELLIONATE ... is a term applied, in the law of Scotland, either to any crime which, though indictable, goes under no general denomination, and is punishable arbitrarily, or to any civil delinquency of which fraud is an ingredient. Those, e.g., who grant double conveyances of the same subject, are guilty of this crime ... and are punishable arbitrarily in their persons and goods, besides becoming infamous." William Bell, *Bell's Dictionary and Digest of the Law of Scotland* 940 (George Watson ed., 1882).

stepchild. The child of one's spouse by a previous marriage.

stepfather. The husband of one's mother by a later marriage. — Formerly also termed *vitricus*.

step-in-the-dark rule. *Torts.* The contributory-negligence rule that a person who enters a totally unfamiliar area in the darkness has a duty, in the absence of unusual stress, to refrain from proceeding until first ascertaining the existence of any dangerous obstacles. See *contributory negligence* under NEGLIGENCE.

stepmother. The wife of one's father by a later marriage.

stepped-up basis. See BASIS.

step-rate-premium insurance. See INSURANCE.

step-transaction doctrine. A method used by the Internal Revenue Service to determine tax liability by viewing the transaction as a whole, and disregarding one or more nonsubstantive, intervening transactions taken to achieve the final result. — Also termed *step-transaction approach*.

sterling, adj. **1.** Of or conforming to a standard of national value, esp. of English money or metal <a pound sterling>. **2.** (Of an opinion, value, etc.) valuable; authoritative <a sterling report>.

stet (stet), *n.* [Latin “let it stand”] **1.** An order staying legal proceedings, as when a prosecutor determines not to proceed on an indictment and places the case on a stet docket. ● The term is used chiefly in Maryland. **2.** An instruction to leave a text as it stands.

stet processus (stet prə-sēs-əs), *n.* [Law Latin “let the process stand”] *Hist.* **1.** A record entry, similar to a *nolle prosequi*, by which the parties agree to stay further proceedings. **2.** The agreement between the parties to stay those proceedings. ● This was typically used by a plaintiff to suspend an action rather than suffer a nonsuit.

stedvodore (stee-və-dor). *Maritime law.* A person employed in the loading and unloading of vessels. Cf. SEAMAN.

steward. **1.** A person appointed in place of another. **2.** A union official who represents union employees and who oversees the carrying out of union contracts. — Also termed (in sense 2) *union steward*; *shop steward*.

steward of all England. *Hist.* An officer vested with various powers, including the power to preside over the trial of peers.

steward of a manor. *Hist.* An officer who handles the business matters of a manor, including keeping the court rolls and granting admittance to copyhold lands.

Steward of Chiltern Hundreds (chil-tərn). *English law.* Formerly, a royal officer charged with protecting residents from robbers and thieves who hid in the hundreds’ wooded areas. ● A member of Parliament can now use the office as a way to resign from office (something forbidden by statute) by accepting in lieu of a Parliamentary seat a royal appointment as Steward of Chiltern Hundreds. By law, a member of Parliament may not accept certain Crown appointments without forfeiting his or her seat, so once a member secures an appoint-

ment as Steward of Chiltern Hundreds — an office that is now only a sinecure — he or she is removed from Parliament. A resignation from the office of Steward completes the resignation process.

stickering. *Securities.* The updating of a prospectus by affixing stickers that contain the new or revised information. ● Stickering avoids the expense of reprinting an entire prospectus.

stickler. *Hist.* An arbitrator.

stickup. An armed robbery in which the victim is threatened by the use of weapons. — Also termed *holdup*. See *armed robbery* under ROBBERY.

stifling of a prosecution. An agreement, in exchange for money or other advantage, to abstain from prosecuting a person.

stigma-plus doctrine. The principle that defamation by a government official is not actionable as a civil-rights violation unless the victim suffers not only embarrassment but also the loss of a property interest (such as continued employment in a government job).

stillicidium (stil-ə-sid-ee-əm). [Latin fr. *stilla* “a drop” + *cadere* “to fall”] *Roman law.* See AQUAE IMMITTENDAE.

sting. An undercover operation in which law-enforcement agents pose as criminals to catch actual criminals engaging in illegal acts.

stint. **1.** *English law.* A limited number <a stint of common>.

“All these species, of pasturable common, may be and usually are limited as to number and time, but there are also commons without stint, and which last all the year.”
2 William Blackstone, *Commentaries on the Laws of England* 34 (1766).

2. The task for the day or work <he has done his stint>.

stipend (sti-pend or -pend). **1.** A salary or other regular, periodic payment. **2.** A tribute to support the clergy, usu. consisting of payments in money or grain.

stipendiary estate (sti-pen-dee-er-ee). See ES-TATE.

stipendiary magistrate. See MAGISTRATE.

stipendium (sti-pen-dee-əm), *n.* [Latin] *Roman law.* A soldier's regular pay. Cf. SALARIUM.

stipes (sti-pee-z), *n.* [Latin "a trunk"] *Hist.* Family stock; a source of descent or title. Pl. **stipites** (stip-ə-tee-z).

stipital (stip-i-təl), *adj.* See STIRPITAL.

stipulated authority. See *express authority* under AUTHORITY (1).

stipulated damages. See *liquidated damages* under DAMAGES.

stipulated judgment. See *agreed judgment* under JUDGMENT.

stipulatio (stip-yə-lay-shee-oh), *n.* [Latin] *Roman law.* An oral contract requiring a formal question and reply, binding the replier to do what was asked. • It is essential that both parties speak, and that the reply directly conforms to the question asked and is made with the intent to enter into a contractual obligation. No consideration is required. See *actio ex stipulatu* under ACTIO.

"[I]t must be remembered that the law-forms used by the Romans had their origin in times when writing was neither easy nor common. It is not surprising, therefore, that among them a form of spoken words, a verbal contract, should hold the place which among us is occupied by written notes. This form . . . *stipulatio* — was of a very simple character, consisting only of a question asked by one party, and an answer returned by the other . . . Such forms as *Spondeſne mihi decem aureos dare* (do you engage to give me ten aurei, or gold-pieces): answer, *Spondeo* (I engage) . . ." James Hadley, *Introduction to Roman Law* 210 (1881).

"The oldest Roman contract was the *stipulatio*, an oral promise made by an answer to an immediately preceding question, with the promisor using the same verb. The contract was unilateral. Only one party, the promisor, was legally liable, and he was bound strictly by the words used." Alan Watson, *Ancient Law and Modern Understanding* 96 (1998).

stipulatio aquiliana (stip-yə-lay-shee-oh ə-kwil-ee-ay-nə). [Latin] *Roman law.* A type of *stipulatio* used to collect and discharge all the liabilities owed by a single contract.

"[S]*tipulatio Aquiliana*, a device credited to Aquilius Gallus, of Cicero's time. Where two persons with complex relations between them desired to square or simplify their accounts they could work out the items and arrive at the balance . . . This balance being paid or otherwise arranged, each party would then make with the other this *stipulatio*, which was a comprehensive formula . . . This would novate all the claims and turn them into a single promise, for an *incertum*. These mutual stipulations might then be released by *acceptilatio*." W.W.

Buckland, *A Manual of Roman Private Law* 348 (2d ed. 1953).

stipulatio juris (stip-yə-lay-shee-oh joor-is). [Latin "stipulatio as to the law"] The parties' agreement on a question of law or its applicability. • The court is not bound to accept the stipulation if it is erroneous. But the parties are allowed to stipulate the law to be applied to a dispute.

stipulation (stip-yə-lay-shən), *n.* **1.** A material condition or requirement in an agreement; esp., a factual representation that is incorporated into a contract as a term <breach of the stipulation regarding payment of taxes>. • Such a contractual term often appears in a section of the contract called "Representations and Warranties." **2.** A voluntary agreement between opposing parties concerning some relevant point <the plaintiff and defendant entered into a stipulation on the issue of liability>. • A stipulation relating to a pending judicial proceeding, made by a party to the proceeding or the party's attorney, is binding without consideration.

"Breach of a stipulation should not be confused with *misrepresentation*, which is a false statement made before or at the time the contract is made, and which induces the contract; only if it is incorporated into the contract does it become a stipulation or term, the breach of which will entitle the injured party to pursue the usual remedies which are available where there has been a breach of a warranty or of a condition." 1 E.W. Chance, *Principles of Mercantile Law* 239 (P.W. French ed., 13th ed. 1950).

"Stipulations with respect to matters of form and procedure serve the convenience of the parties to litigation and often serve to simplify and expedite the proceeding. In some cases they are supported by the policy of favoring compromise in order to reduce the volume of litigation. Hence they are favored by the courts and enforced without regard to consideration." Restatement (Second) of Contracts § 94 cmt. a (1981).

3. Roman law. A formal contract by which a promisor (and only the promisor) became bound by oral question and answer. • By the sixth century A.D., stipulations were exclusively in written form. — **stipulate** (stip-yə-layt), *vb.* — **stipulative** (stip-yə-lə-tiv), *adj.*

stipulation pour autrui (poor oh-troo-ee). [French "for other persons"] *Civil law.* A contractual provision that benefits a third party and gives the third party a cause of action against the promisor for specific performance. See *third-party beneficiary* under BENEFICIARY.

stipulatio sponsalitia (stip-yə-lay-shee-oh spon-sə-lish-ee-ə). See SPONSALIA.

stipulative definition. See DEFINITION.

stipulator. **1.** One who makes a stipulation. **2.** *Civil law.* The promisee in a stipulation pour autrui, accepting the promise of a benefit to a third party.

stirpal (stär-pəl), *adj.* See STIRPITAL.

stirpes (stär-pee-z). *pl.* STIRPS.

stirpital (stär-pə-təl), *adj.* Of or relating to per stirpes distribution. — Also termed *stipital*; *stirpal*. See PER STIRPES.

stirps (stärps), *n.* [Latin “stock”] A branch of a family; a line of descent. *Pl.* **stirpes** (stär-pee-z). See PER STIRPES.

stock, n. **1.** The original progenitor of a family; a person from whom a family is descended <George Harper, Sr. was the stock of the Harper line>. **2.** A merchant’s goods that are kept for sale or trade <the car dealer put last year’s models on sale to reduce its stock>. **3.** The capital or principal fund raised by a corporation through subscribers’ contributions or the sale of shares <Acme’s stock is worth far more today than it was 20 years ago>. **4.** A proportional part of a corporation’s capital represented by the number of equal units (or shares) owned, and granting the holder the right to participate in the company’s general management and to share in its net profits or earnings <Julia sold her stock in Pantheon Corporation>. See SHARE (2). Cf. SECURITY (4).

assented stock. Stock that an owner deposits with a third person according to an agreement by which the owner voluntarily accepts a change in the corporation’s securities.

assessable stock. Stock that is subject to resale by the issuer if the holder fails to pay any assessment levied on it.

authorized stock. See *capital stock* (1).

bailout stock. Nontaxable preferred stock issued to stockholders as a dividend. ● Bailout stock is issued to gain favorable tax rates by distributing corporate earnings at capital gains rates rather than by distributing dividends at ordinary income rates. This practice is now prohibited by the Internal Revenue Code. IRC (26 USCA) § 306.

barometer stock. A stock whose price fluctuates according to market conditions; an individual stock considered to be indicative of the strength of the market in general. — Also termed *bellwether stock*.

blank stock. *Securities.* Stock with voting powers and rights set by the issuer’s board of directors after the stock has been sold.

blue-chip stock. See BLUE CHIP.

bonus stock. A stock share that is issued for no consideration, as an enticement to buy some other type or class of security. ● It is considered a type of watered stock. — Also termed *bonus share*.

book-value stock. Stock offered to executives at a book-value price, rather than at its market value. ● The stock is offered with the understanding that when its book value has risen, the company will buy back the stock at the increased price or will make payments in stock equal to the increased price.

callable preferred stock. Preferred stock that may be repurchased by the issuing corporation at a prestated price, usu. at or slightly above par value.

capital stock. **1.** The total number of shares of stock that a corporation may issue under its charter or articles of incorporation, including both common stock and preferred stock. ● A corporation may increase the amount of capital stock if the owners of a majority of the outstanding shares consent. — Also termed *authorized stock*; *authorized capital stock*; *authorized stock issue*; *authorized shares*. **2.** The total par value or stated value of this stock; CAPITALIZATION (4). **3.** See *common stock*.

common stock. A class of stock entitling the holder to vote on corporate matters, to receive dividends after other claims and dividends have been paid (esp. to preferred shareholders), and to share in assets upon liquidation. ● Common stock is often called *capital stock* if it is the corporation’s only class of stock outstanding. — Also termed *ordinary shares*. Cf. *preferred stock*.

convertible stock. See *convertible security* under SECURITY.

corporate stock. An equity security issued by a corporation.

cumulative preferred stock. Preferred stock that must pay dividends in full before common shareholders may receive any dividend. ● If the corporation omits a dividend in a particular year or period, it is carried over to the next year or period and must be paid before the common shareholders receive any payment. — Also termed *cumulative stock*; *cumulative preference share*.

deferred stock. Stock whose holders are entitled to dividends only after the corporation has met some other specified obligation, such

as the discharge of a liability or the payment of a dividend to preferred shareholders.

discount stock. A stock share issued for less than par value. ● Discount stock is considered a type of watered stock, the issuance of which may impose liability on the recipient for the difference between the par value and the cash amount paid. — Also termed *discount share*.

donated stock. Stock donated to a charity or given to a corporation by its own stockholders, esp. for resale.

equity stock. Stock of any class having unlimited dividend rights, regardless of whether the stock is preferred.

floating stock. Stock that is offered for sale on the open market and that has not yet been purchased; the number of outstanding shares available for trading.

full-paid stock. Stock on which no further payments can be demanded by the issuing company. — Also termed *paid-up stock*.

glamour stock. A stock with great public interest because of a real or imagined potential for fast growth or high earnings. — Also termed *growth stock*; *performance stock*.

growth stock. 1. Stock issued by a growth company. ● Because a growth company usu. reinvests a large share of its income back into the company, growth stock pays relatively low dividends, though its price usu. has a relatively high appreciation in market value over time. 2. See *glamour stock*.

guaranteed stock. Preferred stock whose dividend is guaranteed by someone (usu. a parent corporation) other than the issuer.

guarantee stock. A fixed, nonwithdrawal investment in a building-and-loan association. ● This type of stock guarantees to all other investors in the association a fixed dividend or interest rate. See BUILDING-AND-LOAN ASSOCIATION.

guaranty stock. A savings-and-loan association's stock yielding dividends to the holders after dividends have been paid to the depositors.

hot stock. See *hot issue* under ISSUE (2).

inactive stock. A low-volume stock.

income stock. A stock with a history of high yields or dividend payments (e.g., public utilities and well-established corporations).

issued stock. Capital stock that has been authorized and sold to subscribers, but may be reacquired, such as treasury stock.

letter stock. See *restricted security* under SECURITY.

listed stock. See *listed security* under SECURITY.

margin stock. See *marginable security* under SECURITY.

nonassessable stock. Stock owned by a holder whose potential liability is limited to the amount paid for the stock and who cannot be charged additional funds to pay the issuer's debts. ● Stock issued in the United States is usu. nonassessable.

noncumulative preferred stock. Preferred stock that does not have to pay dividends that are in arrears. ● Once a periodic dividend is omitted, it will not be paid. — Also termed *noncumulative stock*.

nonparticipating preferred stock. Preferred stock that does not give the shareholder the right to additional earnings — usu. surplus common-stock dividends — beyond those stated in the preferred contract.

nonvoting stock. Stock that has no voting rights attached to it under most situations.

no-par stock. Stock issued without a specific value assigned to it. ● For accounting purposes, it is given a legal or stated value that has little or no connection to the stock's market value. — Also termed *no-par-value stock*. — Sometimes shortened to *no par*.

outstanding stock. Stock that is held by investors and has not been redeemed by the issuing corporation. — Also termed *outstanding capital stock*; *shares outstanding*.

participating preferred stock. Preferred stock whose holder is entitled to receive stated dividends and to share with the common shareholders in any additional distributions of earnings.

participation stock. Stock permitting the holder to participate in profits and surplus.

par-value stock. Stock originally issued for a fixed value derived by dividing the total value of capital stock by the number of shares to be issued. ● The par value does not bear a necessary relation to the actual stock value because of the part surplus plays in the valuation.

penny stock. An equity security that is not traded in established markets, represents no tangible assets, or has average revenues less than required for trading on an exchange. ● Typically, a penny stock is highly speculative and can be purchased for less than \$5 a share.

performance stock. See *glamour stock*.

phantom stock. Imaginary stock that is credited to a corporate executive account as part of the executive's compensation package. See PHANTOM STOCK PLAN.

preferred stock. A class of stock giving its holder a preferential claim to dividends and to corporate assets upon liquidation but that usu. carries no voting rights. — Also termed *preference shares*. Cf. *common stock*.

premium stock. Stock that carries a premium for trading, as in the case of short-selling.

prior preferred stock. Preferred stock that has preference over another class of preferred stock from the same issuer. • The preference usu. relates to dividend payments or claims on assets.

public stock. 1. See *public security* under SECURITY. 2. Stock of a publicly traded corporation.

reacquired stock. See *treasury stock*.

redeemable stock. Preferred stock that can be called by the issuing corporation and retired.

registered stock. See *registered security* under SECURITY.

restricted stock. See *restricted security* under SECURITY.

retired stock. See *treasury stock*.

subscribed stock. A stockholder's equity account showing the capital that will be contributed when the subscription price is collected. See SUBSCRIPTION (2).

tainted stock. Stock owned or transferred by a person disqualified from serving as a plaintiff in a derivative action. • A good-faith transferee is also disqualified from filing a derivative action.

treasury stock. Stock issued by a company but then reacquired and either canceled or held. • Some states have eliminated this classification and treat such stock as if it is authorized but unissued. — Also termed *treasury security*; *reacquired stock*; *retired stock*.

unissued stock. Stock that is authorized by the corporate charter but not yet distributed.

unlisted stock. See *unlisted security* under SECURITY.

volatile stock. Stock subject to wide and rapid fluctuations in price. — Also termed *yo-yo stock*.

voting stock. Stock that entitles the holder to vote in the corporation's election of officers

and on other matters put to a vote. — Also termed *voting security*.

watered stock. Stock issued with a par value greater than the value of the corporation's assets.

"The term 'watered stock' is a colorful common law phrase describing the situation where shareholders receive shares without paying as much for them as the law requires. . . . Much of the early common law relating to watered shares concerned the liability of shareholders receiving watered shares to pay the additional consideration needed to 'squeeze out the water.' . . . [It now] seems clear that a shareholder is liable to the corporation if he or she pays less for the shares than the consideration fixed by the directors, and this liability is measured by the difference between the fixed consideration and the amount actually paid." Robert W. Hamilton, *The Law of Corporations in a Nutshell* 120-21 (3d ed. 1991).

whisper stock. The stock of a company that is rumored to be the target of a takeover attempt.

yo-yo stock. See *volatile stock*.

stock acquisition. See SHARE ACQUISITION.

stock-appreciation right. (*usu. pl.*) A right, typically granted in tandem with a stock option, to be paid the option value (*usu. in cash*) when exercised along with the simultaneous cancellation of the option. — Abbr. SAR.

stock association. See *joint-stock company* under COMPANY.

stock attribution. See ATTRIBUTION.

stock bailout. A stock redemption in the form of a preferred stock dividend.

stock bonus plan. A special type of profit-sharing plan in which the distribution of benefits is in the form of the employer-company's own stock.

stockbroker. One who buys or sells stock as agent for another. — Also termed *account executive*; *account representative*.

stock certificate. An instrument evidencing ownership of a bond or shares of stock. — Also termed *certificate of stock*; *share certificate*.

stock clearing. The actual exchange of money and stock between buyer and seller, typically performed by a clearing corporation.

- stock clearing corporation.** A New York Stock Exchange subsidiary that is a central agency for securities deliveries and payments between member firms.
- stock control.** A system of inventory management by which a business maintains perpetual records of its inventory.
- stock corporation.** See CORPORATION.
- stock dividend.** See DIVIDEND.
- stock exchange.** See SECURITIES EXCHANGE.
- stockholder.** See SHAREHOLDER.
- stockholder derivative suit.** See DERIVATIVE ACTION (1).
- stockholder of record.** The person who is listed in the issuer's books as the owner of stock on the record date. — Also termed *holder of record*; *owner of record*; *record owner*. See *record date* under DATE.
- stockholders' equity.** See OWNERS' EQUITY.
- stockholder's liability.** See *shareholder's liability* under LIABILITY.
- stock insurance company.** See INSURANCE COMPANY.
- stock in trade.** 1. The inventory carried by a retail business for sale in the ordinary course of business. 2. The tools and equipment owned and used by a person engaged in a trade. 3. The equipment and other items needed to run a business.
- stockjobber.** See JOBBER (2).
- stockjobbing, n.** The business of dealing in stocks or shares; esp., the buying and selling of stocks and bonds by jobbers who operate on their own account. — Also termed *stockjobbery*.
- stock-law district.** A district in which cattle or other stock are prohibited from running free.
- stock life-insurance company.** See INSURANCE COMPANY.
- stock manipulation.** See MANIPULATION.
- stock market.** See MARKET (4), (5).
- stock merger.** See MERGER.
- stock note.** See NOTE (1).
- stock option.** 1. An option to buy or sell a specific quantity of stock at a designated price for a specified period regardless of shifts in market value during the period. 2. An option that allows a corporate employee to buy shares of corporate stock at a fixed price or within a fixed period. • Such an option is usu. granted as a form of compensation and can qualify for special tax treatment under the Internal Revenue Code. — Also termed (in sense 2) *employee stock option*; *incentive stock option* (ISO).
- nonqualified stock option.** A stock-option plan that does not receive capital-gains tax treatment, thus allowing a person to buy stock for a period (often ten years) at or below the market price.
- qualified stock option.** A now-rare stock-option plan that allows a person to buy stock for a period (often five years) at the market price, the stock being subject to capital-gains tax treatment.
- stock-option contract.** See CONTRACT.
- stock-parking, n.** See PARKING.
- stock power.** A power of attorney permitting a person, other than the owner, to transfer ownership of a security to a third party. — Also termed *stock/bond power*.
- stock-purchase plan.** An arrangement by which an employer corporation allows employees to purchase shares of the corporation's stock.
- stock redemption.** See REDEMPTION (3).
- stock repurchase.** See REDEMPTION (3).
- stock-repurchase plan.** A program by which a corporation buys back its own shares in the open market, usu. when the corporation believes the shares are undervalued.
- stock right.** See SUBSCRIPTION RIGHT.
- stocks, n.** A punishment device consisting of two boards that together form holes for trapping an offender's feet and hands. — Formerly also termed *cippi*. Cf. BILBOES (1); PILLORY.

stock split. The issuance of two or more new shares in exchange for each old share without changing the proportional ownership interests of each shareholder. • For example, a 3-for-1 split would give an owner of 100 shares a total of 300 shares, or 3 shares for each share previously owned. A stock split lowers the price per share and thus makes the stock more attractive to potential investors. — Also termed *share split*.

reverse stock split. A reduction in the number of a corporation's shares by calling in all outstanding shares and reissuing fewer shares having greater value.

stock subscription. See SUBSCRIPTION (2).

stock swap. See SWAP.

stock-transfer agent. See AGENT.

stock-transfer tax. See TAX.

stock warrant. See SUBSCRIPTION WARRANT.

stolen property. Goods acquired by larceny, robbery, or theft.

stop, n. Under the Fourth Amendment, a temporary restraint that prevents a person from walking away.

stop and frisk, n. A police officer's brief detention, questioning, and search of a person for a concealed weapon when the officer reasonably suspects that the person has committed or is about to commit a crime. • The stop and frisk, which can be conducted without a warrant or probable cause, was held constitutional by the Supreme Court in *Terry v. Ohio*, 392 U.S. 1, 88 S.Ct. 1868 (1968). — Also termed *investigatory stop*; *Terry stop*. See REASONABLE SUSPICION.

stopgap zoning. See *interim zoning* under ZONING.

stop-limit order. See *stop order* under ORDER (4).

stop-list. *Antitrust.* An illegal means by which manufacturers sometimes attempt to enforce price maintenance, by having suppliers agree among themselves not to supply any party who competes actively and breaks anticompetitive price "rules."

stop-loss insurance. See INSURANCE.

stop-loss order. See *stop order* under ORDER (4).

stop-notice statute. A law providing an alternative to a mechanic's lien by allowing a contractor, supplier, or worker to make a claim against the construction lender and, in some instances, the owner for a portion of the undisbursed construction-loan proceeds. See *mechanic's lien* under LIEN.

stop order. 1. See ORDER (4). **2.** An SEC order that suspends a registration statement containing false, incomplete, or misleading information. **3.** A bank customer's order instructing the bank not to honor one of the customer's checks. — Also termed (in sense 3) *stop-payment order*.

stoppage, n. 1. An obstruction or hindrance to the performance of something <stoppage of goods or persons in transit for inspection>. **2.** *Civil law.* SETOFF <stoppage in pay for money owed>.

stoppage in transitu (in *tran-si-t[y]oo* or *tranz-i-t[y]oo*). The right that a seller of goods has, under certain circumstances, to regain the possession of those goods even though the seller has already parted with them under a contract for sale. • This right traditionally applies when goods are consigned wholly or partly on credit from one person to another, and the consignee becomes bankrupt or insolvent before the goods arrive — in which event the consignor may direct the carrier to deliver the goods to someone other than the consignee (who can no longer pay for them). — Also termed *stoppage in transit*.

stop-payment order. See STOP ORDER (3).

store, n. 1. A place where goods are deposited to be purchased or sold. **2.** (*usu. pl.*) A supply of articles provided for the subsistence and accommodation of a ship's crew and passengers. **3.** A place where goods or supplies are stored for future use; a warehouse.

public store. A government warehouse administratively maintained, as for the storage of imported goods or military supplies.

store, vb. To keep (goods, etc.) in safekeeping for future delivery in an unchanged condition.

stowage (stoh-ij). *Maritime law. 1.* The storing, packing, or arranging of cargo on a vessel to protect the goods from friction, bruising, or water damage during a voyage. • The bill of

lading will often prescribe the method of stowage to be used. **2.** The place (such as a ship's hull) where goods are stored. **3.** The goods so stored. **4.** A fee paid for the storage of goods; a storage fee.

stowaway. A person who hides on board an outgoing or incoming vessel or aircraft to obtain free passage. 18 USCA § 2199.

STR. *abbr.* SUSPICIOUS-TRANSACTION REPORT.

straddle, n. In securities and commodities trading, a situation in which an investor holds contracts to buy and to sell the same security or commodity, thus ensuring a loss on one of the contracts. • The aim of this strategy is to defer gains and use losses to offset other taxable income. — Also termed *spread eagle*; *combination*. — **straddle, vb.**

straight annuity. See ANNUITY.

straight bankruptcy. See CHAPTER 7.

straight bill of lading. See BILL OF LADING.

straight deductible. See DEDUCTIBLE.

straight letter of credit. See LETTER OF CREDIT.

straight life annuity. See *nonrefund annuity* under ANNUITY.

straight life insurance. See *whole life insurance* under INSURANCE.

straight-line depreciation method. See DEPRECIATION METHOD.

straight-line interest. See *simple interest* under INTEREST (3).

straight mortgage. See MORTGAGE.

straight sentence. See *determinate sentence* under SENTENCE.

straight-term mortgage. See *interest-only mortgage* under MORTGAGE.

straight voting. See *noncumulative voting* under VOTING.

stramineus homo (strə-min-ee-əs hoh-moh). [Latin "man of straw"] See STRAW MAN.

strand, n. A shore or bank of an ocean, lake, river, or stream.

stranding, n. *Maritime law.* A ship's drifting, driving, or running aground on a strand.

accidental stranding. Stranding as a result of natural forces, as in wind and waves. • The type of stranding that occurs determines the method of apportioning the liability for any resulting losses. See *general average* and *special average* under AVERAGE. — Also termed *involuntary stranding*.

"Damage to a vessel from involuntary stranding or wreck, and the cost of repairs, are particular average only. Where, however, the ship and cargo are exposed to a common peril by the accidental stranding, the expenses of unloading and taking care of the cargo, rescuing the vessel, reloading the cargo, and other expenses other than repairs requisite to enable the vessel to proceed on the voyage, are brought into general average, provided the vessel and cargo were saved by the same series of measures during the continuance of the common peril which created the joint necessity for the expenses." 70 Am. Jur. 2d *Shipping* § 961, at 1069 (1987).

voluntary stranding. Stranding to avoid a more dangerous fate or for fraudulent purposes.

"The loss occurring when a ship is voluntarily run ashore to avoid capture, foundering, or shipwreck is to be made good by general average contribution, if the ship is afterwards recovered so as to be able to perform its voyage, as such a claim is clearly within the rule that whatever is sacrificed for the common benefit of the associated interests shall be made good by all the interests exposed to the common peril which were saved from the common danger by the sacrifice A vessel cannot, however, claim contribution founded on even a voluntary stranding made necessary by . . . unseaworthiness or the negligence of those in charge, except in pursuance of a valid agreement to that effect." 70 Am. Jur. 2d *Shipping* § 961, at 1069 (1987).

stranger. 1. One who is not party to a given transaction <she was a stranger to the agreement>. **2.** One not standing toward another in some relation implied in the context <the trustee was negotiating with a stranger>.

stranger in blood. 1. One not related by blood, such as a relative by affinity. **2.** Any person not within the consideration of natural love and affection arising from a relationship.

stratagem. A trick or deception to obtain an advantage, esp. in a military conflict.

strategic alliance. A coalition formed by two or more persons in the same or complementary businesses to gain long-term financial, operational, and marketing advantages without jeop-

ardizing competitive independence <through their strategic alliance, the manufacturer and distributor of a co-developed product shared development costs>. Cf. JOINT VENTURE; PARTNERSHIP.

stratocracy (strə-tok-rə-see). A military government.

strator (stray-tər). *Hist.* A surveyor of the highways.

straw bail. See *bail common* under BAIL (3).

straw bond. See BOND (2).

straw man. **1.** A fictitious person, esp. one that is weak or flawed. **2.** A tenuous and exaggerated counterargument that an advocate puts forward for the sole purpose of disproving it. — Also termed *straw-man argument*. **3.** A third party used in some transactions as a temporary transferee to allow the principal parties to accomplish something that is otherwise impermissible. **4.** A person hired to post a worthless bail bond for the release of an accused. — Also termed *stramineus homo*.

stray remarks. *Employment law*. Statements to or about an employee by a coworker or supervisor, concerning the employee's race, sex, age, national origin, or other status, that are either objectively or subjectively offensive, but that do not represent harassment or discrimination by the employer because of (1) their sporadic, unsystematic, and unofficial nature, (2) the circumstances in which they were made, or (3) their not showing any intention to hamper the employee's continued employment. — Also termed *stray comments*.

stream. Anything liquid that flows in a line or course; esp., a current of water consisting of a bed, bank, and watercourse, usu. emptying into other bodies of water but not losing its character even if it breaks up or disappears.

private stream. A watercourse, the bed, channel, or waters of which are exclusively owned by private parties.

stream-of-commerce theory. **1.** The principle that a state may exercise personal jurisdiction over a defendant if the defendant places a product in the general marketplace and the product causes injury or damage in the forum state, as long as the defendant also takes other acts to establish some connection with the forum state, as by advertising there or by hiring

someone to serve as a sales agent there. *Asahi Metal Indus. Co., Ltd. v. Superior Court of California*, 480 U.S. 102, 107 S.Ct. 1026 (1987).

2. The principle that a person who participates in placing a defective product in the general marketplace is strictly liable for harm caused by the product. Restatement (Second) of Torts § 402A (1979).

street. A road or public thoroughfare used for travel in an urban area, including the pavement, shoulders, gutters, curbs, and other areas within the street lines.

"Strictly speaking, a 'street' is a public thoroughfare in an urban community such as a city, town, or village, and the term is not ordinarily applicable to roads and highways outside of municipalities. Although a street, in common parlance, is equivalent to a highway, it is usually specifically denominated by its own proper appellation. . . . Whether a particular highway is to be regarded as a 'street' within the meaning of that term as used in a statute must, of course, be resolved by construction." 39 Am. Jur. 2d *Highways, Streets, and Bridges* § 8, at 588-89 (1999).

street crime. See CRIME.

street gang. See GANG.

street name. A brokerage firm's name in which securities owned by another are registered. ● A security is held by a broker in street name (at the customer's request) to simplify trading because no signature on the stock certificate is required. A street name may also be used for securities purchased on margin. The word "street" in this term is a reference to Wall Street.

streptitus judicialis (strep-ə-təs joo-dish-ee-ay-lis), *n.* [Law Latin] *Hist.* Disruptive behavior in court.

strict, *adj.* **1.** Narrow; restricted <strict construction>. **2.** Rigid; exacting <strict statutory terms>. **3.** Severe <strict punishment>. **4.** Absolute; requiring no showing of fault <strict liability>.

strict construction. See CONSTRUCTION.

strict constructionism, *n.* The doctrinal view of judicial construction holding that judges should interpret a document or statute (esp. one involving penal sanctions) according to its literal terms, without looking to other sources to ascertain the meaning. — Also termed *strict construction*; *literal canon*; *literal rule*; *textualism*. — **strict constructionist**, *n.*

strict foreclosure. See FORECLOSURE.

stricti juris (striĕk-tĭ jooŕ-is). [Latin] Of strict right of law; according to the exact law, without extension or enhancement in interpretation. • This term was often applied to servitudes because they are a restriction on the free exercise of property rights.

strict interpretation. See INTERPRETATION.

strictissimi juris (striĕk-tĭs-ə-mĭ jooŕ-is). [Latin] Of the strictest right or law; to be interpreted in the strictest manner. • This term was usu. applied to certain statutes, esp. those imposing penalties or restraining natural liberties.

strict liability. See LIABILITY.

strict-liability crime. See CRIME.

strictly ministerial duty. See DUTY (2).

stricto jure (striĕk-toĕ jooŕ-ee). [Latin] In strict law.

strict products liability. See PRODUCTS LIABILITY.

strict scrutiny. *Constitutional law.* The standard applied to suspect classifications (such as race) in equal-protection analysis and to fundamental rights (such as voting rights) in due-process analysis. • Under strict scrutiny, the state must establish that it has a compelling interest that justifies and necessitates the law in question. See COMPELLING-STATE-INTEREST TEST; SUSPECT CLASSIFICATION; FUNDAMENTAL RIGHT. Cf. INTERMEDIATE SCRUTINY; RATIONAL-BASIS TEST.

strict settlement. See SETTLEMENT.

strict test. *Evidence.* The principle that disclosure of a privileged document, even when inadvertent, results in a waiver of the attorney-client privilege regarding the document, unless all possible precautions were taken to protect the document from disclosure. Cf. LENIENT TEST; HYDRAFLOW TEST.

strictum jus (striĕk-təm jəs). See JUS STRICTUM.

strict underwriting. See *standby underwriting* under UNDERWRITING.

strike, n. 1. An organized cessation or slowdown of work by employees to compel the employer to meet the employees' demands. Cf. LOCKOUT; BOYCOTT; PICKETING.

ca'canny strike (kah-kan-ee or kaw-). A strike in which the workers remain on the job but work at a slower pace to reduce their output.

economic strike. A strike resulting from an economic dispute with the employer (such as a wage dispute); a dispute for reasons other than unfair labor practices. • An employer can permanently replace an economic striker but cannot prevent the worker from coming back to an unreplaced position simply because the worker was on strike.

general strike. A strike organized to affect an entire industry.

illegal strike. 1. A strike using unlawful procedures. **2.** A strike to obtain unlawful objectives, as in a strike to force an employer to stop doing business with a particular company.

jurisdictional strike. A strike resulting from a dispute between members of different unions over work assignments.

outlaw strike. See *wildcat strike*.

quickie strike. See *wildcat strike*.

recognition strike. A strike by workers seeking to force their employer to acknowledge the union as their collective-bargaining agent. • After the National Labor Relations Act was passed in 1935, recognition strikes became unnecessary. Under the Act, the employer is required to recognize an NLRB-certified union for bargaining purposes. — Also termed *organizational strike*.

secondary strike. A strike against an employer because that employer has business dealings with another employer directly involved in a dispute with the union. See *secondary boycott* under BOYCOTT; *secondary picketing* under PICKETING.

sit-down strike. A strike in which employees occupy the workplace but do not work.

sympathy strike. A strike by union members who have no grievance against their own employer but who want to show support for another union involved in a labor dispute.

wildcat strike. A strike not authorized by a union or in violation of a collective-bargaining agreement. — Also termed *outlaw strike*; *quickie strike*.

2. The removal of a prospective juror from the jury panel <a peremptory strike>. See CHAL-

LENGE (2). **3.** A failure or disadvantage, as by a criminal conviction <a strike on one's record>.

strike, vb. **1.** (Of an employee or union) to engage in a strike <the flight attendants struck to protest the reduction in benefits>. **2.** To remove (a prospective juror) from a jury panel by a peremptory challenge or a challenge for cause <the prosecution struck the panelist who indicated an opposition to the death penalty>. See *peremptory challenge* under CHALLENGE. **3.** To expunge, as from a record <motion to strike the prejudicial evidence>.

strikebreaker. See SCAB.

strike down. To invalidate (a statute); to declare void.

strike fund. A union fund that provides benefits to its members who are on strike, esp. for subsistence while the members are not receiving wages.

strike off. **1.** (Of a court) to order (a case) removed from the docket. **2.** (Of an auctioneer) to announce, usu. by the falling of the hammer, that an item has been sold.

strike price. See PRICE.

strike suit. See SUIT.

striking a jury. The selecting of a jury out of all the candidates available to serve on the jury; esp., the selecting of a special jury. See *special jury* (1) under JURY.

striking off the roll. See DISBARMENT.

striking price. See *strike price* under PRICE.

strip, n. **1.** The act of separating and selling a bond's coupons and corpus separately. **2.** The act of a tenant who, holding less than the entire fee in land, spoils or unlawfully takes something from the land.

STRIP (strip). *abbr.* SEPARATE TRADING OF REGISTERED INTEREST AND PRINCIPAL OF SECURITIES.

strip search. See SEARCH.

strong-arm clause. A provision of the Bankruptcy Code allowing a bankruptcy trustee to avoid a security interest that is not perfected

when the bankruptcy case is filed. 11 USCA § 544(a)(1).

strongly corroborated. (Of testimony) supported from independent facts and circumstances that are powerful, satisfactory, and clear to the court and jury.

strong mark. See TRADEMARK.

strong market. See *bull market* under MARKET.

strong trademark. See TRADEMARK.

struck jury. See JURY.

structural alteration. See ALTERATION.

structural unemployment. See UNEMPLOYMENT.

structure. **1.** Any construction, production, or piece of work artificially built up or composed of parts purposefully joined together <a building is a structure>. **2.** The organization of elements or parts <the corporate structure>. **3.** A method of constructing parts <the loan's payment structure was a financial burden>.

structured security. See SECURITY.

structured settlement. See SETTLEMENT.

study release. A program that allows a prisoner to be released for a few hours at a time to attend classes at a nearby college or technical institution. — Also termed *study furlough*.

stuff gown. **1.** The professional robe worn by barristers of the outer bar who have not been appointed Queen's Counsel. **2.** A junior barrister. Cf. SILK GOWN.

stultify, vb. **1.** To make (something or someone) appear stupid or foolish <he stultified opposing counsel's argument>. **2.** To testify about one's own lack of mental capacity. **3.** To contradict oneself, as by denying what one has already alleged.

stultiloquium (stəl-ti-loh-kwee-əm). [fr. Latin *stultus* "foolish" + *loqui* "to speak"] *Hist.* A frivolous pleading punishable by fine. • This may have been the origin of the beaupleader. See BEAUPLEADER.

stumpage (stəmp-ij). **1.** The timber standing on land. **2.** The value of the standing timber. **3.** A license to cut the timber. **4.** The fee paid for the right to cut the timber.

stuprum (st[y]oo-prəm), *n.* [Latin] *Roman & civil law.* Illegal sexual intercourse with a woman, usu. a virgin or widow, or with a male (pederasty).

"The law refers to *stuprum* and adultery indiscriminately and with rather a misuse of terms. But properly speaking adultery is committed with a married woman, the name being derived from children conceived by another (*alter*); *stuprum*, however, is committed against a virgin or a widow; the Greeks call it corruption." *Digest of Justinian* 48.5.6.1 (Papinian, De Adulteriis 1).

style, *n.* **1.** A case name or designation <the style of the opinion is *Connor v. Gray*>. Cf. CAPTION (1). **2.** *Scots law.* A form of writ or deed used in conveyancing. ● A book of styles is essentially a formbook; a typical Scottish example is John Hendry's *Styles of Deeds and Instruments* (2d ed. 1862).

suable, *adj.* **1.** Capable of being sued <a suable party>. **2.** Capable of being enforced <a suable contract>. — **suability**, *n.*

suapte natura (s[y]oo-ap-tee nə-t[y]oor-ə). [Latin] In its own nature — as in *suapte natura sterilia* ("barren of its own nature").

sua sponte (s[y]oo-ə spon-tee). [Latin "of one's own accord; voluntarily"] Without prompting or suggestion; on its own motion <the court took notice sua sponte that it lacked jurisdiction over the case>.

sub (səb). [Latin] Under; upon.

subagent. See AGENT.

subaltern (səb-awl-tərn), *n.* An inferior or subordinate officer.

sub ballivus (səb bə-ll-vəs), *n.* [Law Latin] *Hist.* An undersheriff; a sheriff's deputy. See BALLIVUS.

subchapter-C corporation. See *C corporation* under CORPORATION.

subchapter-S corporation. See *S corporation* under CORPORATION.

sub colore juris (səb kə-lor-ee joor-is). [Latin] Under color of right; under an appearance of right.

subcommittee. A committee subdivision that reports to and performs duties on behalf of a regular committee.

sub conditione (səb kən-dish-ee-oh-nee). [Law Latin] Under condition. ● This term creates a condition in a deed.

subcontract. See CONTRACT.

subcontractor. One who is awarded a portion of an existing contract by a contractor, esp. a general contractor. ● For example, a contractor who builds houses typically retains subcontractors to perform specialty work such as installing plumbing, laying carpet, making cabinetry, and landscaping — each subcontractor is paid a somewhat lesser sum than the contractor receives for the work.

sub curia (səb kyoor-ee-ə). [Latin] Under law.

sub disjunctione (səb dis-jəngk-shee-oh-nee). [Latin] In the alternative.

subditus (səb-də-təs). [Latin] *Hist.* Someone under another's power; a vassal.

subdivision, *n.* **1.** The division of a thing into smaller parts. **2.** A parcel of land in a larger development. — **subdivide**, *vb.*

illegal subdivision. The division of a tract of land into smaller parcels in violation of local subdivision regulations, as when a developer begins laying out streets, installing sewer and utility lines, and constructing houses without the authorization of the local planning commission.

legal subdivision. The governmentally approved division of a tract of land into smaller parcels using ordinary and legally recognized methods for surveying and platting land and publicly recording the results.

subdivision exaction. A charge that a community imposes on a subdivider as a condition for permitting recordation of the subdivision map and sale of the subdivided parcels.

subdivision map. A map that shows how a parcel of land is to be divided into smaller lots, and generally showing the layout and utilities.

subinfeudate (səb-in-fyoo-dayt), *vb. Hist.* (Of a subvassal) to grant lands to another to hold as his vassal rather than his superior. — Also termed *subinfeud* (səb-in-fyood).

"[A] more common method of obtaining the annual quota of knights was to *subinfeudate* portions of the baronial lands to individual knights in exchange for their obligations to spend a fixed portion of time annually in the king's or baron's service. A knight who so received a portion of a baron's land would hold of his baron in much the same way as the baron held of the king." Thomas F. Bergin & Paul G. Haskell, *Preface to Estates in Land and Future Interests* 4 (2d ed. 1984).

subinfeudation (səb-in-fyoo-day-shən), *n. Hist.* The system under which the tenants in a feudal system granted smaller estates to their tenants, who in turn did the same from their pieces of land. Cf. INFEUDATION; SUPERINFEUDATION.

subinfeudatory (səb-in-fyoo-də-tor-ee), *n.* A tenant holding lands by subinfeudation.

subjacent (səb-jay-sənt), *adj.* Located underneath or below <the land's subjacent support>.

subjacent support. See SUPPORT.

subject, *n.* **1.** One who owes allegiance to a sovereign and is governed by that sovereign's laws <the monarchy's subjects>.

"Speaking generally, we may say that the terms subject and citizen are synonymous. Subjects and citizens are alike those whose relation to the state is personal and not merely territorial, permanent and not merely temporary. This equivalent, however, is not absolute. For in the first place, the term subject is commonly limited to monarchical forms of government, while the term citizen is more specially applicable in the case of republics. A British subject becomes by naturalisation a citizen of the United States of America or of France. In the second place, the term citizen brings into prominence the rights and privileges of the status, rather than its correlative obligations, while the reverse is the case with the term subject. Finally it is to be noticed that the term subject is capable of a different and wider application, in which it includes all members of the body politic, whether they are citizens (*i.e.*, subjects *stricto sensu*) or resident aliens. All such persons are subjects, all being subject to the power of the state and to its jurisdiction, and as owing to it, at least temporarily, fidelity and obedience." John Salmond, *Jurisprudence* 133 (Glanville L. Williams ed., 10th ed. 1947).

natural-born subject. A person born within the dominion of a monarchy, esp. England. Cf. NATIONAL.

2. The matter of concern over which something is created <the subject of the stat-

ute>. — Also termed (in sense 2) *subject matter*.

subject, *adj.* Referred to above; having relevance to the current discussion <the subject property was then sold to Smith>.

subjection. 1. The act of subjecting someone to something <their subjection to torture was unconscionable>. **2.** The condition of a subject in a monarchy; the obligations surrounding such a person <a subject, wherever residing, owes fidelity and obedience to the Crown, while an alien may be released at will from all such ties of subjection>. **3.** The condition of being subject, exposed, or liable; liability <the defendants' subjection to the plaintiffs became clear shortly after the trial began>. — Also termed (in sense 3) *liability*; *susceptibility*.

subjective, *adj.* **1.** Based on an individual's perceptions, feelings, or intentions, as opposed to externally verifiable phenomena <the subjective theory of contract — that the parties must have an actual meeting of the minds — is not favored by most courts>. **2.** Personal; individual <subjective judgments about popular music>. Cf. OBJECTIVE.

subjective ethics. See MORAL RELATIVISM.

subjective meaning. See MEANING.

subjective novation. See NOVATION.

subjective standard. See STANDARD.

subjective theory of contract. The doctrine (now largely outmoded) that a contract is an agreement in which the parties have a subjective meeting of the minds. — Often shortened to *subjective theory*. See MEETING OF THE MINDS. Cf. OBJECTIVE THEORY OF CONTRACT.

subject matter. The issue presented for consideration; the thing in which a right or duty has been asserted; the thing in dispute. See CORPUS (2). — Sometimes written (as a noun) *subject-matter*. — **subject-matter**, *adj.*

subject-matter jurisdiction. See JURISDICTION.

subject-matter test. A method of determining whether an employee's communication with a corporation's lawyer was made at the direction of the employee's supervisors and in the course and scope of the employee's employment, so as to be protected under the attorney-client privi-

lege, despite the fact that the employee is not a member of the corporation's control group. *Harper & Row Pubs., Inc. v. Decker*, 423 F.2d 487 (7th Cir. 1970), *aff'd per curiam by equally divided Court*, 400 U.S. 348, 91 S.Ct. 479 (1971). — Also termed *Decker test*. Cf. CONTROL-GROUP TEST.

subject of a right. **1.** The owner of a right; the person in whom a legal right is vested. **2.** OBJECT OF A RIGHT.

subject to open. Denoting the future interest of a class of people when this class is subject to a possible increase or decrease in number.

sub judge (səb joo-di-see *also* suub yoo-dikay), *adv.* [Latin "under a judge"] Before the court or judge for determination; at bar <in the case sub judge, there have been no out-of-court settlements>. • Legal writers sometimes use "case sub judge" where "the present case" would be more comprehensible.

subjugation. See DEBELLATIO.

sublease, n. A lease by a lessee to a third party, conveying some or all of the leased property for a shorter term than that of the lessee, who retains a reversion in the lease. — Also termed *subtenancy* and (esp. in England) *underlease*. — **sublease, sublet, vb.**

sublessee. A third party who receives by lease some or all of the leased property from a lessee. — Also termed *subtenant* and (esp. in England) *undertenant*.

sublessor. A lessee who leases some or all of the leased property to a third party. — Also termed (esp. in England) *underlessor*.

sublicense. A license granting a portion or all of the rights granted to the licensee under an original license.

submission, n. **1.** A yielding to the authority or will of another <his resistance ended in an about-face: complete submission>. **2.** A contract in which the parties agree to refer their dispute to a third party for resolution <in their submission to arbitration, they referred to the rules of the American Arbitration Association>. **3.** An advocate's argument <neither the written nor the oral submissions were particularly helpful>. — **submit, vb.**

submission bond. See BOND (2).

submission date. See DATE.

submission to a finding. The admission to facts sufficient to warrant a finding of guilt. — Also termed *admission to sufficient facts*.

submission to the jury. The process by which a judge gives a case to the jury for its consideration and verdict, usu. occurring after all evidence has been presented, arguments have been completed, and instructions have been given.

sub modo (səb moh-doh). [Latin] Subject to conditions or qualifications <the riparian landowner enjoys the property *sub modo*, i.e., subject to the right of the public to reserve enough space for levees, public roads, and the like>.

submortgage. A mortgage created when a person holding a mortgage as security for a loan procures another loan from a third party and pledges the mortgage as security; a loan to a mortgagee who puts up the mortgage as collateral or security for the loan.

sub nomine (səb nom-ə-nee). [Latin] Under the name. • This phrase, typically in abbreviated form, is often used in a case citation to indicate that there has been a name change from one stage of the case to another, as in *Guernsey Memorial Hosp. v. Secretary of Health and Human Servs.*, 996 F.2d 830 (6th Cir. 1993), *rev'd sub nom. Shalala v. Guernsey Memorial Hosp.*, 514 U.S. 87, 115 S.Ct. 1232 (1995). — Abbr. *sub nom.*

subordinate (sə-bor-də-nit), *adj.* **1.** Placed in or belonging to a lower rank, class, or position <a subordinate lien>. **2.** Subject to another's authority or control <a subordinate lawyer>.

subordinate (sə-bor-də-nayt), *vb.* To place in a lower rank, class, or position; to assign a lower priority to <subordinate the debt to a different class of claims>.

subordinated bond. See BOND (3).

subordinate debenture. See DEBENTURE.

subordinate debt. See DEBT.

subordinate legislation. See LEGISLATION.

subordinate officer. See OFFICER (1).

subordinate political power. See POLITICAL POWER.

subordination, n. The act or an instance of moving something (such as a right or claim) to a lower rank, class, or position <subordination of a first lien to a second lien>.

subordination agreement. See AGREEMENT.

subordination clause. A covenant in a junior mortgage enabling the first lien to keep its priority in case of renewal or refinancing.

suborn (sə-ˈbɔrn), vb. **1.** To induce (a person) to commit an unlawful or wrongful act, esp. in a secret or underhanded manner. **2.** To induce (a person) to commit perjury. **3.** To obtain (perjured testimony) from another. — **subornation (səb-ɔr-nay-shən), n.** — **suborner (sə-ˈbɔr-nər), n.**

subornation of perjury. The crime of persuading another to commit perjury. — Sometimes shortened to *subornation*.

subpartnership. See PARTNERSHIP.

sub pede sigilli (səb ˈpee-dee si-ˈjil-i). [Latin] Under the foot of the seal.

subpoena (sə-ˈpee-nə), n. [Latin “under penalty”] A writ commanding a person to appear before a court or other tribunal, subject to a penalty for failing to comply. — Also spelled *subpena*. Pl. **subpoenas**.

alias subpoena (ay-lee-əs sə-ˈpee-nə). A subpoena issued after an initial subpoena has failed.

subpoena ad testificandum (sə-ˈpee-nə ad tes-tə-fi-kan-dəm). [Law Latin] A subpoena ordering a witness to appear and give testimony.

subpoena duces tecum (sə-ˈpee-nə d[ɪ]ˈoo-sēz tē-kəm also ˈdoo-səz tay-kəm). [Law Latin] A subpoena ordering the witness to appear and to bring specified documents or records.

subpoena, vb. **1.** To call before a court or other tribunal by subpoena <subpoena the material witnesses>. **2.** To order the production of (documents or other things) by subpoena duces tecum <subpoena the corporate records>. — Also spelled *subpena*.

subpoenal (sə-ˈpee-nəl), adj. Required or done under penalty, esp. in compliance with a subpoena.

sub potestate (səb poh-tes-tay-tee). [Latin] Under the power of another, as in a child or other person not *sui juris*. See SUI JURIS.

subreptio (səb-ˈrep-shee-oh). [Latin “surreptitious removal”] *Roman law*. **1.** Theft. **2.** The obtaining of a grant from the emperor under false pretenses. — Also termed (in French law) *subreption*.

subrogate (səb-rə-ˈgayt), vb. To substitute (a person) for another regarding a legal right or claim.

subrogation (səb-rə-ˈgay-shən), n. **1.** The substitution of one party for another whose debt the party pays, entitling the paying party to rights, remedies, or securities that would otherwise belong to the debtor. ● For example, a surety who has paid a debt is, by subrogation, entitled to any security for the debt held by the creditor and the benefit of any judgment the creditor has against the debtor, and may proceed against the debtor as the creditor would. **2.** The principle under which an insurer that has paid a loss under an insurance policy is entitled to all the rights and remedies belonging to the insured against a third party with respect to any loss covered by the policy. See EQUITY OF SUBROGATION. Cf. ANTISUBROGATION RULE.

“Subrogation is equitable assignment. The right comes into existence when the surety becomes obligated, and this is important as affecting priorities; but such right of subrogation does not become a cause of action until the debt is fully paid. Subrogation entitles the surety to use any remedy against the principal which the creditor could have used, and in general to enjoy the benefit of any advantage that the creditor had, such as a mortgage, lien, power to confess judgment, to follow trust funds, to proceed against a third person who has promised either the principal or the creditor to pay the debt.” Laurence P. Simpson, *Handbook on the Law of Suretyship* 205 (1950).

“Subrogation simply means substitution of one person for another; that is, one person is allowed to stand in the shoes of another and assert that person’s rights against the defendant. Factually, the case arises because, for some justifiable reason, the subrogation plaintiff has paid a debt owed by the defendant.” Dan B. Dobbs, *Law of Remedies* § 4.3, at 404 (2d ed. 1993).

conventional subrogation. Subrogation that arises by contract or by an express act of the parties.

legal subrogation. Subrogation that arises by operation of law or by implication in equity to prevent fraud or injustice. ● Legal

subrogation usu. arises when (1) the paying party has a liability, claim, or fiduciary relationship with the debtor, (2) the party pays to fulfill a legal duty or because of public policy, (3) the paying party is a secondary debtor, (4) the paying party is a surety, or (5) the party pays to protect its own rights or property. — Also termed *equitable subrogation*.

subrogative (səb-rə-gay-tiv), *adj.* Of or relating to subrogation <subrogative rights>. — Also termed *subrogatory*; *subrogational*.

subrogee (səb-rə-jee). One who is substituted for another in having a right, duty, or claim. ● An insurance company frequently becomes a subrogee after paying a policy claim, as a result of which it is then in a position to sue a tortfeasor who injured the insured or otherwise caused damages.

subrogor (səb-rə-gor). One who allows another to be substituted for oneself as creditor, with a transfer of rights and duties.

sub rosa (səb roh-zə), *adj.* [Latin “under the rose”] *Hist.* Confidential; secret; not for publication.

sub salvo et securo conductu (səb sal-voh et si-kyoor-oh kən-dək-t[y]oo). [Law Latin] *Hist.* Under safe and secure conduct. ● This phrase was used in writs of habeas corpus.

subscribed capital. See CAPITAL.

subscribed stock. See STOCK.

subscribing witness. See WITNESS.

subscriptio (səb-skrip-shee-oh), *n.* [Latin] *Roman law*. **1.** A signature, esp. a name written under or at the bottom of a document to authenticate it. **2.** A signature to a will, required in certain cases in addition to the seals of witnesses.

subscription, n. **1.** The act of signing one’s name on a document; the signature so affixed. **2.** *Securities.* A written contract to purchase newly issued shares of stock or bonds. — Also termed (in connection with stock) *stock subscription*. **3.** An oral or a written agreement to contribute a sum of money or property, gratuitously or with consideration, to a specific person or for a specific purpose. — Also termed (in

subsequent remedial measure

sense **3**) *subscription contract*. — **subscribe**, *vb.* — **subscriber, n.**

subscription contract. See SUBSCRIPTION (3).

subscription list. An enumeration of subscribers to an agreement, periodical, or service.

subscription price. The price at which investors can buy shares in a new stock offering before the shares are offered to the public.

subscription privilege. See PREEMPTIVE RIGHT.

subscription right. A certificate evidencing a shareholder’s right (known as a *preemptive right*) to purchase newly issued stock before the stock is offered to the public. ● Subscription rights have a market value and are actively traded because they allow the holder to purchase stock at favorable prices. — Also termed *stock right*. See PREEMPTIVE RIGHT.

subscription warrant. An instrument granting the holder a long-term (usu. a five- to ten-year) option to buy shares at a fixed price. ● It is commonly attached to preferred stocks or bonds. — Also termed *warrant*; *stock warrant*.

subsellia (səb-sel-ee-ə), *n.* [Latin fr. *sub* “under” and *sella* “seat”] *Roman law*. Lower seats in a courtroom, usu. occupied by the parties or their witnesses, as distinguished from the seat of the tribunal.

subsequent, adj. (Of an action, event, etc.) occurring later; coming after something else.

subsequent-advance rule. *Bankruptcy.* The principle that a preferential transfer by the debtor will not be avoided or rescinded by the debtor’s bankruptcy trustee if (1) the creditor extended new value to the debtor after receiving the preferential transfer, (2) the new value is unsecured, and (3) the new value remains unpaid after its transfer. 11 USCA § 547(c)(4).

subsequent creditor. See CREDITOR.

subsequent negligence. See NEGLIGENCE.

subsequent-negligence doctrine. See LAST-CLEAR-CHANCE DOCTRINE.

subsequent remedial measure. (*usu. pl.*) *Evidence.* An action taken after an event, which, if taken before the event, would have reduced the likelihood of the event’s occurrence. ● Evidence

of subsequent remedial measures is not admissible to prove negligence, but it may be admitted to prove ownership, control, feasibility, or the like. Fed. R. Evid. 407.

subservant. See *subagent* under AGENT.

subsidiary (səb-sid-ee-er-ee), *adj.* Subordinate; under another's control. See *subsidiary corporation* under CORPORATION.

subsidiary, n. See *subsidiary corporation* under CORPORATION.

subsidiary corporation. See CORPORATION.

subsidiary merger. See *triangular merger* under MERGER.

subsidy, n. **1.** A grant, usu. made by the government, to any enterprise whose promotion is considered to be in the public interest. **2.** A specific financial contribution by a foreign government or public entity conferring a benefit on exporters to the United States. ● Such a subsidy is countervailable under 19 USCA §§ 1671, 1677. — **subsidize, vb.**

sub sigillo (səb si-jil-oh). [Latin "under the seal (of confession)"] *Hist.* In the strictest confidence.

sub silentio (səb si-len-shee-oh). [Latin] Under silence; without notice being taken; without being expressly mentioned (such as precedent *sub silentio*).

subsistence. Support; means of support. See NECESSARIES.

sub spe reconciliationis (səb spee rek-ən-sil-ee-ay-shee-oh-nis). [Latin] *Hist.* Under the hope of reconciliation.

substance. 1. The essence of something; the essential quality of something, as opposed to its mere form <matter of substance>. **2.** Any matter, esp. an addictive drug <illegal substance> <abuse of a substance>.

substantial-capacity test. Criminal law. The Model Penal Code's test for the insanity defense, stating that a person is not criminally responsible for an act if, as a result of a mental disease or defect, the person lacks substantial capacity either to appreciate the criminality of the conduct or to conform the conduct to the law. ● This test combines elements of both the

McNaghten rules and the irresistible-impulse test by allowing consideration of both volitional and cognitive weaknesses. This test was formerly used by the federal courts and many states, but since 1984 many jurisdictions (including the federal courts) — in response to the acquittal by reason of insanity of would-be presidential assassin John Hinckley — have narrowed the insanity defense and adopted a new test resembling the *McNaghten* rules, although portions of the substantial-capacity test continue to be used. Model Penal Code § 4.01. — Also termed *Model Penal Code test*; *MPC test*; *American Law Institute test*; *ALI test*. See INSANITY DEFENSE.

substantial-certainty test. Copyright. The test for deciding whether a second work was copied from the first. ● The question is whether a reasonable observer would conclude with substantial certainty that the second work is a copy.

substantial-compliance rule. See SUBSTANTIAL-PERFORMANCE DOCTRINE.

substantial-continuity doctrine. A principle for holding a successor corporation liable for the acts of its predecessor corporation, if the successor maintains the same business as the predecessor, with the same employees, doing the same jobs, for the same supervisors, under the same working conditions, and using the same production processes to produce the same products for the same customers. — Also termed *continuity-of-enterprise doctrine*. Cf. MERE-CONTINUATION DOCTRINE.

substantial damages. See DAMAGES.

substantial equivalent. Patents. The same essential thing as the patented item, so that if two devices do the same work in substantially the same way, they are equivalent, even though they differ in name, form, or shape. — Also termed *substantial equivalent of a patented device*.

substantial evidence. See EVIDENCE.

substantial-evidence rule. The principle that a reviewing court should uphold an administrative body's ruling if it is supported by evidence on which the administrative body could reasonably base its decision.

substantial-factor test. Torts. The principle that causation exists when the defendant's con-

duct is an important or significant contributor to the plaintiff's injuries. Cf. BUT-FOR TEST.

substantial justice. See JUSTICE (1).

substantially justified. (Of conduct, a position, etc.) having a reasonable basis in law and in fact. ● Under the Equal Access to Justice Act, a prevailing party in a lawsuit against the government will be unable to recover its attorney's fees if the government's position is substantially justified.

substantial performance. See PERFORMANCE.

substantial-performance doctrine. The equitable rule that, if a good-faith attempt to perform does not precisely meet the terms of the agreement, the agreement will still be considered complete if the essential purpose of the contract is accomplished. ● Courts may allow a remedy for minimal damages caused by the deviance. — Also termed *substantial-compliance rule*. Cf. PERFECT-TENDER RULE.

"There has arisen in the United States an indefinite doctrine sometimes referred to as that of substantial performance. It is a doctrine that deals not with performance of a duty as a discharge thereof but with performance by the plaintiff as a condition precedent to the active duty of performance by the defendant. Where a defendant is sued for non-performance he cannot avoid paying damages by showing that he substantially performed or came near performing or gave something equally good; but he can always successfully defend if in fact some condition precedent to his own duty has not been fulfilled by the plaintiff." William R. Anson, *Principles of the Law of Contract* 422 (Arthur L. Corbin ed., 3d Am. ed. 1919).

substantial right. See RIGHT.

substantial similarity. *Copyright.* A strong resemblance between a copyrighted work and an alleged infringement, thereby creating an inference of unauthorized copying. ● The standard for substantial similarity is whether an ordinary person would conclude that the alleged infringement has appropriated nontrivial amounts of the copyrighted work's expressions. See DERIVATIVE WORK.

comprehensive nonliteral similarity. Similarity evidenced by the copying of the protected work's general ideas or structure (such as a movie's plot) without using the precise words or phrases of the work. — Also termed *pattern similarity*.

fragmented literal similarity. Similarity evidenced by the copying of verbatim portions of the protected work.

substantial-step test. *Criminal law.* The Model Penal Code's test for determining whether a person is guilty of attempt, based on the extent of the defendant's preparation for the crime, the criminal intent shown, and any statements personally made that bear on the defendant's actions. Model Penal Code § 5.01(1)(c). See ATTEMPT (2).

substantiate, vb. To establish the existence or truth of (a fact, etc.), esp. by competent evidence; to verify.

substantive consolidation. See CONSOLIDATION.

substantive crime. See *substantive offense* under OFFENSE (1).

substantive due process. See DUE PROCESS.

substantive evidence. See EVIDENCE.

substantive law (səb-stən-tiv). The part of the law that creates, defines, and regulates the rights, duties, and powers of parties. Cf. PROCEDURAL LAW.

"So far as the administration of justice is concerned with the application of remedies to violated rights, we may say that the substantive law defines the remedy and the right, while the law of procedure defines the modes and conditions of the application of the one to the other." John Salmond, *Jurisprudence* 476 (Glanville L. Williams ed., 10th ed. 1947).

substantive offense. See OFFENSE (1).

substantive right. See RIGHT.

substantive rule. See LEGISLATIVE RULE.

substantive unconscionability. See UNCONSCIONABILITY.

substitute, n. **1.** One who stands in another's place <a substitute for a party>. See SUBSTITUTION OF PARTIES. **2.** *Civil law.* A person named in a will as heir to an estate after the estate has been held and then passed on by another specified person (called the *institute*). — **substitute, vb.**

substitute amendment. See AMENDMENT (1).

substituted agreement. See NOVATION.

substituted basis. See BASIS.

substituted contract. See CONTRACT.

substituted executor. See EXECUTOR.

substituted-judgment doctrine. The rule allowing a person (such as a family member or a conservator) or a court to make a decision about medical treatment on behalf of one who is incompetent and unable to make his or her own decisions.

substituted service. See SERVICE (2).

substitute gift. See GIFT.

substitutio haeredis (səb-stə-t[y]oo-shee-oh hæ-ree-dis). [Latin] *Roman law.* The substitution of an heir who, under certain circumstances, took the place of the original heir, as when the original heir declined an estate.

substitution. 1. A designation of a person or thing to take the place of another person or thing. **2.** The process by which one person or thing takes the place of another person or thing. **3. Roman law.** The nomination of a person to take the place of a previously named heir who has refused or failed to accept an inheritance. — Also termed *common substitution*; *vulgar substitution*. **4. Roman law.** The nomination of a person to take as heir in place of, or to succeed, a descendant who is under the age of puberty and in the potestas of the testator, if the descendant has failed to take the inheritance or has died before reaching puberty. • This type of substitution was also known as a *pupillary substitution*. If a descendant of any age failed to take by reason of lunacy, the substitution was known as an *exemplary substitution* or *quasi-pupillary substitution*. **5. Roman law.** A testator's designation of a person to whom the property was to be given by the person named as heir, or by the heir of that person. — Also termed *fideicommissary substitution*. See FIDEICOMMISSUM. **6. Civil law.** The designation of a person to succeed another as beneficiary of an estate, usu. involving a *fideicommissum*. — Also termed *fideicommissary substitution*.

substitutional, adj. Capable of taking or supplying the position of another <substitutional executor> <substitutional issue>. — Also termed *substitutionary*.

substitutional gift. See *substitute gift* under GIFT.

substitutional legacy. See LEGACY.

substitutional remedy. See REMEDY.

substitutionary. See SUBSTITUTIONAL.

substitutionary evidence. See *secondary evidence* under EVIDENCE.

substitution-of-judgment doctrine. *Administrative law.* The standard for reviewing an agency's decision, by which a court uses its own independent judgment in interpreting laws and administrative regulations — rather than deferring to the agency — when the agency's interpretation is not instructive or the regulations do not involve matters requiring the agency's expertise.

subtraction (səb-strak-shən), *n.* The secret misappropriation of property, esp. from a decedent's estate.

subsume (səb-s[y]oom), *vb.* To judge as a particular instance governed by a general principle; to bring (a case) under a broad rule. — **subsumption** (səb-səmp-shən), *n.*

sub suo periculo (səb s[y]oo-oh pə-rik-[y]ə-loh). [Law Latin] *Hist.* At his own risk.

subsurety (səb-shuur[-ə]-tee). A person whose undertaking is given as additional security, usu. conditioned not only on nonperformance by the principal but also on nonperformance by an earlier promisor as well; a surety with the lesser liability in a subsuretyship.

subsuretyship (səb-shuur[-ə]-tee-ship). The relation between two (or more) sureties, in which a principal surety bears the burden of the whole performance that is due from both sureties; a relationship in which one surety acts as a surety for another.

subsurface right. 1. A landowner's right to the minerals and water below the property. **2.** A like right, held by another through grant by, or purchase from, a landowner. See MINERAL RIGHT. Cf. SURFACE RIGHT.

subtenancy. See SUBLEASE.

subtenant. See SUBLESSEE.

subterfuge (səb-tər-fyooj). A clever plan or idea used to escape, avoid, or conceal something <a subterfuge to avoid liability under a statute>.

subterranean water. See WATER.

subtraction. **1.** The process of deducting one number from another number to determine the difference. **2. Hist.** The act of neglecting a duty or service that one party owes to another, esp. one that arises out of land tenure.

“Subtraction, which is the fifth species of injuries affecting a man’s real property, happens, when any person who owes any suit, duty, custom, or service to another, withdraws or neglects to perform it. It differs from a disseisin, in that *this* is committed without any denial of the right, consisting merely in non-performance; *that* strikes at the very title of the party injured, and amounts to an ouster or actual dispossession. Subtraction however, being clearly an injury, is remediable by due course of law: but the remedy differs according to the nature of the services; whether they be due by virtue of any tenure, or by custom only.” 3 William Blackstone, *Commentaries on the Laws of England* 230 (1768).

subtraction of conjugal rights. *Hist.* The act of a husband and wife unlawfully living apart.

suburbani (səb-ər-bay-nī), *n.* [Latin] *Hist.* Husbandmen.

subvention (səb-ven-shən). A grant of financial aid or assistance; a subsidy.

subversion. The process of overthrowing, destroying, or corrupting <subversion of legal principles> <subversion of the government>.

Subversive Activities Control Act of 1950. See MCCARRAN ACT.

subversive activity. A pattern of acts designed to overthrow a government by force or other illegal means.

successful party. See *prevailing party* under PARTY (2).

successio (sək-sesh-ee-oh), *n.* [Latin] *Roman law.* A succession to something, as to an estate by will or by the laws of intestacy.

successio in universum jus (sək-ses[h]-ee-oh in yoo-ni-vər-səm jəs). [Latin “succession to universal right”] *Roman law.* The succession on death of the entirety of a deceased person’s assets and liabilities. See HEREDITAS JACENS.

succession, n. **1.** The act or right of legally or officially taking over a predecessor’s office, rank, or duties. **2.** The acquisition of rights or property by inheritance under the laws of descent and distribution; DESCENT (1). — **succeed, vb.**

hereditary succession. Succession by the common law of descent. See DESCENT; TESTATE SUCCESSION; INTESTATE SUCCESSION.

intestate succession. See INTESTATE SUCCESSION.

irregular succession. Succession by special laws favoring certain persons or the state, rather than heirs (such as testamentary heirs) under the ordinary laws of descent.

legal succession. The succession established by law, usu. in favor of the nearest relation of a deceased person.

natural succession. Succession between natural persons, as in descent on the death of an ancestor.

testamentary succession. *Civil law.* Succession resulting from the institution of an heir in a testament executed in the legally required form.

testate succession. See TESTATE SUCCESSION.

universal succession. *Civil law.* Succession to an entire estate of another, living or dead (though usu. the latter). • This type of succession carries with it the predecessor’s liabilities as well as assets.

vacant succession. *Civil law.* **1.** A succession that fails either because there are no known heirs or because the heirs have renounced the estate. **2.** An estate that has suffered such a failure.

3. The right by which one group, in replacing another group, acquires all the goods, movables, and other chattels of a corporation. **4.** The continuation of a corporation’s legal status despite changes in ownership or management. — Also termed *artificial succession*. — **successor, n.**

perpetual succession. The continuous succession of a corporation — despite changes in shareholders and officers — for as long as the corporation legally exists.

“As a general rule, the words ‘perpetual succession,’ as used in charters, often in connection with a further provision limiting the period of corporate existence to a certain number of years, mean nothing more than that the corporation shall have continuous and uninterrupted succession so long as it shall continue to exist as a corporation, and are not intended to define its duration.” 18 Am. Jur. 2d *Corporations* § 69, at 883 (1985).

successional, adj. Of or relating to acquiring rights or property by inheritance under the laws of descent and distribution.

succession tax. See *inheritance tax* (1) under TAX.

successive, *adj.* **1.** *Archaic.* (Of an estate) hereditary. **2.** (Of persons, things, appointments, etc.) following in order; consecutive.

successive tortfeasors. See TORTFEASOR.

successor. **1.** A person who succeeds to the office, rights, responsibilities, or place of another; one who replaces or follows another. **2.** A corporation that, through amalgamation, consolidation, or other assumption of interests, is vested with the rights and duties of an earlier corporation.

particular successor. *Civil law.* One who succeeds to rights and obligations that pertain only to the property conveyed.

singular successor. One who succeeds to a former owner's rights in a single piece of property.

universal successor. One who succeeds to all the rights and powers of a former owner, as with an intestate estate or an estate in bankruptcy.

successor fiduciary. See FIDUCIARY.

successor in interest. One who follows another in ownership or control of property. • A successor in interest retains the same rights as the original owner, with no change in substance.

successor trustee. See TRUSTEE (1).

such, *adj.* **1.** Of this or that kind <she collects a variety of such things>. **2.** That or those; having just been mentioned <a newly discovered Fabergé egg will be on auction next week; such egg is expected to sell for more than \$500,000>.

sudden-and-accidental pollution exclusion. See *pollution exclusion* under EXCLUSION (3).

sudden-emergency doctrine. See EMERGENCY DOCTRINE (1).

sudden heat of passion. See HEAT OF PASSION.

sudden-onset rule. The principle that medical testimony is unnecessary to prove causation of the obvious symptoms of an injury that immediately follows a known traumatic incident.

sudden passion. See HEAT OF PASSION.

sudden-peril doctrine. See EMERGENCY DOCTRINE (1).

sue, *vb.* To institute a lawsuit against (another party).

sue-and-labor clause. *Marine insurance.* A provision providing that the marine insurer will cover the costs incurred by the insured in protecting the covered property from damage or minimizing actual damages to the property. — Also termed *rescue clause*.

“Some insurance today is written against ‘all risks’ Besides the perils clause . . . recovery under the policy can be had on the entirely separate ‘sue and labor’ clause Under this clause, the underwriter may become liable for certain charges incurred by the assured in caring for the insured property, whether or not there is any actual loss or damage. Where sue-and-labor charges are incurred and loss also occurs, the underwriter may become liable for more than the policy amount, which limits only a claim for loss of or damage to the goods or vessel.” Grant Gilmore & Charles L. Black, Jr., *The Law of Admiralty* § 2-10, at 75 (2d ed. 1975).

sue facts. Facts that determine whether a party should bring a lawsuit; esp., facts determining whether a shareholder-derivative action should be instituted under state law.

sue out, *vb.* To apply to a court for the issuance of (a court order or writ).

suffer, *vb.* **1.** To experience or sustain physical or emotional pain, distress, or injury <suffer grievously> <suffer damages>. **2.** To allow or permit (an act, etc.) <to suffer a default>.

sufferance (səf-ər-ənts or səf-rənts). **1.** Toleration; passive consent. **2.** The state of one who holds land without the owner's permission. See *tenancy at sufferance* under TENANCY. **3.** A license implied from the omission to enforce a right.

sufferance wharves. *Hist. English law.* Wharves designated by the Commissioner of the Customs to receive goods before any duties must be paid.

sufferentia pacis (səf-ə-ren-shee-ə pay-sis), *n.* [Latin] A grant of peace; a truce; an armistice.

suffering a recovery. *Hist.* A conveyor's act of allowing, for the purposes of a conveyance, a fictitious action to be brought by the conveyee and a judgment to be recovered for the land in question.

sufficiency-of-evidence test. **1.** The guideline for a grand jury considering whether to indict a suspect: if all the evidence presented were un-

contradicted and unexplained, it would warrant a conviction by the fact-trier. **2.** A standard for reviewing a criminal conviction on appeal, based on whether enough evidence exists to justify the fact-trier's finding of guilt beyond a reasonable doubt. — Also termed *sufficiency-of-the-evidence test*.

sufficient, *adj.* Adequate; of such quality, number, force, or value as is necessary for a given purpose <sufficient consideration> <sufficient evidence>.

sufficient cause. **1.** See *good cause* under CAUSE (2). **2.** PROBABLE CAUSE.

sufficient consideration. See CONSIDERATION.

sufficient evidence. See *satisfactory evidence* under EVIDENCE.

suffragan (səf-rə-gən). A titular bishop ordained to aid and assist a bishop of the diocese in the church business; a deputy or assistant bishop. • Suffragans were originally appointed only to replace absent bishops and were called *chorepiscopi* ("bishops of the county"), as distinguished from the regular bishops of the city or see.

suffrage (səf-rij). **1.** The right or privilege of casting a vote at a public election. — Also termed RIGHT TO VOTE.

"In the United States suffrage is a privilege, franchise or trust conferred by the people upon such persons as it deems fittest to represent it in the choice of magistrates or in the performance of political duties which it would be inexpedient or inconvenient for the people to perform in a body. The person upon whom the franchise is conferred is called an elector or voter. No community extends suffrage to all persons, but places such restrictions upon it as may best subserve the ends of government." George W. McCrary, *A Treatise on the American Law of Elections* § 1, at 2 (Henry L. McCune ed., 4th ed. 1897).

2. A vote; the act of voting.

suffragium (sə-fray-jee-əm), *n.* [Latin] *Roman law.* **1.** A vote; the right to vote. **2.** A recommendation of someone for a special privilege or office.

suggested retail price. See PRICE.

suggestibility, *n.* The readiness with which a person accepts another's suggestion. — **suggestible**, *adj.*

suggestio falsi (səg-jes-tee-oh fal-si or fawl-si). [Latin] A false representation or misleading suggestion. Cf. SUPPRESSIO VERI.

suggestion, *n.* **1.** An indirect presentation of an idea <the client agreed with counsel's suggestion to reword the warranty>. **2. Procedure.** A statement of some fact or circumstance that will materially affect the further proceedings in the case <suggestion for rehearing en banc>. — **suggest** (for sense 1), *vb.*

suggestion of bankruptcy. A pleading by which a party notifies the court that the party has filed for bankruptcy and that, because of the automatic stay provided by the bankruptcy laws, the court cannot legally take further action in the case.

suggestion of death. A pleading filed by a party, or the party's representatives, by which the court is notified that a party to a suit has died.

suggestion of error. An objection made by a party to a suit, indicating that the court has committed an error or that the party wants a rehearing of a particular issue.

suggestive interrogation. See LEADING QUESTION.

suggestive question. See LEADING QUESTION.

suggestive trademark. See TRADEMARK.

sui (s[y]oo-i). [Latin] *Roman law.* A person's direct descendants who were unemancipated.

suicide, *n.* **1.** The act of taking one's own life. — Also termed *self-killing*; *self-destruction*; *self-slaughter*; *self-murder*; *felony de se*.

assisted suicide. The intentional act of providing a person with the medical means or the medical knowledge to commit suicide. — Also termed *assisted self-determination*. Cf. EUTHANASIA.

attempted suicide. An unsuccessful suicidal act.

2. A person who has taken his or her own life. — **suicidal**, *adj.*

suicide clause. *Insurance.* A life-insurance-policy provision either excluding suicide as a risk or limiting the liability of the insurer in the event of a suicide to the total premiums paid.

suicide letter of credit. See *clean letter of credit* under LETTER OF CREDIT.

sui generis (s[y]oo-I or soo-ee jen-ə-ris). [Latin “of its own kind”] Of its own kind or class; unique or peculiar.

sui heredes (s[y]oo-I hə-ree-deez). [Latin] *Roman law*. One’s own heirs. — Also spelled *sui haeredes*.

“If a man died without a will, his property went to his *sui heredes* (own heirs, direct heirs), that is, to the persons who were previously under his *potestas*, but were released from it by his death. If he had adopted as son a person not connected with him by birth, that person was included among the *sui heredes*; on the other hand, a son by birth whom he had emancipated was . . . excluded from the *sui heredes* . . .” James Hadley, *Introduction to Roman Law* 134 (1881).

sui juris (s[y]oo-I or soo-ee joor-is). [Latin “of one’s own right; independent”] **1.** Of full age and capacity. **2.** Possessing full social and civil rights.

suit. Any proceeding by a party or parties against another in a court of law; CASE. — Also termed *lawsuit*; *suit at law*. See ACTION.

ancillary suit (an-sə-ler-ee). An action, either at law or in equity, that grows out of and is auxiliary to another suit and is filed to aid the primary suit, to enforce a prior judgment, or to impeach a prior decree. — Also termed *ancillary bill*; *ancillary proceeding*; *ancillary process*.

blackmail suit. A suit filed by a party having no genuine claim but hoping to extract a favorable settlement from a defendant who would rather avoid the expenses and hassles of litigation.

class suit. See CLASS ACTION.

derivative suit. See DERIVATIVE ACTION (1).

plenary suit (plee-nə-ree or plen-ə-ree). An action that proceeds on formal pleadings under rules of procedure. Cf. *summary proceeding* under PROCEEDING.

strike suit. A suit (esp. a derivative action), often based on no valid claim, brought either for nuisance value or as leverage to obtain a favorable or inflated settlement.

suit at law. A suit conducted according to the common law or equity, as distinguished from statutory provisions. • Under the current rules of practice in federal and most state courts, the term *civil action* embraces an action both at law and in equity. Fed. R. Civ. P. 2.

suit of a civil nature. A civil action. See *civil action* under ACTION.

suitable, adj. (Of goods, etc.) fit and appropriate for their intended purpose.

suitas (s[y]oo-ə-tas), *n.* [Law Latin] The status of a proper heir.

suit at law. See SUIT.

suit for exoneration. A suit in equity brought by a surety to compel the debtor to pay the creditor. • If the debtor has acted fraudulently and is insolvent, a suit for exoneration may include further remedies to ensure that the debtor’s assets are applied equitably to the debtor’s outstanding obligations. — Also termed *suit to compel payment*.

suit money. Attorney’s fees and court costs allowed or awarded by a court; esp., in some jurisdictions, a husband’s payment to his wife to cover her reasonable attorney’s fees in a divorce action.

suitor. 1. A party that brings a lawsuit; a plaintiff or petitioner. **2.** An individual or company that seeks to take over another company.

Suitors’ Deposit Account. An account consisting of suitors’ fees paid in the Court of Chancery that, by the Chancery Act of 1872, were to be invested in government securities bearing interest at 2% per annum on behalf of the investing suitor, unless the suitor directed otherwise.

Suitors’ Fee Fund. Hist. A fund consisting largely of fees generated by the Court of Chancery out of which the court officers’ salaries and expenses were paid. • In 1869 the fund was transferred to the Commissioners for the Reduction of the National Debt.

suit papers. See COURT PAPERS.

suit pro laesione fidei (proh lee-zhee-oh-nee ft-dee-I), *n.* [Latin “for injury to faith”] *Hist. Eccles. law.* A suit in ecclesiastical court for spiritual offenses against conscience, nonpayment of debts, or a civil breach of contract. • This attempt to turn the ecclesiastical courts into courts of equity was abolished in 1164.

Suits in Admiralty Act. A federal law giving injured parties the right to sue the government in admiralty. 46 USCA app. §§ 741–752.

suit to compel payment. See SUIT FOR EXONERATION.

sum. **1.** A quantity of money. **2.** *English law.* A legal summary or abstract; a compendium; a collection. • Several treatises are called *sums*.

sum certain. **1.** Any amount that is fixed, settled, or exact. **2.** *Commercial law.* In a negotiable instrument, a sum that is agreed on in the instrument or a sum that can be ascertained from the document.

summa injuria (səm-ə in-joor-ee-ə). [Latin] The greatest injury or injustice.

summa potestas (səm-ə pə-tes-təs), *n.* [Latin “sum or totality of power”] The final authority or power in government.

summary, n. **1.** An abridgment or brief. **2.** A short application to a court without the formality of a full proceeding.

summary, adj. **1.** Short; concise <a summary account of the events on March 6>. **2.** Without the usual formalities; esp., without a jury <a summary trial>. **3.** Immediate; done without delay <the new weapon was put to summary use by the military>. — **summarily** (səm-ər-ə-lee or sə-mair-ə-lee), *adv.*

summary adjudication. See *partial summary judgment* under SUMMARY JUDGMENT.

summary conviction. See CONVICTION.

summary court-martial. See COURT-MARTIAL.

summary disposition. See SUMMARY JUDGMENT.

summary eviction. See EVICTION.

summary judgment. A judgment granted on a claim about which there is no genuine issue of material fact and upon which the movant is entitled to prevail as a matter of law. • This procedural device allows the speedy disposition of a controversy without the need for trial. Fed. R. Civ. P. 56. — Also termed *summary disposition*; *judgment on the pleadings*. See JUDGMENT.

partial summary judgment. A summary judgment that is limited to certain issues in a case and that disposes of only a portion of the whole case. — Also termed *summary adjudication*.

summary-judgment motion. See MOTION FOR SUMMARY JUDGMENT.

summary jurisdiction. See JURISDICTION.

summary jury trial. See TRIAL.

summary offense. See OFFENSE (1).

summary plan description. Under ERISA, an outline of an employee benefit plan, containing such information as the identity of the plan administrator, the requirements for eligibility and participation in the plan, circumstances that may result in disqualification or denial of benefits, and the identity of any insurers responsible for financing or administering the plan. • A summary plan description must generally be furnished to all employee-benefit-plan participants and beneficiaries. 29 USCA § 1022.

summary procedure. See SHOW-CAUSE PROCEEDING.

summary proceeding. See PROCEEDING.

summary process. See PROCESS.

summary trial. See *summary proceeding* under PROCEEDING.

summation. See CLOSING ARGUMENT.

summer associate. See CLERK (4).

summer clerk. See CLERK (4).

summing up. See CLOSING ARGUMENT.

summon, vb. To command (a person) by service of a summons to appear in court. — Also termed *summons*.

sumnoneas (sə-moh-nee-əs), *n.* [Law Latin “you are to summon”] *Hist.* A writ ordering a party to appear in court.

summoner. *Hist.* A petty officer charged with summoning parties to appear in court. See NUNTIUS.

“But process, as we are now to consider it, is the method taken by the law to compel a compliance with the original writ, of which the primary step is by giving the party notice to obey it. This notice is given . . . by *summons*; which is a warning to appear in court . . . given to the defendant by two of the sheriff’s messengers called *summoners*, either in person or left at his house or land.” 3

William Blackstone, *Commentaries on the Laws of England* 279 (1768).

summonitio (səm-ə-nish-ee-oh), *n.* [Law Latin fr. Latin *summonere* "to summon"] *Hist.* A summons.

summonitores scaccarii (səm-ən-ə-tor-eez skə-kair-ee-ī). [Law Latin] *Hist.* Exchequer officers who assisted in revenue collections by summoning defaulters to court.

summons, *n.* **1.** Formerly, a writ directing a sheriff to summon a defendant to appear in court. **2.** A writ or process commencing the plaintiff's action and requiring the defendant to appear and answer. **3.** A notice requiring a person to appear in court as a juror or witness. **4.** *English law.* The application to a common-law judge upon which an order is made. **Pl. summonses.**

alias summons. A second summons issued after the original summons has failed for some reason.

John Doe summons. **1.** A summons to a person whose name is unknown at the time of service. **2.** *Tax.* A summons from the Internal Revenue Service to a third party to provide information on an unnamed, unknown taxpayer with potential tax liability. — Also termed *third-party record-custodian summons*.

short summons. A summons having a response time less than that of an ordinary summons, usu. served on a fraudulent or nonresident debtor.

summons, *vb.* **1.** SUMMON. **2.** To request (information) by summons.

"The horrible expression 'summonsed for an offence' (turning the noun 'summons' into a verb) has now become accepted usage, but 'summoned' remains not only allowable but preferable." Glanville Williams, *Learning the Law* 15 n.28 (11th ed. 1982).

summum bonum (səm-əm boh-nəm *also* suum-uum baw-nuum). [Latin] The greatest good.

summum jus (səm-əm jəs). [Latin] The highest law.

sumner (səm-nər), *n.* *Hist.* A summoning officer, esp. in an ecclesiastical court. See SUMMONER.

sum-of-the-years'-digits depreciation method. See DEPRECIATION METHOD.

sum payable. An amount due; esp., the amount for which the maker of a negotiable instrument becomes liable and must tender in full satisfaction of the debt.

sumptuary law (səmp-choo-er-ee). **1.** A statute, ordinance, or regulation that limits the expenditures that people can make for personal gratification or ostentatious display. **2.** More broadly, any law whose purpose is to regulate conduct thought to be immoral, such as prostitution, gambling, or drug abuse.

Sunday-closing law. See BLUE LAW.

Sunday law. See BLUE LAW.

sundries (sən-dreez). Miscellaneous items that may be considered together, without being separately specified or identified.

sundry (sən-dree), *adj.* Separate; diverse; various.

sunk cost. See COST (1).

sunset law. A statute under which a governmental agency or program automatically terminates at the end of a fixed period unless it is formally renewed.

sunshine committee. An official or quasi-official committee whose proceedings and work are open to public access.

sunshine law. A statute requiring a governmental department or agency to open its meetings or its records to public access. — Also termed *open-meeting law*; *public-meeting law*; *open-door law*.

suo nomine (s[y]oo-oh nom-ə-nee). [Latin] In one's own name.

suo periculo. See SUB SUO PERICULO.

SUP. *abbr.* SPECIAL-USE PERMIT.

sup. ct. *abbr.* SUPREME COURT.

super (s[y]oo-pər). [Latin] Above; over; higher.

super altum mare (s[y]oo-pər al-təm mair-ee or mahr-ee). [Latin] On the high sea.

supercargo. *Maritime law.* A person specially employed and authorized by a cargo owner to

sell cargo that has been shipped and to purchase returning cargo, at the best possible prices; the commercial or foreign agent of a merchant.

"Supercargoes are persons employed by commercial companies or by private merchants to take charge of the cargoes they export to foreign countries, to sell them there to the best advantage, and to purchase proper commodities to relade the ships on their return home. They usually go out with the ships on board of which the goods are embarked, and return home with them, and in this they differ from factors who live abroad The supercargo is the agent of the owners, and disposes of the cargo and makes purchases under their general instructions on his own responsibility." 70 Am. Jur. 2d *Shipping* § 886, at 1025 (1987).

superductio (s[y]oo-pər-dək-shee-oh). [Latin] *Roman law*. The obliteration of part of a will or other document by writing on top of something erased within it.

superfeudation. See SUPERINFEDATION.

superficiarius (s[y]oo-pər-fish-ee-air-ee-əs), *n.* [Latin] *Roman law*. A person who had a hereditary and alienable right to a building on another's land subject to the payment of an annual rent.

superficies (s[y]oo-pər-fish-ee-eez or -fish-eez), *n.* [Latin "surface"] *Roman & civil law*. **1.** The surface of the ground. **2.** An improvement that stands on the surface of the ground, such as a building. **3.** The right of a *superficiarius*.

Superfund. **1.** The program that funds and administers the cleanup of hazardous-waste sites through a trust fund (financed by taxes on petroleum and chemicals and a new tax on corporations) created to pay for cleanup pending reimbursement from the liable parties. **2.** The popular name for the act that established this program — the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). See CERCLA.

superinfedation. *Hist.* The granting of one or more feuds out of a feudal estate. — Also termed *superfeudation*. Cf. SUBINFEDATION.

"Whatever may be the proper view of its origin and legal nature, the best mode of vividly picturing to ourselves the feudal organisation is to begin with the basis, to consider the relation of the tenant to the patch of soil which created and limited his services — and then to mount up, through narrowing circles of super-feudation, till we approximate to the apex of the system." Henry S. Maine, *Ancient Law* 88 (17th ed. 1901).

superinstitution. *Eccles. law*. The institution of one person in an office that already has an incumbent, as when two individuals claim a benefice by adverse titles.

superintendent. A person with the power to direct activities; a manager.

superintending control. See CONTROL.

superior, *adj.* (Of a rank, office, power, etc.) higher; elevated; possessing greater power or authority; entitled to exert authority or command over another <superior estate> <superior force> <superior agent>. — **superior**, *n.*

superior agent. See *high-managerial agent* under AGENT.

superior commissioned officer. See OFFICER (2).

superior court. See COURT.

superior fellow servant. See FELLOW SERVANT.

superior force. See FORCE MAJEURE; VIS MAJOR.

superior knowledge. See KNOWLEDGE.

superjurare (s[y]oo-pər-juu-rair-ee). [Latin "to swear"] *Hist.* To swear too strenuously. ● This describes the situation in which an obviously guilty criminal attempted to avoid conviction by producing oaths of several parties but was convicted by an overwhelming number of witnesses.

superlien. A statutory lien that is superior to all existing liens and all later-filed liens on the same property. ● Superliens are sometimes granted to a state's environmental-protection agency. Several states — such as Arkansas, Connecticut, Massachusetts, New Hampshire, New Jersey, and Tennessee — have enacted statutes creating superliens on property owned by a party responsible for environmental cleanup.

supermajority. See MAJORITY.

supernumerarii (s[y]oo-pər-n[y]oo-mə-rair-ee-1). [Latin "persons above the number"] *Roman law*. Advocates who were unregistered and not attached to a particular bar; advocates who were in excess of the permitted number. Cf. STATUTI.

superoneratio (s[y]oo-pər-on-ə-ray-shee-oh). [Law Latin] *Hist.* **1.** The act or practice of surcharging a common. **2.** The placement of more cattle on a common than is allowed; overstocking.

superoneratione pasturae. See DE SUPERONERATIONE PASTURAE.

superplusagium (s[y]oo-pər-plə-say-jee-əm), *n.* [Law Latin] *Hist.* A surplus; a remainder.

super praerogativa regis (s[y]oo-pər pri-rōg-ə-ti-və ree-jis), *n.* [Law Latin] *Hist.* A writ against the king's tenant's widow for marrying without royal permission.

superpriority. *Bankruptcy.* The special priority status granted by the court to a creditor for extending credit to a debtor or trustee that cannot obtain unsecured credit from a willing lender. • This priority may be either an administrative claim outranking other administrative claims or, if certain statutory requirements are met, a security interest in property. 11 USCA § 364(c)(1).

supersede, *vb.* **1.** To annul, make void, or repeal by taking the place of <the 1996 statute supersedes the 1989 act>. **2.** To invoke or make applicable the right of supersedeas against (an award of damages) <what is the amount of the bond necessary to supersede the judgment against her?>. — **supersession** (for sense 1), *n.*

supersedeas (soo-pər-seed-ee-əs), *n.* [Latin "you shall desist"] A writ or bond that suspends a judgment creditor's power to levy execution, usu. pending appeal. — Also termed *writ of supersedeas*. Pl. **supersedeases** (soo-pər-see-dee-əs-iz).

supersedeas bond. See BOND (2).

superseding cause. See CAUSE (1).

super statuto (s[y]oo-pər stə-t[y]oo-toh), *n.* [Law Latin] *Hist.* A writ against tenants-in-chief who transferred their land without the king's permission in violation of the Statute of Westminster II, chs. 12 & 13.

super statuto de articulis cleri (s[y]oo-pər stə-t[y]oo-toh dee ahr-tik-yə-lis klee-ri), *n.* [Law Latin] *Hist.* A writ against a sheriff who unlawfully distrains goods.

super statuto facto pour seneschal et marshal de roy (s[y]oo-pər stə-t[y]oo-toh fak-toh poor sen-ə-shahl ay mahr-[ə]-shahl də roy), *n.* [Law Latin] *Hist.* A writ to restrain the court of the Marshalsea from interfering in matters outside the court's jurisdiction.

super statuto versus servantes et laboratores (s[y]oo-pər stə-t[y]oo-toh vər-səs sər-van-teez et lab-ər-ə-tor-eez), *n.* [Law Latin] *Hist.* **1.** A writ against someone who employs laborers who unlawfully left former employments. **2.** A writ against a person who refused to work at the required wage.

superstitious use. See USE (1).

supervening cause. See *intervening cause* under CAUSE (1).

supervening negligence. See *subsequent negligence* under NEGLIGENCE.

supervening-negligence doctrine. See LAST-CLEAR-CHANCE DOCTRINE.

supervision, *n.* The act of managing, directing, or overseeing persons or projects. — **supervise, *vb.*** — **supervisory** (soo-pər-vi-zə-ree), *adj.*

supervisor, *n.* **1.** One having authority over others; a manager or overseer. • Under the National Labor Relations Act, a supervisor is any individual having authority to hire, transfer, suspend, lay off, recall, promote, discharge, discipline, and handle grievances of other employees, by exercising independent judgment. **2.** The chief administrative officer of a town or county. — **supervisorial** (soo-pər-vi-zor-ee-əl), *adj.*

supervisory authority. *Military law.* An officer who, exercising general court-martial jurisdiction, reviews summary and special court-martial trial records after the convening authority has reviewed them.

supervisory control. The control exercised by a higher court over a lower court, as by prohibiting the lower court from acting extrajudicially and by reversing its extrajudicial acts. See MANDAMUS.

supplemental, *adj.* Supplying something additional; adding what is lacking <supplemental rules>.

supplemental affidavit. See AFFIDAVIT.

supplemental bill. See BILL (2).

supplemental bill in nature of bill of review. See *bill in the nature of a bill of review* under BILL (2).

supplemental claim. See CLAIM (4).

supplemental complaint. See COMPLAINT.

supplemental jurisdiction. See JURISDICTION.

supplemental pleading. See PLEADING (1).

Supplemental Rules for Certain Maritime and Admiralty Claims. See MARITIME JURISDICTION.

supplemental security income. Monthly income provided under a program administered by the Social Security Administration to a qualified person as defined by Social Security regulations, including a person who is disabled or over the age of 65. — Abbr. SSI.

supplemental surety. See SURETY.

supplementary proceeding. See PROCEEDING.

suppletory oath (səp-lə-tor-ee). See OATH.

suppliant (səp-lee-ənt). One who humbly requests something; specif., the actor in a petition of right.

supplicatio (səp-li-kay-shee-oh), *n.* [Latin] *Roman law*. **1.** A petition to the emperor requesting him to decide a case in the first instance or, sometimes, to reopen a case in which no appeal is normally allowed.

“Another mode was *supplicatio*, petition to the Emperor by a private person, not allowed when the question was already before a court or had been decided and not properly appealed. It was mainly used to bring matters before the Emperor or his delegate, in first instance, where for any reason it was unlikely that justice would be done, e.g. where the claimant was humble and the opponent a ‘*potentior*,’ or where the claimant was of too high rank to go before the ordinary court, or the decision was of an unappealable magistrate.” W.W. Buckland, *Elementary Principles of the Roman Private Law* 671 (1912).

2. A petition for a pardon on a first offense. **3.** *Hist.* A pleading similar to a rejoinder.

supplicavit (səp-li-kay-vit). *Hist.* A writ issuing out of the King’s Bench or Chancery for taking sureties of the peace, obligating a person to be on good behavior for a specified period. • It is commonly directed to the justices of the peace who are hesitant to intervene in their judicial capacities. See *surety of the peace* under SURETY.

“Any justices of the peace, by virtue of their commission, or those who are *ex officio* conservators of the peace . . . may demand such security according to their own discretion: or it may be granted at the request of any subject, upon due cause shewn . . . Or, if the justice is averse to act, it may be granted by a mandatory writ, called a *supplicavit*, issuing out of the court of king’s bench or chancery; which will compel the justice to act, as a ministerial and not as a judicial officer . . .” 4 William Blackstone, *Commentaries on the Laws of England* 250 (1769).

supplicium (sə-plish-ee-əm), *n.* [Latin “atone-ment”] *Roman law*. A punishment. • *Ultimum supplicium* is the death penalty.

supplier, *n.* A person engaged, directly or indirectly, in the business of making a product available to consumers.

supplies, *n.* **1.** Means of provision or relief; stores available for distribution. **2.** In parliamentary proceedings, the annual grant voted on by the House of Commons for maintaining the Crown and various public services.

supply, *n.* The amount of goods produced or available at a given price.

aggregate supply. The total amount of goods and services generated in an economy during a specific period.

supply curve. A line on a price-output graph showing the relationship between a good’s price and the quantity supplied at a given time.

support, *n.* **1.** Sustenance or maintenance; esp., articles such as food and clothing that allow one to live in the degree of comfort to which one is accustomed. See MAINTENANCE (5); NECESSARIES. **2.** Basis or foundation. **3.** The right to have one’s ground braced so that it does not cave in because of another landowner’s actions. — **support, vb.**

lateral support. The right to have one’s land supported by the land that lies next to it. — Also termed *easement of natural support*.

subjacent support. The right to have one’s land supported by the earth that lies underneath it.

support obligation. A secondary obligation or letter-of-credit right that supports the payment or performance of an account, chattel paper, general intangible, document, healthcare-insurance receivable, instrument, or investment property. UCC § 9-102(a)(53).

support order. A court decree requiring a party in a divorce proceeding or a paternity proceeding to make payments to maintain a child or spouse, including medical, dental, and educational expenses.

foreign support order. An out-of-state support order.

support price. See PRICE.

support trust. See TRUST.

supposition (səp-ə-zīsh-ən), *n.* An assumption that something is true, without proof of its veracity; the act of supposing. — **suppose**, *vb.* — **supposable**, *adj.*

suppress, *vb.* To put a stop to, put down, or prohibit; to prevent (something) from being seen, heard, known, or discussed <the defendant tried to suppress the incriminating evidence>. — **suppression**, *n.* — **suppressible**, **suppressive**, *adj.*

suppression hearing. See HEARING.

suppression of evidence. **1.** A trial judge's ruling that evidence that a party has offered should be excluded because it was illegally acquired. **2.** The destruction of evidence or the refusal to give evidence at a criminal proceeding. • This is usu. considered a crime. See OBSTRUCTION OF JUSTICE. **3.** The prosecution's withholding from the defense of evidence that is favorable to the defendant.

suppressio veri (sə-pres[h]-ee-oh veer-I). [Latin] Suppression of the truth; a type of fraud. Cf. SUGGESTIO FALSI.

supra (s[y]oo-prə). [Latin "above"] Earlier in this text; used as a citational signal to refer to a previously cited authority. Cf. INFRA.

supralegal, *adj.* Above or beyond the law <a supralegal sovereign>.

supranational, *adj.* Free of the political limitations of nations.

supra protest. (Of a debt) under protest. See PROTEST (3).

supra riparian (soo-prə ri-pair-ee-ən or ri-). Upper riparian; higher up the stream. • This phrase describes the estate, rights, and duties of a riparian owner whose land is situated nearer the source of a stream than the land it is compared to.

supremacy. The position of having the superior or greatest power or authority.

Supremacy Clause. The clause in Article VI of the U.S. Constitution declaring that all laws made in furtherance of the Constitution and all treaties made under the authority of the United States are the "supreme law of the land" and enjoy legal superiority over any conflicting provision of a state constitution or law. See PREEMPTION.

supremacy of law. See RULE OF LAW.

supreme, *adj.* (Of a court, power, right, etc.) highest; superior to all others.

supreme court. **1.** (*cap.*) SUPREME COURT OF THE UNITED STATES. **2.** An appellate court existing in most states, usu. as the court of last resort. **3.** In New York, a court of general jurisdiction with trial and appellate divisions. • The Court of Appeals is the court of last resort in New York. — Abbr. S.C.; S.Ct.; Sup. Ct.

Supreme Court of Appeals. The highest court in West Virginia.

Supreme Court of Errors. *Hist.* The court of last resort in Connecticut. • The court is now called the *Supreme Court*.

Supreme Court of Judicature. The highest court in England and Wales, consisting of the High Court of Justice, the Court of Appeal, and the Crown Court. • The Supreme Court was created under the Judicature Act of 1873 that consolidated the existing superior courts, including the High Court of Chancery, the court of Queen's Bench, the court of Exchequer, the High Court of Admiralty, the court of Probate, and the London court of Bankruptcy.

Supreme Court of the United States. The court of last resort in the federal system, whose members are appointed by the President and approved by the Senate. • The Court was established in 1789 by Article III of the U.S.

Constitution, which vests the Court with the "judicial power of the United States." — Often shortened to *Supreme Court*. — Also termed *United States Supreme Court*.

Supreme Judicial Court. The highest appellate court in Maine and Massachusetts.

supreme law of the land. **1.** The U.S. Constitution. **2.** Acts of Congress made according to the U.S. Constitution. **3.** U.S. treaties.

supreme legislation. See LEGISLATION.

supreme power. See *sovereign political power* under POLITICAL POWER.

sur (sər). [Law French] *Hist.* Upon. • This term appears in various phrases, such as *sur cognizance de droit* ("upon acknowledgment of right").

surcharge, n. **1.** An additional tax, charge, or cost, usu. one that is excessive. **2.** An additional load or burden. **3.** A second or further mortgage. **4.** The omission of a proper credit on an account. **5.** The amount that a court may charge a fiduciary that has breached its duty. **6.** An overprint on a stamp, esp. one that changes its face value. **7.** The overstocking of an area with animals. — **surcharge, vb.**

surcharge, vb. **1.** To impose an additional (usu. excessive) tax, charge, or cost. **2.** To impose an additional load or burden. **3.** (Of a court) to impose a fine on a fiduciary for breach of duty. **4.** To overstock (an area) with animals.

second surcharge. To overstock (a common) a second time for which a writ of second surcharge was issued.

surcharge and falsify. To scrutinize particular items in an account to show items that were not credited as required (to surcharge) and to prove that certain items were wrongly inserted (to falsify). • The courts of chancery usu. granted plaintiffs the opportunity to surcharge and falsify accounts that the defendant alleged to be settled.

sur cui ante divortium (sər ki [or kwɪ or kwɛɪ] an-tee də-vor-shee-əm). See CUI ANTE DIVORTIUM.

sur cui in vita (sər ki [or kwɪ or kwɛɪ] in vi-tə). See CUI IN VITA.

sur disclaimer. *Hist.* A writ brought by a lord against a tenant who has disclaimed tenure, to recover the land.

surdus (sər-dəs). [Latin] *Roman law.* A deaf person. • A wholly deaf or dumb person could not lawfully make a will before the time of Justinian, who changed the law.

surety (shuur[-ə]-tee). **1.** A person who is primarily liable for the payment of another's debt or the performance of another's obligation. • Although a surety is similar to an insurer, one important difference is that a surety often receives no compensation for assuming liability. A surety differs from a guarantor, who is liable to the creditor only if the debtor does not meet the duties owed to the creditor; the surety is directly liable. Cf. GUARANTOR.

"The words surety and guarantor are often used indiscriminately as synonymous terms; but while a surety and a guarantor have this in common, that they are both bound for another person, yet there are points of difference between them which should be carefully noted. A surety is usually bound with his principal by the same instrument, executed at the same time and on the same consideration. He is an original promisor and debtor from the beginning, and is held ordinarily to know every default of this principal. Usually the surety will not be discharged, either by the mere indulgence of the creditor to the principal, or by want of notice of the default of the principal, no matter how much he may be injured thereby. On the other hand, the contract of the guarantor is his own separate undertaking, in which the principal does not join. It is usually entered into before or after that of the principal, and is often founded on a separate consideration from that supporting the contract of the principal." 1 George W. Brandt, *The Law of Suretyship and Guaranty* § 2, at 9 (3d ed. 1905).

"A surety, in the broad sense, is one who is liable for the debt or obligation of another, whether primarily or secondarily, conditionally or unconditionally. In other words, the term surety includes anyone who is bound on an obligation which, as between himself and another person who is bound to the obligee for the same performance, the latter obligor should discharge. In this sense, suretyship includes all accessory obligations. By such terminology, guarantors and indorsers are kinds of sureties. . . . A surety, in the narrow sense, is one who is liable in form primarily on the debt or obligation of another. His obligation is accessory to that of the principal debtor, but it is direct and not conditioned on the principal debtor's default. In this sense, suretyship differs from guaranty and indorsement, which are conditional, secondary obligations. . . . The word surety is in the majority of American decisions used in the narrower sense to indicate a primary obligation to pay another's debt, to distinguish it from the secondary obligation of a guarantor. This terminology has the advantage of indicating by the use of the one word 'surety' an obligation which is at once one to pay another's debt, but which at the same time is not conditioned upon another's default." Laurence P. Simpson, *Handbook on the Law of Suretyship* 6, 8-9 (1950).

accommodation surety. See *voluntary surety*.

compensated surety. A surety who is paid for becoming obliged to the creditor. ● A bonding company is a typical example of a compensated surety. — Also termed *commercial surety*.

cosurety. See COSURETY.

gratuitous surety. A surety who is not compensated for becoming obliged to the creditor. ● Perhaps the most common example is the parent who signs as a surety for a child.

subsurety. See SUBSURETY.

supplemental surety. A surety for a surety.

surety of the peace. *Hist.* A surety responsible for ensuring that a person will not commit a future offense. ● It is required of one against whom there are probable grounds to suspect future misbehavior. See SUPPLICAVIT.

voluntary surety. A surety who receives no consideration for the promise to act as a surety. — Also termed *accommodation surety*.

2. A formal assurance; esp., a pledge, bond, guarantee, or security given for the fulfillment of an undertaking.

surety and fidelity insurance. See *fidelity insurance* under INSURANCE.

surety bond. See BOND (2).

surety company. See COMPANY.

surety insurance. See *guaranty insurance* under INSURANCE.

surety of the peace. See SURETY.

suretyship. **1.** The legal relation that arises when one party assumes liability for a debt, default, or other failing of a second party. ● The liability of both parties begins simultaneously. In other words, under a contract of suretyship, a surety becomes a party to the principal obligation. **2.** The lending of credit to aid a principal who does not have sufficient credit. ● The purpose is to guard against loss if the principal debtor were to default. **3.** The position or status of a surety.

involuntary suretyship. A suretyship that arises incidentally, when the chief object of the contract is to accomplish some other purpose.

personal suretyship. A suretyship in which the surety is answerable in damages.

real suretyship. A suretyship in which specified property can be taken, but the surety is not answerable in damages.

suretyship by operation of law. A suretyship that the law creates when a third party promises a debtor to assume and pay the debt that the debtor owes to a creditor.

voluntary suretyship. A suretyship in which the chief object of the contract is to make one party a surety.

surface. **1.** The top layer of something, esp. of land. **2.** *Mining law.* An entire portion of land, including mineral deposits, except those specifically reserved. ● The meaning of the term varies, esp. when used in legal instruments, depending on the language used, the intention of the parties, the business involved, and the nature and circumstances of the transaction. **3.** *Mining law.* The part of the geologic section lying over the minerals in question.

surface right. A landowner's right to the land's surface and to all substances below the surface that are not defined as minerals. ● The surface right is subject to the mineral owner's right to use the surface. — Also termed *surface interest*. Cf. MINERAL RIGHT; SUBSURFACE RIGHT.

Surface Transportation Board. See INTERSTATE COMMERCE COMMISSION.

surface water. See *diffused surface water* under WATER.

Surgeon General. **1.** The chief medical officer of the U.S. Public Health Service or of a state public-health agency. **2.** The chief officer of the medical departments in the armed forces. — Abbr. SG.

surmise (sər-mɪz), *n.* **1.** An idea based on weak evidence; conjecture. **2.** *Hist.* A suggestion, esp. to a court. **3.** *Hist. Eccles. law.* An allegation in the complaint. ● A collateral surmise is a surmise of a fact not contained in the libel. See LIBEL (3).

surplice fees (sər-plɪz feez). *Eccles. law.* Fees paid to clergy for performing occasional duties, such as marriages, funerals, and baptisms.

surplus. **1.** The remainder of a thing; the residue or excess. **2.** The excess of receipts over disbursements. **3.** Funds that remain after a partnership has been dissolved and all its debts paid. **4.** A corporation's net worth, beyond the

par value of capital stock. — Also termed *overplus*.

accumulated surplus. Earnings in excess of a corporation's capital and liabilities.

acquired surplus. The surplus gained by the purchase of another business.

appreciation surplus. See *revaluation surplus*.

appropriated surplus. 1. The portion of surplus earmarked for a specific purpose. — Also termed *reserved surplus*. 2. See *appropriated retained earnings* under EARNINGS.

capital surplus. 1. All surplus (such as paid-in surplus or donated surplus) not arising from the accumulation of profits; a company's surplus other than earned surplus, usu. created by financial reorganization or gifts. 2. See *paid-in surplus*.

donated surplus. 1. Assets (such as stock) contributed to a corporation. 2. The increase in the shareholders' equity account resulting from such a contribution.

earned surplus. See *retained earnings* under EARNINGS.

initial surplus. The surplus that appears on the financial statement at the beginning of an accounting period, but that does not reflect the operations for the statement's period.

paid-in surplus. The surplus gained by the sale, exchange, or issuance of capital stock at a price above par value. — Also termed *capital surplus*; *premium on capital stock*.

reserved surplus. See *appropriated surplus* (1).

restricted surplus. A surplus with a limited or restricted use; esp., the portion of retained earnings that cannot be distributed as dividends. • The restriction is usu. due to preferred dividends in arrears, a covenant in a loan agreement, or some decision of the board of directors. See *retained earnings* under EARNINGS.

revaluation surplus. Surplus that is gained when assets are reappraised at a higher value. — Also termed *appreciation surplus*.

trade surplus. The excess of merchandise exports over merchandise imports during a specific period. Cf. *trade deficit* under DEFICIT.

unearned surplus. *Corporations.* The total of amounts assigned to shares in excess of stated capital, surplus arising from a revaluation of assets above cost, and contributions other than for shares, whether from shareholders or others.

surplusage (sər-pləs-ij). 1. Redundant words in a statute or other drafted document; language that does not add meaning <the court must give effect to every word, reading nothing as mere surplusage>. 2. Extraneous matter in a pleading <allegations that are irrelevant to the case will be treated as surplusage>.

"Surplusage is to be avoided. The perfection of pleading is to combine the requisite certainty and precision with the greatest possible brevity of statement. 'Surplusage' . . . includes matter of any description which is unnecessary to the maintenance of the action or defense. The rule requires the omission of such matter in two instances: (1) Where the matter is wholly foreign and irrelevant to the merits of the case. (2) When, though not wholly foreign, such matter need not be stated." Benjamin J. Shipman, *Handbook of Common-Law Pleading* § 316, at 514 (Henry Winthrop Ballantine ed., 3d ed. 1923).

surplus earnings. See EARNINGS.

surplus-lines insurance. See INSURANCE.

surplus profit. See PROFIT.

surplus revenue. See *appropriated retained earnings* under EARNINGS.

surplus water. See WATER.

surprise. An occurrence for which there is no adequate warning or that affects someone in an unexpected way. • In a trial, the procedural rules are designed to limit surprise — or trial by ambush — as much as possible. For example, the parties in a civil case are permitted to conduct discovery, to determine the essential facts of the case and the identities of possible witnesses, and to inspect relevant documents. At trial, if a party calls a witness who has not been previously identified, the witness's testimony may be excluded if it would unfairly surprise and prejudice the other party. And if a party has diligently prepared the case and is nevertheless taken by surprise on a material point at trial, that fact can sometimes be grounds for a new trial or for relief from the judgment under Rules 59 and 60 of the Federal Rules of Civil Procedure.

surrebuttal (sər-ri-bət-əl). The response to the opposing party's rebuttal in a trial or other proceeding; a rebuttal to a rebuttal <called two extra witnesses in surrebuttal>.

surrebutter (sər-ri-bət-ər). *Common-law pleading.* The plaintiff's answer of fact to the defendant's rebutter.

surrejoinder (sər-ri-joyn-dər). *Common-law pleading*. The plaintiff's answer to the defendant's rejoinder. See REPLICATION.

"Where the common-law system of pleading is in force, the pleadings do not terminate with the plaintiff's replication. The defendant may interpose a rejoinder to the replication, and the plaintiff a surrejoinder to the defendant's rejoinder. Then follows the rebutter, which in turn may be met by a surrebutter." 61A Am. Jur. 2d *Pleading* § 193, at 192 (1981).

surrender, n. **1.** The act of yielding to another's power or control. **2.** The giving up of a right or claim; RELEASE (1). **3.** The return of an estate to the person who has a reversion or remainder, so as to merge the estate into a larger estate. **4.** *Commercial law*. The delivery of an instrument so that the delivery releases the deliverer from all liability. **5.** A tenant's relinquishment of possession before the lease has expired, allowing the landlord to take possession and treat the lease as terminated. — **surrender, vb.**

surrender by bail. A surety's delivery of a prisoner, who had been released on bail, into custody.

surrender by operation of law. An act that is an equivalent to an agreement by a tenant to abandon property and the landlord to resume possession, as when the parties perform an act so inconsistent with the landlord-tenant relationship that surrender is presumed, or when a tenant performs some act that would not be valid if the estate continued to exist.

surrenderee. One to whom a surrender is made. See SURRENDER.

surrenderer. See SURRENDEROR.

surrender of a criminal. An officer's delivery of a prisoner to the authorities in the appropriate jurisdiction. See EXTRADITION; RENDITION.

surrender of a preference. *Bankruptcy*. The yielding of a voidable conveyance, transfer, assignment, or encumbrance by a creditor to the trustee as a condition of allowing the creditor's claim.

surrender of charter. *Corporations*. The dissolution of a corporation by a formal yielding of its charter to the state under which it was created and the subsequent acceptance of that charter by the state.

"The surrender of a charter can be made only by some formal, solemn act of the corporation, and will be of no avail until accepted by the government. There must be

the same agreement of the parties to dissolve that there was to form the compact. It is the acceptance which gives efficacy to the surrender. Consent of the state is sometimes given by general statute." 19 Am. Jur. 2d *Corporations* § 2738, at 546 (1986).

surrender of copyhold. *Hist.* The transfer by a tenant of a copyhold estate by yielding it to the lord in trust for the transferee according to the terms in the surrender. • In normal practice, the tenant went to the steward of the manor and delivered a rod, a glove, or other customary symbol, thereby conveying to the lord (through the steward) all interest and title to the estate, in trust, to be then granted by the lord to the transferee. See COPYHOLD.

surrenderor. One who surrenders; esp., one who yields up a copyhold estate for conveyance. — Also spelled *surrenderer*. See COPYHOLD.

surrender to uses of will. *Hist.* A required yielding of a copyhold interest passed by will to the will's uses. • The requirement was abolished by St. 55 Geo. 3, ch. 192.

surrender value. See *cash surrender value* under VALUE.

surreptitious (sər-əp-tish-əs), *adj.* (Of conduct) unauthorized and clandestine; stealthily and usu. fraudulently done <surreptitious interception of electronic communications is prohibited under wiretapping laws>.

surreptitious-entry warrant. See WARRANT (1).

surrogate (sər-ə-git), *n.* **1.** A substitute; esp., a person appointed to act in the place of another <in his absence, Sam's wife acted as a surrogate>. **2.** PROBATE JUDGE <the surrogate held that the will was valid>. — **surrogacy** (sər-ə-gə-see), *surrogateship, n.*

surrogate court. See *probate court* under COURT.

surrogate mother. **1.** A woman who carries a child to term on behalf of another woman and then assigns her parental rights to that woman and the father. **2.** A person who carries out the role of a mother.

surrogate parent. A person who carries out the role of a parent by court appointment or the voluntary assumption of parental responsibilities.

surrogate-parenting agreement. An agreement in which the surrogate mother agrees to carry a child to term on behalf of another woman and then assign her parental rights to that woman and the father.

surrogate's court. See *probate court* under COURT.

surrounding circumstances. The facts underlying an act, injury, or transaction — usu. one at issue in a legal proceeding.

sursise (sər-sīz). [Law French] *Hist.* Neglect; omission.

sursum reddere (sər-səm red-ər-ee), *vb.* [Law Latin] *Hist.* In conveyancing, to render up or surrender (property rights, etc.).

sursum redditio (sər-səm rə-dīsh-ee-oh). [Law Latin] *Hist.* In conveyancing, a surrender of an estate by mutual agreement.

surtax. See TAX.

surtax exemption. **1.** An exclusion of an item from a surtax. **2.** An item or an amount not subject to a surtax. See *surtax* under TAX.

surveillance (sər-vay-lənts), *n.* Close observation or listening of a person or place in the hope of gathering evidence. — **surveil** (sər-vayl), *vb.*

survey, n. **1.** A general consideration of something; appraisal <a survey of the situation>. **2.** The measuring of a tract of land and its boundaries and contents; a map indicating the results of such measurements <the lender requires a survey of the property before it will issue a loan>.

government survey. A survey made by a governmental entity of tracts of land (as of townships and sections and quarter-sections of land). — Also termed (when conducted by the federal government) *congressional survey*.

topographical survey. A survey that determines a property's elevation above sea level.

3. A governmental department that carries out such measurements <please obtain the boundaries from survey>. **4.** A poll or questionnaire, esp. one examining popular opinion <the radio station took a survey of the concert audience>. **5.** A written assessment of a vessel's current condition. — Also termed *survey of a vessel*. — **survey, vb.**

surveyor (sər-vay-ər), *n.* One who surveys land and buildings. — **surveyorship, n.**

surveyor of the port. *Hist.* A U.S. customs revenue officer appointed for each principal port of entry to oversee the inspection and valuation of imports. • The office was abolished in 1953.

survival action. A lawsuit brought on behalf of a decedent's estate for injuries or damages incurred by the decedent immediately before dying. • A survival action derives from the claim that a decedent who had survived would have had — as opposed to the claim that beneficiaries might have in a wrongful-death action. Cf. WRONGFUL-DEATH ACTION.

survival statute. A law that modifies the common law by allowing certain actions to continue in favor of a personal representative after the death of the party who could have originally brought the action; esp., a law that provides for the estate's recovery of damages incurred by the decedent immediately before death. Cf. DEATH STATUTE.

surviving, adj. Remaining alive; living beyond the happening of an event so as to entitle one to a distribution of property or income <surviving spouse>. See SURVIVAL ACTION.

surviving corporation. See CORPORATION.

surviving partner. See PARTNER.

surviving spouse. A spouse who outlives the other spouse.

survivor. **1.** One who outlives another. **2.** A trustee who administers a trust after the co-trustee has been removed, has refused to act, or has died.

survivorship. **1.** The state or condition of being the one person out of two or more who remains alive after the others die. **2.** The right of a surviving party having a joint interest with others in an estate to take the whole. See RIGHT OF SURVIVORSHIP.

survivorship annuity. See ANNUITY.

survivorship policy. See INSURANCE POLICY.

susceptibility. See SUBJECTION (3).

suspect, *n.* A person believed to have committed a crime or offense.

suspect class. A group identified or defined in a suspect classification.

suspect classification. *Constitutional law.* A statutory classification based on race, national origin, or alienage, and thereby subject to strict scrutiny under equal-protection analysis. • Examples of suspect classifications are a law permitting only U.S. citizens to receive welfare benefits and a law setting quotas for the government's hiring of minority contractors. See STRICT SCRUTINY. Cf. FUNDAMENTAL RIGHT.

quasi-suspect classification. A statutory classification based on gender or legitimacy, and therefore subject to intermediate scrutiny under equal-protection analysis. • Examples of quasi-suspect classifications are a law permitting alimony for women only and a law providing for an all-male draft. See INTERMEDIATE SCRUTINY.

suspend, *vb.* **1.** To interrupt; postpone; defer <the fire alarm suspended the prosecutor's opening statement>. **2.** To temporarily keep (a person) from performing a function, occupying an office, holding a job, or exercising a right or privilege <the attorney's law license was suspended for violating the Model Rules of Professional Conduct>.

suspendatur per collum (səs-pen-day-tər pər kahl-əm). [Law French] *Hist.* Let him be hanged by the neck. • This phrase was written by a judge in the margin of the sheriff's calendar, opposite the name of a prisoner who had been sentenced to death. — Abbr. *sus. per coll.*

"And now the usage is, for the judge to sign the calendar, or list of all the prisoners' names, with their separate judgments in the margin, which is left with the sheriff. As, for capital felony, it is written opposite to the prisoner's name, 'hanged by the neck,' formerly, in the days of Latin and abbreviation, '*sus. per coll.*' for '*suspendatur per collum.*' And this is the only warrant that the sheriff has for so material an act as taking away life of another." 4 William Blackstone, *Commentaries on the Laws of England* 396 (1769).

suspended sentence. See SENTENCE.

suspense. The state or condition of being suspended; temporary cessation <a suspense of judgment>.

suspense reserve. See *appropriated retained earnings* under EARNINGS.

suspension. **1.** The act of temporarily delaying, interrupting, or terminating something <suspension of business operations> <suspension of a statute>. **2.** The state of such delay, interruption, or termination <corporate transfers were not allowed because of the suspension of business>. **3.** The temporary deprivation of a person's powers or privileges, esp. of office or profession <suspension of her bar license>. **4.** The temporary withdrawal from employment, as distinguished from permanent severance <suspension from teaching without pay>. **5.** *Eccles. law.* An ecclesiastical censure that can be temporary or permanent, and partial or complete. See DEPRIVATION. **6.** *Scots law.* The process of staying a judgment pending an appeal to the Supreme Court.

suspension of arms. See TRUCE.

suspension of trading. The temporary cessation of all trading of a particular stock on a stock exchange because of some abnormal market condition.

suspensive appeal. See APPEAL.

suspensive condition. See CONDITION (2).

suspensive veto. See *suspensory veto* under VETO.

suspensory veto. See VETO.

sus. per coll. *abbr.* SUSPENDATUR PER COLLUM.

suspicion. The imagination or apprehension of the existence of something wrong based only on slight or no evidence, without definitive proof. See REASONABLE SUSPICION.

suspicious-activity report. A form that, as of 1996, a financial institution must complete and submit to federal regulatory authorities if it suspects that a federal crime has occurred in the course of a monetary transaction. • This form superseded two earlier forms, the criminal-referral form and the suspicious-transaction report. — Abbr. SAR.

suspicious character. In some states, a person who is strongly suspected or known to be a habitual criminal and therefore may be arrested or required to give security for good behavior.

suspicious-transaction report. A checkbox on IRS Form 4789 formerly (1990–1995) requiring

banks and other financial institutions to report transactions that might be relevant to a violation of the Bank Secrecy Act or its regulations or that might suggest money-laundering or tax evasion. • This checkbox, like the criminal-referral form, has since been superseded by the suspicious-activity report. — Abbr. STR.

sustain, *vb.* **1.** To support or maintain, esp. over a long period <enough oxygen to sustain life>. **2.** To nourish and encourage; lend strength to <she helped sustain the criminal enterprise>. **3.** To undergo; suffer <Charles sustained third-degree burns>. **4.** (Of a court) to uphold or rule in favor of <objection sustained>. **5.** To substantiate or corroborate <several witnesses sustained Ms. Sipes's allegation>. **6.** To persist in making (an effort) over a long period <he sustained his vow of silence for the last 16 years of his life>. — **sustainment**, **sustentation**, *n.* — **sustainable**, *adj.*

suthdure (suuth-door). *Hist. Eccles. law.* The south door of a church, where purgations and other acts were performed and complaints were heard and resolved.

suum cuique tribuere (s[y]oo-əm k[w]i-kwee tri-byoo-ər-ee), *vb.* [Latin] *Roman law.* To render to every person his due. • This was one of the three general precepts in which Justinian expressed the requirements of the law. Cf. ALTERUM NON LAEDERE; HONESTE VIVERE.

suus haeres (s[y]oo-əs heer-eez). [Latin] *Roman law.* A proper heir.

suus iudex (s[y]oo-əs joo-deks). [Law Latin] *Hist.* A proper judge in a cause.

suzerain (soo-zə-rin or -rayn), *n.* [Law French] **1.** *Hist.* A Crown tenant; a tenant *in capite* holding an estate immediately of the Crown. **2.** *Int'l law.* A nation that exercises control over another nation's foreign relations. — Also spelled *suzereign*.

suzerainty (soo-zə-rin-tee or -rayn-tee). **1.** *Hist.* The power of a feudal overlord to whom fealty is due. See FEALTY. **2.** *Int'l law.* The dominion of a nation that controls the foreign relations of another nation but allows it autonomy in its domestic affairs.

“At the present time there appears to be no instance of a relation between states which is described as a suzerainty. The term was applied to the relation between Great Britain and the South African Republic, and also to that between Turkey and Bulgaria from 1878 to 1909, but it

seems likely to disappear from diplomatic terminology.”
J.L. Brierly, *The Law of Nations* 128 (5th ed. 1955).

suzereign. See SUZERAIN.

swamp and overflowed land. See LAND.

swap, *n.* *Commercial law.* **1.** An exchange of one security for another. **2.** A financial transaction between two parties, usu. involving an intermediary or dealer, in which payments or rates are exchanged over a specified period and according to specified conditions.

currency swap. An agreement to swap specified payment obligations denominated in one currency for specified payment obligations denominated in a different currency.

stock swap. In a corporate reorganization, an exchange of one corporation's stock for another corporation's stock.

swarf money. *Hist.* A payment made in lieu of the service of maintaining a lord's castle.

swear, *vb.* **1.** To administer an oath to (a person). **2.** To take an oath. **3.** To use obscene or profane language.

swearing contest. See SWEARING MATCH.

swearing-in, *n.* The administration of an oath to a person who is taking office or testifying in a legal proceeding. See OATH.

swearing match. A dispute in which determining a vital fact involves the credibility choice between one witness's word and another's — the two being irreconcilably in conflict and there being no other evidence. • In such a dispute, the fact-finder is generally thought to believe the more reputable witness, such as a police officer over a convicted drug-dealer. — Also termed *swearing contest*; *oath against an oath*.

swearing the peace. *Hist.* The giving of proof to a magistrate that one fears for one's own safety, so that the magistrate will order the troublemaker to keep the peace by issuing a supplicavit. See SUPPLICAVIT.

swear out, *vb.* To obtain the issue of (an arrest warrant) by making a charge under oath <Franklin swore out a complaint against Sutton>.

sweat equity. Financial equity created in property by the owner's labor in improving the

property <the lender required the homeowner to put 300 hours of sweat equity into the property>.

sweating. *Criminal procedure.* The illegal interrogation of a prisoner by use of threats or similar means to extort information.

sweatshop. A business where the employees are overworked and underpaid in extreme conditions; esp., in lawyer lingo, a law firm that requires associates to work so hard that they barely (if at all) maintain a family or social life — though the firm may, in return, pay higher salaries.

sweeping, adj. **1.** Comprehensive in scope <a sweeping objection> <sweeping legislation>. **2.** Overwhelming <sweeping voter turnout>.

Sweeping Clause. See NECESSARY AND PROPER CLAUSE.

sweepstakes. 1. A race (esp. a horse race) in which the winner's prize is the sum of the stakes contributed by the various competitors. **2.** A contest, often for promotional purposes, that awards prizes based on the random selection of entries. • State and federal laws prohibit conducting a sweepstakes as a scheme to obtain money or property through the mail by false representations. 39 USCA § 3005.

sweetener. 1. An inducement offered to a brokerage firm to enter into an underwriting arrangement with an issuer. **2.** A special stock feature (such as convertibility) that enhances the stock's marketability.

sweetheart deal. A collusive agreement; esp., a collective-bargaining agreement made as a result of collusion between an employer and a union representative, usu. allowing the employer to pay lower wages in exchange for payoffs to the union representative.

swein (swayn). *Hist.* A forest freeholder. — Also spelled *swain*.

sweinmote (swayn-moht). *Hist.* A forest court held three times a year, before verderors as judges and freeholders of the forest as jurors, to try forest offenses. — Also spelled *swainmote*; *swanimote*; *swainmote*; *swaingemote*.

"The court of *sweinmote* is to be holden before the verderors, as judges, by the steward of the *sweinmote* thrice in every year The principal jurisdiction of this court is, first, to enquire into the oppressions and grievances committed by the officers of the forest . . . and,

secondly, to receive and try presentments certified from the court of attachments against offences in vert and venison." 3 William Blackstone, *Commentaries on the Laws of England* 72 (1768).

swell, n. 1. An expansion in the bulk of something <a swell resulting from defective canning procedures>. **2.** A gradual rise of something <a swell of damages>. **3.** A large, unbroken wave; the collective waves, particularly following a storm <a rough swell caused the shipwreck>.

swift witness. See WITNESS.

swindle, vb. 1. To cheat (a person) out of property <Johnson swindled Norton out of his entire savings>. **2.** To cheat a person out of (property) <Johnson swindled Norton's entire savings out of him>. — **swindle, n.** — **swindling, n.**

swindler. A person who willfully defrauds or cheats another.

swing loan. See *bridge loan* under LOAN.

swing vote. The vote that determines an issue when all other voting parties, such as appellate judges, are evenly split.

switching. In mutual funds, the practice of selling shares in one fund to buy shares in another.

swoling (swuul-ing). *Hist.* The quantity of land that can be plowed in a year; a hide of land. — Also spelled *suling* (suul-ing); *sulung* (suu-lung). — Also termed *swoling of land*.

sworn brothers. *Hist.* Persons who, by mutual oaths, swear to share in each other's fortunes.

sworn clerks in chancery. *Hist.* Certain officers in the Court of Chancery who assist the six principal clerks by performing clerical tasks, including keeping records and making copies of pleadings. • The offices were abolished in 1842 by the Court of Chancery Act. St. 5 & 6 Vict., ch. 103. — Also termed *sixty clerks*.

sworn statement. See STATEMENT.

SYD, abbr. Sum of the years' digits. See *sum-of-the-years'-digits depreciation method* under DEPRECIATION METHOD.

syllabus (sil-ə-bəs). **1.** An abstract or outline of a topic or course of study. **2.** HEADNOTE. Pl. **syllabuses, syllabi** (sil-ə-bī).

symbiotic-relationship test. The standard by which a private person may be considered a state actor — and may be liable for violating someone's constitutional rights — if the relationship between the private person and the government is so close that they can fairly be said to be acting jointly. • Private acts by a private person do not generally create liability for violating someone's constitutional rights. But if a private person violates someone's constitutional rights while engaging in state action, the private person, and possibly the government, can be held liable. State action may be shown by proving that the private person and the state have a mutually dependent (symbiotic) relationship. For example, a restaurant in a public parking garage was held to have engaged in discriminatory state action by refusing to serve African-Americans. *Burton v. Wilmington Parking Authority*, 365 U.S. 715, 81 S.Ct. 856 (1961). There, the Court found a symbiotic relationship because the restaurant relied on the garage for its existence and significantly contributed to the municipal parking authority's ability to maintain the garage. But the symbiotic-relationship test is strictly construed. For example, the fact that an entity receives financial support from — or is heavily regulated by — the government is probably insufficient to show a symbiotic relationship. Thus, although a state had granted a partial monopoly to a public utility, the Court refused to find a symbiotic relationship between them. *Jackson v. Metropolitan Edison Co.*, 419 U.S. 345, 95 S.Ct. 449 (1974). See JOINT-PARTICIPATION TEST. Cf. STATE-COMPULSION TEST; NEXUS TEST.

symbolaeography (sim-bə-lee-og-rə-fee). The art of drafting legal instruments.

symbolic, *adj.* (Of a signature) consisting of a symbol or mark. Cf. ONOMASTIC (2); HOLOGRAPH.

symbolic delivery. See DELIVERY.

symbolic speech. See SPEECH.

symbolum animae (sim-bə-ləm an-ə-mee). [Latin] *Hist.* A mortuary. See MORTUARY (2).

sympathy strike. See STRIKE.

synallagmatic contract. See CONTRACT.

syndic (sin-dik), *n.* [French "governmental representative"] **1.** An agent (esp. of a government or corporation) appointed to transact business for others. **2.** *Civil law.* A bankruptcy trustee.

syndicalism (sin-di-kə-liz-əm), *n.* A direct plan or practice implemented by trade-union workers seeking to control the means of production and distribution, esp. by using a general strike. — **syndicalist**, *n.*

criminal syndicalism. Any doctrine that advocates or teaches the use of illegal methods to change industrial or political control.

syndicate (sin-di-kit), *n.* A group organized for a common purpose; esp., an association formed to promote a common interest, carry out a particular business transaction, or (in a negative sense) organize criminal enterprises. — **syndicate** (sin-di-kayt), *vb.* — **syndication** (sin-di-kay-shən), *n.* — **syndicator** (sin-di-kay-tər), *n.* See ORGANIZED CRIME.

buying syndicate. A group of investment bankers who share the risk in underwriting a securities issue.

syndicating. **1.** The act or process of forming a syndicate. **2.** The gathering of materials for newspaper publication from various writers and distribution of the materials at regular intervals to newspapers throughout the country for publication on the same day.

syndicus (sin-di-kəs), *n.* [Latin "advocate" fr. Greek *syn-* "with" + *dike* "lawsuit"] *Roman law.* One chosen (by a corporate body such as a municipality, college, etc.) to represent it at law. See SYNDIC.

synergism (sin-ər-jiz-əm), *n.* *Patents.* **1.** A combination of known elements or functions that create a result greater than the sum of the individual elements or functions. • Demonstrating that synergism exists is sometimes useful in proving nonobviousness. **2.** A patentable device that produces a new or different function or an unusual or surprising consequence. — Also termed *synergy*; *synergistic result*. — **synergistic** (sin-ər-jis-tik), **synergetic** (sin-ər-jet-ik), *adj.*

synod (sin-əd). *Eccles. law.* An ecclesiastical council lawfully assembled to determine church matters; esp., a meeting of several adjoining presbyteries in the Presbyterian church.

diocesan synod (dy-os-ə-sən). A synod composed of clergy from one diocese.

general synod. A synod composed of bishops from all nations. — Also termed *universal synod*.

national synod. A synod composed of clergy from a single nation.

provincial synod. A synod composed of clergy from a single province. — Also termed *convocation*.

synodal (**sin-ə-dəl**), *n.* **1.** A collection of ordinances of diocesan synods. **2.** A tribute of money given by clergy to a bishop at the Easter visitation.

synodales testes (**sin-ə-day-leez tes-teez**), *n.* [Law Latin “synods-men”] *Hist.* Persons who gave evidence at synods, informing them of misconduct by clergy or laity.

synodsman. See SIDESMAN.

synopsis (**si-nop-sis**), *n.* A brief or partial survey; a summary or outline; HEADNOTE. — **synopsize** (**si-nop-siz**), *vb.*

synthetic lease. See LEASE.

synthetic rule. See QUANTITATIVE RULE.

systematic jurisprudence. See *expository jurisprudence* under JURISPRUDENCE.

systematic violation. *Civil-rights law.* An employer's policy or procedure that is discriminatory against an employee. ● Such a policy or procedure will usu. be considered a continuing violation. So an employee's claim of unlawful discrimination will not be barred as untimely as long as some discriminatory effect of the policy or procedure occurs within the limitations period (e.g., 300 days for a Title VII claim). Cf. SERIAL VIOLATION.