

## I.

**I.** The initial letter of the word "*Instituta*," used by some civilians in citing the Institutes of Justinian. Tayl. Civil Law, 24.

**I—CTUS.** An abbreviation for "*jurisconsultus*," one learned in the law; a jurisconsult.

**I E.** An abbreviation for "*id est*," that is; that is to say.

**I O U.** A memorandum of debt, consisting of these letters, ("I owe you,") a sum of money, and the debtor's signature, is termed an "I O U."

**IBERNAGIUM.** The season for sowing winter corn.

**Ibisemper debet fieri triatio ubi juratores meliorem possunt habere notitiam.** 7 Coke, 1b. A trial should always be had where the jurors can be the best informed.

**IBIDEM.** Lat. In the same place; in the same book; on the same page, etc. Abbreviated to "*ibid.*" or "*ib.*"

**ICENI.** The ancient name for the people of Suffolk, Norfolk, Cambridgeshire, and Huntingdonshire, in England.

**ICONA.** An image, figure, or representation of a thing. Du Cange.

**ICTUS.** In old English law. A stroke or blow from a club or stone; a bruise, contusion, or swelling produced by a blow from a club or stone, as distinguished from "*plaga*," (a wound.) Fleta, lib. 1, c. 41, § 3.

**ICTUS ORBIS.** In medical jurisprudence. A maim, a bruise, or swelling; any hurt without cutting the skin.

When the skin is cut, the injury is called a "wound." Bract. lib. 2, tr. 2, cc. 5, 24.

**Id certum est quod certum reddi potest.** That is certain which can be made certain. 2 Bl. Comm. 143; 1 Bl. Comm. 78; 4 Kent, Comm. 462; Broom, Max. 624.

**Id certum est quod certum reddi potest, sed id magis certum est quod de semetipso est certum.** That is certain which can be made certain, but that is more certain which is certain of itself. 9 Coke, 47a.

**ID EST.** Lat. That is. Commonly abbreviated "*i. e.*"

**Id perfectum est quod ex omnibus suis partibus constat.** That is perfect which consists of all its parts. 9 Coke, 9.

**Id possumus quod de jure possumus.** Lane, 116. We may do only that which by law we are allowed to do.

**Id quod est magis remotum, non trahit ad se quod est magis junctum, sed e contrario in omni casu.** That which is more remote does not draw to itself that which is nearer, but the contrary in every case. Co. Litt. 164.

**Id quod nostrum est sine facto nostro ad alium transferri non potest.** That which is ours cannot be transferred to another without our act. Dig. 50, 17, 11.

**Id solum nostrum quod debitis deductis nostrum est.** That only is ours which remains to us after deduction of debts. Tray. Lat. Max. 227.

**IDEM.** Lat. The same. According to Lord Coke, "*idem*" has two significations, *sc.*, *idem syllabis seu verbis*, (the same in syllables or words,) and *idem re et sensu*, (the same in substance and in sense.) 10 Coke, 124a.

**In old practice.** The said, or aforesaid; said, aforesaid. Distinguished from "*predictus*" in old entries, though having the same general signification. Townsh. Pl. 15, 16.

**Idem agens et patiens esse non potest.** Jenk. Cent. 40. The same person cannot be both agent and patient; *i. e.*, the doer and person to whom the thing is done. J

**Idem est facere, et non prohibere cum possis; et qui non prohibet, cum prohibere possit, in culpâ est, (aut jubet.)** 3 Inst. 158. To commit, and not to prohibit when in your power, is the same thing; and he who does not prohibit when he can prohibit is in fault, or does the same as ordering it to be done. K

**Idem est nihil dicere, et insufficienter dicere.** It is the same thing to say nothing, and to say a thing insufficiently. 2 Inst. 178. To say a thing in an insufficient man- L  
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ner is the same as not to say it at all. Applied to the plea of a prisoner. *Id.*

*Idem est non esse, et non apparere.* It is the same thing not to be as not to appear. *Jenk. Cent.* 207. Not to appear is the same thing as not to be. *Broom, Max.* 165.

*Idem est non probari et non esse; non deficit jus, sed probatio.* What is not proved and what does not exist are the same; it is not a defect of the law, but of proof.

*Idem est scire aut scire debere aut potuisse.* To be bound to know or to be able to know is the same as to know.

**IDEM PER IDEM.** The same for the same. An illustration of a kind that really adds no additional element to the consideration of the question.

*Idem semper antecedenti proximo refertur.* *Co. Litt.* 685. "The same" is always referred to its next antecedent.

**IDEM SONANS.** Sounding the same or alike; having the same sound. A term applied to names which are substantially the same, though slightly varied in the spelling, as "Lawrence" and "Lawrance," and the like. *1 Cramp. & M.* 806; *3 Chit. Gen. Pr.* 171.

**IDENTIFICATION.** Proof of identity; the proving that a person, subject, or article before the court is the very same that he or it is alleged, charged, or reputed to be; as where a witness recognizes the prisoner at the bar as the same person whom he saw committing the crime; or where handwriting, stolen goods, counterfeit coin, etc., are recognized as the same which once passed under the observation of the person identifying them.

*Identitas vera colligitur ex multitudine signorum.* True identity is collected from a multitude of signs. *Bac. Max.*

**IDENTITATE NOMINIS.** In English law. An ancient writ (now obsolete) which lay for one taken and arrested in any personal action, and committed to prison, by mistake for another man of the same name. *Fitzh. Nat. Brev.* 267.

**IDENTITY.** In the law of evidence. Sameness; the fact that a subject, person, or thing before a court is *the same* as it is represented, claimed, or charged to be. See *Burrill, Circ. Ev.* 382, 453, 631, 644.

**IDEO.** *Lat.* Therefore. *Calvin.*

**IDEO CONSIDERATUM EST.** Therefore it is considered. These were the words used at the beginning of the entry of judgment in an action, when the forms were in Latin. They are also used as a name for that portion of the record.

**IDES.** A division of time among the Romans. In March, May, July, and October, the *Ides* were on the 15th of the month; in the remaining months, on the 13th. This method of reckoning is still retained in the chancery of Rome, and in the calendar of the breviary. *Wharton.*

**IDIOCHIRA.** *Græco-Lat.* In the civil law. An instrument privately executed, as distinguished from such as were executed before a public officer. *Cod.* 8, 18, 11; *Calvin.*

**IDIOCY.** In medical jurisprudence. That condition of mind in which the reflective, and all or a part of the affective, powers are either entirely wanting, or are manifested to the slightest possible extent. *Ray, Insan.* § 58; *Whart. & S. Med. Jur.* § 232.

There is a distinction between "idiocy" and "*dementia*;" the first being due to the fact that there are original structural defects in the brain; the second resulting from the supervention of organic changes in a brain originally of normal power. *Ham. Nervous System,* 338.

Idiocy is that condition in which the human creature has never had, from birth, any, the least, glimmering of reason; and is utterly destitute of all those intellectual faculties by which man, in general, is so eminently and peculiarly distinguished. It is not the condition of a deranged mind, but that of a total absence of all mind. Hence this state of fatuity can rarely ever be mistaken by any, the most superficial, observer. The medical profession seem to regard it as a natural defect, not as a disease in itself, or as the result of any disorder. In law, it is also considered as a defect, and as a permanent and hopeless incapacity. *1 Bland. Ch.* 388.

**IDIOT.** A person who has been without understanding from his nativity, and whom the law, therefore, presumes never likely to attain any. *Shelf. Lun.* 2. See *Idiocy.*

**IDIOTA.** In the civil law. An unlearned, illiterate, or simple person. *Calvin.* A private man; one not in office.

In common law. An idiot or fool.

**IDIOTA INQUIRENDO, WRIT DE.** This is the name of an old writ which directs the sheriff to inquire whether a man be an idiot or not. The inquisition is to be made by a jury of twelve men. *Fitzh. Nat. Brev.*

232. And, if the man were found an idiot, the profits of his lands and the custody of his person might be granted by the king to any subject who had interest enough to obtain them. 1 Bl. Comm. 303.

**IDONEUM SE FACERE; IDONEARE SE.** To purge one's self by oath of a crime of which one is accused.

**IDONEUS.** Lat. In the civil and common law. Sufficient; competent; fit or proper; responsible; unimpeachable. *Idoneus homo*, a responsible or solvent person; a good and lawful man. Sufficient; adequate; satisfactory. *Idonea cautio*, sufficient security.

**IDONIETAS.** In old English law. Ability or fitness, (of a parson.) Artic. Cleri, c. 13.

**IF.** In deeds and wills, this word, as a rule, implies a condition precedent, unless it be controlled by other words. 2 Crabb, Real Prop. p. 809, § 2152; 77 N. C. 431.

**IFUNGIA.** The finest white bread, formerly called "cocked bread." Blount.

**IGLISE.** L. Fr. A church. Kelham. Another form of "eglise."

**IGNIS JUDICIUM.** The old judicial trial by fire. Blount.

**IGNITEGIUM.** In old English law. The curfew, or evening bell. Cowell. See CURFEW.

**IGNOMINY.** Public disgrace; infamy; reproach; dishonor. Ignominy is the opposite of esteem. Wolff, § 145. See 38 Iowa, 220.

**IGNORAMUS.** Lat. "We are ignorant;" "We ignore it." Formerly the grand jury used to write this word on bills of indictment when, after having heard the evidence, they thought the accusation against the prisoner was groundless, intimating that, though the facts might possibly be true, the truth did not appear to them; but now they usually write in English the words "Not a true bill," or "Not found," if that is their verdict; but they are still said to *ignore* the bill. Brown.

**IGNORANCE.** The want or absence of knowledge.

Ignorance of law is want of knowledge or acquaintance with the laws of the land in so far as they apply to the act, relation, duty, or matter under consideration. Ignorance of fact is want of knowledge of some fact or

facts constituting or relating to the subject-matter in hand.

Ignorance is not a state of the mind in the sense in which sanity and insanity are. When the mind is ignorant of a fact, its condition still remains sound; the power of thinking, of judging, of willing, is just as complete before communication of the fact as after; the essence or texture, so to speak, of the mind, is not, as in the case of insanity, affected or impaired. Ignorance of a particular fact consists in this: that the mind, although sound and capable of healthy action, has never acted upon the fact in question, because the subject has never been brought to the notice of the perceptive faculties. 28 N. J. Law, 274.

"Ignorance" and "error" are not convertible terms. The former is a lack of information or absence of knowledge; the latter, a misapprehension or confusion of information, or a mistaken supposition of the possession of knowledge. Error as to a fact may imply ignorance of the truth; but ignorance does not necessarily imply error.

*Essential ignorance* is ignorance in relation to some essential circumstance so intimately connected with the matter in question, and which so influences the parties, that it induces them to act in the business. Poth. Vente, nn. 3, 4; 2 Kent, Comm. 367.

*Non-essential* or accidental ignorance is that which has not of itself any necessary connection with the business in question, and which is not the true consideration for entering into the contract.

*Involuntary ignorance* is that which does not proceed from choice, and which cannot be overcome by the use of any means of knowledge known to a person and within his power; as the ignorance of a law which has not yet been promulgated.

*Voluntary ignorance* exists when a party might, by taking reasonable pains, have acquired the necessary knowledge. For example, every man might acquire a knowledge of the laws which have been promulgated. Doct. & Stud. 1, 46; Plowd. 343.

**IGNORANTIA.** Ignorance; want of knowledge. Distinguished from mistake, (error,) or wrong conception. Mackeld, Rom. Law, § 178; Dig. 22, 6. Divided by Lord Coke into *ignorantia facti* (ignorance of fact) and *ignorantia juris*, (ignorance of law.) And the former, he adds, is twofold,—*lectionis et linguæ*, (ignorance of reading and ignorance of language.) 2 Coke, 3b.

*Ignorantia eorum quæ quis scire tenetur non excusat.* Ignorance of those things which one is bound to know excuses not. Hale, P. C. 42; Broom, Max. 267.

*Ignorantia facti excusat.* Ignorance of fact excuses or is a ground of relief. 2 Coke, 3b. Acts done and contracts made under mistake or ignorance of a material fact

are voidable and relievable in law and equity. 2 Kent, Comm. 491, and notes.

**Ignorantia facti excusat, ignorantia juris non excusat.** Ignorance of the fact excuses; ignorance of the law excuses not. Every man must be taken to be cognizant of the law; otherwise there is no saying to what extent the excuse of ignorance may not be carried. 1 Coke, 177; Broom, Max. 253.

**Ignorantia juris quod quisque tenetur scire, neminem excusat.** Ignorance of the [or a] law, which every one is bound to know, excuses no man. A mistake in point of law is, in criminal cases, no sort of defense. 4 Bl. Comm. 27; 4 Steph. Comm. 81; Broom, Max. 253; 7 Car. & P. 456. And, in civil cases, ignorance of the law, with a full knowledge of the facts, furnishes no ground, either in law or equity, to rescind agreements, or reclaim money paid, or set aside solemn acts of the parties. 2 Kent, Comm. 491, and note.

**Ignorantia juris sui non præjudicat juri.** Ignorance of one's right does not prejudice the right. Lofft, 552.

**Ignorantia legis neminem excusat.** Ignorance of law excuses no one. 4 Bouv. Inst. no. 3828; 1 Story, Eq. Jur. § 111; 7 Watts, 374.

**IGNORATIO ELENCHI.** Lat. In logic. An overlooking of the adversary's counter-position in an argument.

**Ignoratis terminis artis, ignoratur et ars.** Where the terms of an art are unknown, the art itself is unknown also. Co. Litt. 2a.

**IGNORE.** 1. To be ignorant of, or unacquainted with.

2. To disregard willfully; to refuse to recognize; to decline to take notice of.

3. To reject as groundless, false, or unsupported by evidence; as when a grand jury *ignores* a bill of indictment.

**Ignoscitur ei qui sanguinem suum qualiter redemptum voluit.** The law holds him excused from obligation who chose to redeem his blood (or life) upon any terms. Whatever a man may do under the fear of losing his life or limbs will not be held binding upon him in law. 1 Bl. Comm. 131.

**IKENILD STREET.** One of the four great Roman roads in Britain; supposed to be so called from the *Icent*.

**ILET.** A little island.

**ILL.** In old pleading. Bad; defective in law; null; naught; the opposite of good or valid.

**ILL FAME.** Evil repute; notorious bad character. Houses of prostitution, gaming houses, and other such disorderly places are called "houses of ill fame," and a person who frequents them is a person of ill fame.

**ILLATA ET INVECTA.** Things brought into the house for use by the tenant were so called, and were liable to the *ius hypothecæ* of Roman law, just as they are to the landlord's right of distress at common law.

**ILLEGAL.** Not authorized by law; illicit; unlawful; contrary to law.

Sometimes this term means merely that which lacks authority of or support from law; but more frequently it imports a violation. Etymologically, the word seems to convey the negative meaning only. But in ordinary use it has a severer, stronger signification; the idea of censure or condemnation for breaking law is usually presented. But the law implied in illegal is not necessarily an express statute. Things are called "illegal" for a violation of common-law principles. And the term does not imply that the act spoken of is immoral or wicked; it implies only a breach of the law. 1 Abb. Pr. (N. S.) 432; 48 N. H. 196; Id. 211; 3 Sneed, 64.

**ILLEGAL CONDITIONS.** All those that are impossible, or contrary to law, immoral, or repugnant to the nature of the transaction.

**ILLEGAL CONTRACT.** An agreement to do any act forbidden by the law, or to omit to do any act enjoined by the law.

**ILLEGAL TRADE.** Such traffic or commerce as is carried on in violation of the municipal law, or contrary to the law of nations. See **ILLICIT TRADE**.

**ILLEGITIMACY.** The condition before the law, or the social *status*, of a bastard; the state or condition of one whose parents were not intermarried at the time of his birth.

**ILLEGITIMATE.** That which is contrary to law; it is usually applied to bastards, or children born out of lawful wedlock.

The Louisiana Code divided illegitimate children into two classes: (1) Those born from two persons who, at the moment when such children were conceived, could have lawfully intermarried; and (2) those who are born from persons to whose marriage there existed at the time some legal impediment. Both classes, however, could be acknowledged and take by devise. 12 Rob. (La.) 56.

**ILLEVIABLE.** Not leviable; that cannot or ought not to be levied. Cowell.

**ILLICENCIATUS.** In old English law. Without license. Fleta, lib. 3, c. 5, § 12.

**ILLICIT.** Not permitted or allowed; prohibited; unlawful; as an *illicit* trade; *illicit* intercourse.

**ILLICIT TRADE.** Policies of marine insurance usually contain a covenant of warranty against "illicit trade," meaning thereby trade which is forbidden, or declared unlawful, by the laws of the country where the cargo is to be delivered.

"It is not the same with 'contraband trade,' although the words are sometimes used as synonymous. Illicit or prohibited trade is one which cannot be carried on without a distinct violation of some positive law of the country where the transaction is to take place." 1 Pars. Mar. Ins. 614.

**ILLICITE.** Unlawfully. This word has a technical meaning, and is requisite in an indictment where the act charged is unlawful; as in the case of a riot. 2 Hawk. P. C. c. 25, § 96.

**ILLICITUM COLLEGIUM.** An illegal corporation.

**ILLITERATE.** Unlettered; ignorant; unlearned. Generally used of one who cannot read and write.

**ILLOCABLE.** Incapable of being placed out or hired.

**ILLUD.** Lat. That.

*Illud, quod alias licitum non est, necessitas facit licitum; et necessitas inducit privilegium quoad jura privata.* Bac. Max. That which is otherwise not permitted, necessity permits; and necessity makes a privilege as to private rights.

*Illud, quod alteri unitur, extinguitur, neque amplius per se vacare licet.* Godol. Ecc. Law, 169. That which is united to another is extinguished, nor can it be any more independent.

**ILLUSION.** In medical jurisprudence. An image or impression in the mind, excited by some external object addressing itself to the senses, but which, instead of corresponding with the reality, is perverted, distorted, or wholly mistaken.

**ILLUSORY.** Deceiving by false appearances; nominal, as distinguished from substantial.

**ILLUSORY APPOINTMENT.** Formerly the appointment of a merely nominal

share of the property to one of the objects of a power, in order to escape the rule that an exclusive appointment could not be made unless it was authorized by the instrument creating the power, was considered illusory and void in equity. But this rule has been abolished in England. (1 Wm. IV. c. 46; 37 & 38 Vict. c. 37.) Sweet.

**ILLUSORY APPOINTMENT ACT.** The statute 1 Wm. IV. c. 46. This statute enacts that no appointment made after its passing, (July 16, 1830,) in exercise of a power to appoint property, real or personal, among several objects, shall be invalid, or impeached in equity, on the ground that an unsubstantial, illusory, or nominal share only was thereby appointed, or left unappointed, to devolve upon any one or more of the objects of such power; but that the appointment shall be valid in equity, as at law. See, too, 37 & 38 Vict. c. 37. Wharton.

**ILLUSTRIOUS.** The prefix to the title of a prince of the blood in England.

**IMAGINE.** In English law. In cases of treason the law makes it a crime to imagine the death of the king. But, in order to complete the crime, this act of the mind must be demonstrated by some overt act. The terms "imagining" and "compassing" are in this connection synonymous. 4 Bl. Comm. 78.

**IMAN, IMAM, or IMAUM.** A Mohammedan prince having supreme spiritual as well as temporal power; a regular priest of the mosque.

**IMBARGO.** An old form of "embargo," (*q. v.*) St. 18 Car. II. c. 5.

**IMBASING OF MONEY.** The act of mixing the species with an alloy below the standard of sterling. 1 Hale, P. C. 102. J

**IMBECILITY.** Weakness, or feebleness of intellect, either congenital, or resulting from an obstacle to the development of the faculties, supervening in infancy. See Whart. & S. Med. Jur. §§ 229-233. K

**IMBEZZLE.** See EMBEZZLE.

**IMBLADARE.** In old English law. To plant or sow grain. Bract. fol. 176b. L

**IMBRACERY.** See EMBRACERY.

**IMBROCUS.** A brook, gutter, or water-passage. Cowell. M

**IMMATERIAL.** Not material, essential, or necessary; not important or pertinent; not decisive.

**IMMATERIAL AVERMENT.** An averment alleging with needless particularity or unnecessary circumstances what is material and necessary, and which might properly have been stated more generally, and without such circumstances and particulars; or, in other words, a statement of unnecessary particulars in connection with and as descriptive of what is material. Gould, Pl. c. 3, § 188; 3 Ala. 237, 245.

**IMMATERIAL ISSUE.** In pleading. An issue taken on an immaterial point; that is, a point not proper to decide the action. Steph. Pl. 99, 130; 2 Tidd, Pr. 921.

**IMMEDIATE.** 1. Present; at once; without delay; not deferred by any interval of time. In this sense, the word, without any very precise signification, denotes that action is or must be taken either instantly or without any considerable loss of time.

Immediately does not, in legal proceedings, necessarily import the exclusion of any interval of time. It is a word of no very definite signification, and is much in subjection to its grammatical connections. 31 N. J. Law, 313.

2. Not separated in respect to place; not separated by the intervention of any intermediate object, cause, relation, or right. Thus we speak of an action as prosecuted for the "immediate benefit" of A., of a devise as made to the "immediate issue" of B., etc.

**IMMEDIATE DESCENT.** "A descent may be said to be mediate or immediate in regard to the mediate or immediate descent of the estate or right: or it may be said to be mediate or immediate in regard to the mediateness or immediateness of the pedigree or degrees of consanguinity." Story, J., 6 Pet. 112.

**IMMEDIATELY.** "It is impossible to lay down any hard and fast rule as to what is the meaning of the word 'immediately' in all cases. The words 'forthwith' and 'immediately' have the same meaning. They are stronger than the expression 'within a reasonable time,' and imply prompt, vigorous action, without any delay, and whether there has been such action is a question of fact, having regard to the circumstances of the particular case." Cockburn, C. J., 4 Q. B. Div. 471.

**IMMEMORIAL.** Beyond human memory; time out of mind.

**IMMEMORIAL POSSESSION.** In Louisiana. Possession of which no man living has seen the beginning, and the existence of which he has learned from his elders. Civil Code La. art. 762; 2 Mart. (La.) 214.

**IMMEMORIAL USAGE.** A practice which has existed time out of mind; custom; prescription.

**IMMEUBLES.** These are, in French law, the immovables of English law. Things are *immeubles* from any one of three causes: (1) From their own nature, *e. g.*, lands and houses; (2) from their destination, *e. g.*, animals and instruments of agriculture when supplied by the landlord; or (3) by the object to which they are annexed, *e. g.*, easements. Brown.

**IMMIGRATION.** The coming into a country of foreigners for purposes of permanent residence. The correlative term "emigration" denotes the act of such persons in leaving their former country.

**IMMISCERE.** Lat. In the civil law. To mix or mingle with; to meddle with; to join with. Calvin.

**IMMITTERE.** In the civil law. To put or let into, as a beam into a wall. Calvin.; Dig. 50, 17, 242, 1.

In old English law. To put cattle on a common. Fleta, lib. 4, c. 20, § 7.

*Immobilia situm sequuntur.* Immovable things follow their site or position; are governed by the law of the place where they are fixed. 2 Kent, Comm. 67.

**IMMOBILIS.** Immovable. *Immobilia*, or *res immobiles*, immovable things, such as lands and buildings. Mackeld. Rom. Law, § 160.

**IMMORAL.** Contrary to good morals; inconsistent with the rules and principles of morality which regard men as living in a community, and which are necessary for the public welfare, order, and decency.

**IMMORAL CONSIDERATION.** One contrary to good morals, and therefore invalid. Contracts based upon an immoral consideration are generally void.

**IMMORAL CONTRACTS.** Contracts founded upon considerations *contra bonos mores* are void.

**IMMORALITY.** That which is *contra bonos mores*. See IMMORAL.

**IMMOVABLES.** In the civil law. Property which, from its nature, destination, or the object to which it is applied, cannot move itself, or be removed.

Immovable things are, in general, such as cannot either move themselves or be removed from one place to another. But this definition, strictly speaking, is applicable only to such things as are immovable by their own nature, and not to such as are so only by the disposition of the law. Civil Code La. art. 462.

**IMMUNITY.** An exemption from serving in an office, or performing duties which the law generally requires other citizens to perform.

**IMPAIR.** To weaken, diminish, or relax, or otherwise affect in an injurious manner.

**"IMPAIRING THE OBLIGATION OF CONTRACTS."** For the meaning of this phrase in the constitution of the United States, see 2 Story, Const. §§ 1374-1399; 1 Kent, Comm. 413-422; Pom. Const. Law; Black, Const. Prohib. pt. 1.

**IMPANEL.** In English practice. To impanel a jury signifies the entering by the sheriff upon a piece of parchment, termed a "panel," the names of the jurors who have been summoned to appear in court on a certain day to form a jury of the country to hear such matters as may be brought before them. Brown.

In American practice. Besides the meaning above given, "impanel" signifies the act of the clerk of the court in making up a list of the jurors who have been selected for the trial of a particular cause.

Impaneling has nothing to do with drawing, selecting, or swearing jurors, but means simply making the list of those who have been selected. 7 How. Pr. 441.

**IMPARCARE.** In old English law. To impound. Reg. Orig. 92b.

To shut up, or confine in prison. *Inducti sunt in carcerem et imparcati*, they were carried to prison and shut up. Bract. fol. 124.

**IMPARGAMENTUM.** The right of impounding cattle.

**IMPARL.** To have license to settle a litigation amicably; to obtain delay for adjustment.

**IMPARLANCE.** In early practice, imparlance meant time given to either of the

parties to an action to answer the pleading of the other. It thus amounted to a continuance of the action to a further day. Literally the term signified leave given to the parties to *talk together*; i. e., with a view to settling their differences amicably. But in modern practice it denotes a time given to the defendant to plead.

A *general imparlance* is the entry of a general prayer and allowance of time to plead till the next term, without reserving to the defendant the benefit of any exception; so that after such an imparlance the defendant cannot object to the jurisdiction of the court, or plead any matter in abatement. This kind of imparlance is always from one term to another.

A *general special imparlance* contains a saving of all exceptions whatsoever, so that the defendant after this may plead not only in abatement, but he may also plead a plea which affects the jurisdiction of the court, as privilege. He cannot, however, plead a tender, and that he was always ready to pay, because by craving time he admits that he is not ready, and so falsifies his plea.

A *special imparlance* reserves to the defendant all exceptions to the writ, bill, or count; and therefore after it the defendant may plead in abatement, though not to the jurisdiction of the court. 1 Tidd, Pr. 462, 463.

**IMPARSONEE.** L. Fr. In ecclesiastical law. One who is inducted and in possession of a benefice. Parson imparsonee, (*persona impersonata*.) Cowell; Dyer, 40.

**IMPATRONIZATION.** The act of putting into full possession of a benefice.

**IMPEACH.** To accuse; to charge a liability upon; to sue.

To proceed against a public officer for crime or misfeasance, before a proper court, by the presentation of a written accusation called "articles of impeachment."

In the law of evidence. To call in question the veracity of a witness, by means of evidence adduced for that purpose.

**IMPEACHMENT.** A criminal proceeding against a public officer, before a *quasi* political court, instituted by a written accusation called "articles of impeachment;" for example, a written accusation by the house of representatives of the United States to the senate of the United States against an officer.

In England, a prosecution by the house of commons before the house of lords of a commoner for treason, or other high crimes and misdemeanors, or of a peer for any crime.

In evidence. An allegation, supported by proof, that a witness who has been examined is unworthy of credit.

**IMPEACHMENT OF WASTE.** Liability for waste committed; or a demand or

suit for compensation for waste committed upon lands or tenements by a tenant thereof who, having only a leasehold or particular estate, had no right to commit waste. See 2 Bl. Comm. 288.

**IMPEACHMENT OF WITNESS.** Proof that a witness who has testified in a cause is unworthy of credit.

**IMPECHIARE.** To impeach, to accuse, or prosecute for felony or treason.

**IMPEDIENS.** In old practice. One who hinders; an impeding. The defendant or deforciant in a fine was sometimes so called. Cowell; Blount.

**IMPEDIMENTO.** In Spanish law. A prohibition to contract marriage, established by law between certain persons.

**IMPEDIMENTS.** Disabilities, or hindrances to the making of contracts, such as coverture, infancy, want of reason, etc.

In the civil law. Bars to marriage.

*Absolute impediments* are those which prevent the person subject to them from marrying at all, without either the nullity of marriage or its being punishable. *Dirimant impediments* are those which render a marriage void; as where one of the contracting parties is unable to marry by reason of a prior undissolved marriage. *Prohibitive impediments* are those which do not render the marriage null, but subject the parties to a punishment. *Relative impediments* are those which regard only certain persons with respect to each other; as between two particular persons who are related within the prohibited degrees. Bowyer, Mod. Civil Law, 44, 45.

**IMPEDITOR.** In old English law. A disturber in the action of *quare impedit*. St. Marl. c. 12.

**IMPENSÆ.** Lat. In the civil law. Expenses; outlays. Mackeld. Rom. Law, § 168; Calvin. Divided into necessary, (*necessariæ*.) useful, (*utiles*.) and tasteful or ornamental, (*voluptuariæ*.) Dig. 50, 16, 79. See Id. 25, 1.

**IMPERATIVE.** See DIRECTORY.

**IMPERATOR.** Emperor. The title of the Roman emperors, and also of the kings of England before the Norman conquest. Cod. 1, 14, 12; 1 Bl. Comm. 242. See EMPEROR.

**IMPERFECT OBLIGATIONS.** Moral duties, such as charity, gratitude, etc., which cannot be enforced by law.

**IMPERFECT RIGHTS.** See RIGHTS.

**IMPERFECT TRUST.** An executory trust, (which see;) and see EXECUTED TRUST.

*Imperii majestas est tutelæ salus.* Co. Litt. 64. The majesty of the empire is the safety of its protection.

**IMPERITIA.** Unskillfulness; want of skill.

*Imperitia culpæ adnumeratur.* Want of skill is reckoned as *culpa*; that is, as blamable conduct or neglect. Dig. 50, 17, 132.

*Imperitia est maxima mechanicorum pœna.* Unskillfulness is the greatest punishment of mechanics; [that is, from its effect in making them liable to those by whom they are employed.] 11 Coke, 54a. The word "*pœna*" in some translations is erroneously rendered "fault."

**IMPERIUM.** The right to command, which includes the right to employ the force of the state to enforce the laws. This is one of the principal attributes of the power of the executive. 1 Toullier, no. 58.

**IMPERSONALITAS.** Impersonality. A mode of expression where no reference is made to any person, such as the expression "*ut dicitur*," (as is said.) Co. Litt. 352b.

*Impersonalitas non concludit nec ligat.* Co. Litt. 352b. Impersonality neither concludes nor binds.

**IMPERTINENCE.** Irrelevancy; the fault of not properly pertaining to the issue or proceeding. The introduction of any matters into a bill, answer, or other pleading or proceeding in a suit, which are not properly before the court for decision, at any particular stage of the suit. Story, Eq. Pl. § 266.

In practice. A question propounded to a witness, or evidence offered or sought to be elicited, is called "impertinent" when it has no logical bearing upon the issue, is not necessarily connected with it, or does not belong to the matter in hand. On the distinction between pertinency and relevancy, we may quote the following remark of Dr. Wharton: "*Relevancy* is that which conduces to the proof of a *pertinent* hypothesis; a *pertinent* hypothesis being one which, if sustained, would logically influence the issue." 1 Whart. Ev. § 20.

**IMPERTINENT.** In equity pleading. That which does not belong to a pleading, in-



terrogatory, or other proceeding; out of place; superfluous; irrelevant.

**At law.** A term applied to matter not necessary to constitute the cause of action or ground of defense. Cowp. 683; 5 East, 275; 2 Mass. 283. It constitutes surplusage, (which see.)

**IMPESCARE.** In old records. To impeach or accuse. *Impescatus*, impeached. Blount.

**IMPETITIO VASTI.** Impeachment of waste, (*q. v.*)

**IMPETRARE.** In old English practice. To obtain by request, as a writ or privilege. Bract. fols. 57, 172*b*. This application of the word seems to be derived from the civil law. Calvin.

**IMPETRATION.** In old English law. The obtaining anything by petition or entreaty. Particularly, the obtaining of a benefice from Rome by solicitation, which benefice belonged to the disposal of the king or other lay patron. Webster; Cowell.

**IMPIER.** Umpire, (*q. v.*)

**IMPIERMENT.** Impairing or prejudicing. Jacob.

**IMPIGNORATA.** Pledged; given in pledge, (*pignori data;*) mortgaged. A term applied in Bracton to land. Bract. fol. 20.

**IMPIGNORATION.** The act of pawning or putting to pledge.

*Impius et crudelis judicandus est qui libertati non favet.* He is to be judged impious and cruel who does not favor liberty. Co. Litt. 124.

**IMPLACITARE.** Lat. To implead; to sue.

**IMPLEAD.** In practice. To sue or prosecute by due course of law. 9 Watts, 47.

**IMPLEADED.** Sued or prosecuted; used particularly in the titles of causes where there are several defendants; as "A. B., impleaded with C. D."

**IMPLEMENTS.** Such things as are used or employed for a trade, or furniture of a house. 11 Metc. (Mass.) 82.

Whatever may supply wants; particularly applied to tools, utensils, vessels, instruments of labor; as, the *implements* of trade or of husbandry. 23 Iowa, 359; 6 Gray, 298.

**IMPLICATA.** A term used in mercantile law, derived from the Italian. In order

to avoid the risk of making fruitless voyages, merchants have been in the habit of receiving small adventures, on freight, at so much per cent., to which they are entitled at all events, even if the adventure be lost; and this is called "*implicata.*" Wharton.

**IMPLICATION.** Intendment or inference, as distinguished from the actual expression of a thing in words. In a will, an estate may pass by mere *implication*, without any express words to direct its course. 2 Bl. Comm. 381.

An inference of something not directly declared, but arising from what is admitted or expressed.

In construing a will conjecture must not be taken for implication; but necessary implication means, not natural necessity, but so strong a probability of intention that an intention contrary to that which is imputed to the testator cannot be supposed. 1 Ves. & B. 406.

"Implication" is also used in the sense of "inference;" *i. e.*, where the existence of an intention is inferred from acts not done for the sole purpose of communicating it, but for some other purpose. Sweet.

**IMPLIED.** This word is used in law as contrasted with "express;" *i. e.*, where the intention in regard to the subject-matter is not manifested by explicit and direct words, but is gathered by implication or necessary deduction from the circumstances, the general language, or the conduct of the parties.

**IMPLIED ABROGATION.** A statute is said to work an "implied abrogation" of an earlier one, when the later statute contains provisions which are inconsistent with the further continuance of the earlier law; or a statute is impliedly abrogated when the reason of it, or the object for which it was passed, no longer exists.

**IMPLIED ASSUMPSIT.** An undertaking or promise not formally made, but presumed or implied from the conduct of a party. See ASSUMPSIT.

**IMPLIED CONDITION.** See CONDITION IMPLIED.

**IMPLIED CONSIDERATION.** A consideration implied or presumed by law, as distinguished from an *express* consideration, (*q. v.*)

**IMPLIED CONTRACT.** One not created or evidenced by the explicit agreement of the parties, but inferred by the law, as a matter of reason and justice, from their acts or conduct. For example, if A. hires B. to do any business or perform any work for him, the

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law implies a contract or undertaking on A.'s part to pay B. as much as his labor or service deserves. 2 Bl. Comm. 443.

**IMPLIED COVENANT.** One which is not set forth explicitly, but is raised by implication of law from the use of certain terms ("grant," "give," "demise," etc.) in the conveyance, contract, or lease. See COVENANT.

**IMPLIED MALICE.** Malice inferred by legal reasoning and necessary deduction from the *res gestæ* or the conduct of the party. Malice inferred from any deliberate cruel act committed by one person against another, however sudden. Whart. Hom. 38. What is called "general malice" is often thus inferred.

**IMPLIED TRUST.** A trust raised or created by implication of law; a trust implied or presumed from circumstances.

**IMPLIED USE.** See RESULTING USE.

**IMPLIED WARRANTY.** A warranty raised by the law as an inference from the acts of the parties or the circumstances of the transaction. Thus, if the seller of a chattel have possession of it and sell it as his own, and not as agent for another, and for a fair price, he is understood to *warrant the title*. 2 Kent, Comm. 478.

A warranty implied from the general tenor of an instrument, or from particular words used in it, although no express warranty is mentioned. Thus, in every policy of insurance there is an *implied* warranty that the ship is seaworthy when the policy attaches. 3 Kent, Comm. 287; 1 Phil. Ins. 308.

**IMPORTATION.** The act of bringing goods and merchandise into a country from a foreign country.

**IMPORTS.** Importations; goods or other property imported or brought into the country from a foreign country.

**IMPORTUNITY.** Pressing solicitation; urgent request; application for a claim or favor which is urged with troublesome frequency or pertinacity. Webster.

**IMPOSITION.** An impost; tax; contribution.

**IMPOSSIBILITY.** That which, in the constitution and course of nature or the law, no man can do or perform.

Impossibility is of the following several sorts:

An act is *physically* impossible when it is contrary to the course of nature. Such an

impossibility may be either *absolute*, *i. e.*, impossible in any case, (*e. g.*, for A. to reach the moon,) or *relative*, (sometimes called "impossibility in fact,") *i. e.*, arising from the circumstances of the case, (*e. g.*, for A. to make a payment to B., he being a deceased person.) To the latter class belongs what is sometimes called "*practical* impossibility," which exists when the act *can* be done, but only at an excessive or unreasonable cost. An act is *legally* or juridically impossible when a rule of law makes it impossible to do it; *e. g.*, for A. to make a valid will before his majority. This class of acts must not be confounded with those which are possible, although forbidden by law, as to commit a theft. An act is *logically* impossible when it is contrary to the nature of the transaction, as where A. gives property to B. expressly for his own benefit, on condition that he transfers it to C. Sweet.

*Impossibilium nulla obligatio est.* There is no obligation to do impossible things. Dig. 50, 17, 185; Broom, Max. 249.

**IMPOSSIBLE CONTRACTS.** An impossible contract is one which the law will not hold binding upon the parties, because of the natural or legal impossibility of the performance by one party of that which is the consideration for the promise of the other. 7 Wait, Act. & Def. 124.

Impossible contracts, which will be deemed void in the eye of the law, or of which the performance will be excused, are such contracts as cannot be performed, either because of the nature of the obligation undertaken, or because of some supervening event which renders the performance of the obligation either physically or legally impossible. 10 Amer. & Eng. Enc. Law, 176.

**IMPOSTS.** Taxes, duties, or impositions. A duty on imported goods or merchandise. Story, Const. § 949.

Impost is a tax received by the prince for such merchandises as are brought into any haven within his dominions from foreign nations. It may in some sort be distinguished from customs, because customs are rather that profit the prince maketh of wares shipped out; yet they are frequently confounded. Cowell.

**IMPOTENCE.** In medical jurisprudence. The incapacity for copulation or propagating the species. Properly used of the male; but it has also been used synonymously with "sterility."

*Impotentia excusat legem.* Co. Litt. 29. The impossibility of doing what is re-

quired by the law excuses from the performance.

**IMPOTENTIAM, PROPERTY PROPTER.** A qualified property, which may subsist in animals *feræ naturæ* on account of their inability, as where hawks, herons, or other birds build in a person's trees, or conies, etc., make their nests or burrows in a person's land, and have young there, such person has a qualified property in them till they can fly or run away, and then such property expires. 2 Steph. Comm. (7th Ed.) 8.

**IMPOUND.** To shut up stray animals or distrained goods in a pound.

To take into the custody of the law or of a court. Thus, a court will sometimes *impound* a suspicious document produced at a trial.

**IMPREScriptIBILITY.** The state or quality of being incapable of prescription; not of such a character that a right to it can be gained by prescription.

**IMPREScriptIBLE RIGHTS.** Such rights as a person may use or not, at pleasure, since they cannot be lost to him by the claims of another founded on prescription.

**IMPRESSION.** A "case of the first impression" is one without a precedent; one presenting a wholly new state of facts; one involving a question never before determined.

**IMPRESSMENT.** A power possessed by the English crown of taking persons or property to aid in the defense of the country, with or without the consent of the persons concerned. It is usually exercised to obtain hands for the queen's ships in time of war, by taking seamen engaged in merchant vessels, (1 Bl. Comm. 420; Maud & P. Shipp. 123;) but in former times impressment of merchant ships was also practiced. The admiralty issues protections against impressment in certain cases, either under statutes passed in favor of certain callings (*e. g.*, persons employed in the Greenland fisheries) or voluntarily. Sweet.

**IMPREST MONEY.** Money paid on enlisting or impressing soldiers or sailors.

**IMPRETIABILIS.** Lat. Beyond price; invaluable.

**IMPRIMATUR.** Lat. Let it be printed. A license or allowance, granted by the con-

stituted authorities, giving permission to print and publish a book. This allowance was formerly necessary, in England, before any book could lawfully be printed, and in some other countries is still required.

**IMPRIMERE.** To press upon; to impress or press; to imprint or print.

**IMPRIMERY.** In some of the ancient English statutes this word is used to signify a printing-office, the art of printing, a print or impression.

**IMPRIMIS.** Lat. In the first place; first of all.

**IMPRISON.** To put in a prison; to put in a place of confinement.

To confine a person, or restrain his liberty, in any way.

**IMPRISONMENT.** The act of putting or confining a man in prison; the restraint of a man's personal liberty; coercion exercised upon a person to prevent the free exercise of his powers of locomotion.

It is not a necessary part of the definition that the confinement should be in a place usually appropriated to that purpose; it may be in a locality used only for the specific occasion; or it may take place without the actual application of any physical agencies of restraint, (such as locks or bars,) but by verbal compulsion and the display of available force. See 9 N. H. 491.

Any forcible detention of a man's person, or control over his movements, is imprisonment. 3 Har. (Del.) 416.

**IMPRISTI.** Adherents; followers. Those who side with or take the part of another, either in his defense or otherwise.

**IMPROBATION.** In Scotch law. An action brought for the purpose of baving some instrument declared false and forged. 1 Forb. Inst. pt. 4, p. 161. The verb "improve" (*q. v.*) was used in the same sense. J

**IMPROPER.** Not suitable; unfit; not suited to the character, time, and place. 48 N. H. 199. Wrongful. 53 Law J. P. D. 65. K

**IMPROPER FEUDS.** These were derivative feuds; as, for instance, those that were originally bartered and sold to the feudatory for a price, or were held upon base or less honorable services, or upon a rent in lieu of military service, or were themselves alienable, without mutual license, or descended indifferently to males or females. Wharton. L

**IMPROPER NAVIGATION.** Any-thing improperly done with the ship or part M

of the ship in the course of the voyage. L. R. 6 C. P. 563. See, also, 53 Law J. P. D. 65.

**IMPROPRIATE RECTOR.** In ecclesiastical law. Commonly signifies a lay rector as opposed to a spiritual rector; just as inappropriate tithes are tithes in the hands of a lay owner, as opposed to appropriate tithes, which are tithes in the hands of a spiritual owner. Brown.

**IMPROPRIATION.** In ecclesiastical law. The annexing an ecclesiastical benefice to the use of a lay person, whether individual or corporate, in the same way as *appropriation* is the annexing of any such benefice to the proper and perpetual use of some spiritual corporation, whether sole or aggregate, to enjoy forever. Brown.

**IMPROVE.** In Scotch law. To disprove; to invalidate or impeach; to prove false or forged. 1 Forb. Inst. pt. 4, p. 162.

To improve a lease means to grant a lease of unusual duration to encourage a tenant, when the soil is exhausted, etc. Bell; Stair, Inst. p. 676, § 23.

**IMPROVED.** Improved land is such as has been reclaimed, is used for the purpose of husbandry, and is cultivated as such, whether the appropriation is for tillage, meadow, or pasture. "Improve" is synonymous with "cultivate." 4 Cow. 190.

**IMPROVEMENT.** A valuable addition made to property (usually real estate) or an amelioration in its condition, amounting to more than mere repairs or replacement of waste, costing labor or capital, and intended to enhance its value and utility or to adapt it for new or further purposes.

In American land law. An act by which a locator or settler expresses his intention to cultivate or clear certain land; an act expressive of the actual possession of land; as by erecting a cabin, planting a corn-field, deadening trees in a forest; or by merely marking trees, or even by piling up a brush-heap. Burrill.

An "improvement," under our land system, does not mean a general enhancement of the value of the tract from the occupant's operations. It has a more limited meaning, which has in view the population of our forests, and the increase of agricultural products. All works which are directed to the creation of homes for families, or are substantial steps towards bringing lands into cultivation, have in their results the special character of "improvements," and, under the land laws of the United States and of the several states, are encouraged. Sometimes their minimum extent is

defined as requisite to convey rights. In other cases not. But the test which runs through all the cases is always this: Are they real, and made *bona fide*, in accordance with the policy of the law, or are they only colorable, and made for the purpose of fraud and speculation? 37 Ark. 137.

**In the law of patents.** An addition to, or modification of, a previous invention or discovery, intended or claimed to increase its utility or value. See 2 Kent, Comm. 366-372.

**IMPROVEMENTS.** A term used in leases, of doubtful meaning. It would seem to apply principally to buildings, though generally it extends to the amelioration of every description of property, whether real or personal; but, when contained in any document, its meaning is generally explained by other words. 1 Chit. Gen. Pr. 174.

**IMPROVIDENCE,** as used in a statute excluding one found incompetent to execute the duties of an administrator by reason of improvidence, means that want of care and foresight in the management of property which would be likely to render the estate and effects of the intestate unsafe, and liable to be lost or diminished in value, in case the administration should be committed to the improvident person. 1 Barb. Ch. 45.

**IMPRUIARE.** In old records. To improve land. *Impruamentum*, the improvement so made of it. Cowell.

**IMPUBES.** Lat. In the civil law. A minor under the age of puberty; a male under fourteen years of age; a female under twelve. Calvin.; Mackeld. Rom. Law, § 133.

*Impunitas continuum affectum tribuit delinquendi.* 4 Coke, 45. Impunity confirms the disposition to commit crime.

*Impunities semper ad deteriora invitat.* 5 Coke, 109. Impunity always invites to greater crimes.

**IMPUNITY.** Exemption or protection from penalty or punishment. 36 Tex. 153.

**IMPUTATIO.** In the civil law. Legal liability.

**IMPUTATION OF PAYMENT.** In the civil law. The application of a payment made by a debtor to his creditor.

**IMPUTED NEGLIGENCE.** Negligence which is not directly attributable to the person himself, but which is the negligence of a person who is in privity with him, and with whose fault he is chargeable.

**IN.** In the law of real estate, this preposition has always been used to denote the fact of seisin, title, or possession, and apparently serves as an elliptical expression for some such phrase as "in possession," or as an abbreviation for "intitled" or "invested with title." Thus, in the old books, a tenant is said to be "*in* by lease of his lessor." Litt. § 82.

**IN ACTION.** Attainable or recoverable by action; not in possession. A term applied to property of which a party has not the possession, but only a right to recover it by action. Things in action are rights of personal things, which nevertheless are not in possession. See **CHOSE IN ACTION**.

**IN ADVERSUM.** Against an adverse, unwilling, or resisting party. "A decree not by consent, but *in adversum*." 3 Story, 818.

In *ædificiis lapis male positus non est removendus*. 11 Coke, 69. A stone badly placed in buildings is not to be removed.

**IN ÆQUA MANU.** In equal hand. Fleta, lib. 3, c. 14, § 2.

**IN ÆQUALI JURE.** In equal right; on an equality in point of right.

In *æquali jure melior est conditio possidentis*. In [a case of] equal right the condition of the party in possession is the better. Plowd. 296; Broom, Max. 713.

**IN ÆQUALI MANU.** In equal hand; held equally or indifferently between two parties. Where an instrument was deposited by the parties to it in the hands of a third person, to keep on certain conditions, it was said to be held *in æquali manu*. Reg. Orig. 28.

**IN ALIENO SOLO.** In another's land. 2 Steph. Comm. 20.

**IN ALIO LOCO.** In another place.

In *alta proditione nullus potest esse accessorius sed principalis solummodo*. 3 Inst. 138. In high treason no one can be an accessory, but only principal.

In *alternativis electio est debitoris*. In alternatives the debtor has the election.

In *ambigua voce legis ea potius accipienda est significatio quæ vitio caret, præsertim cum etiam voluntas legis ex hoc colligi possit*. In an ambiguous expression of law, that signification is to be preferred which is consonant with equity,

especially when the spirit of the law can be collected from that. Dig. 1, 3, 19; Broom, Max. 576.

In *ambiguus casibus semper præsumitur pro rege*. In doubtful cases the presumption is always in favor of the king.

In *ambiguus orationibus maxime sententia spectanda est ejus qui eas protulisset*. In ambiguous expressions, the intention of the person using them is chiefly to be regarded. Dig. 50, 17, 96; Broom, Max. 567.

In *Anglia non est interregnum*. In England there is no interregnum. Jenk. Cent. 205; Broom, Max. 50.

**IN APERTA LUCE.** In open daylight; in the day-time. 9 Coke, 65b.

**IN APICIBUS JURIS.** Among the subtleties or extreme doctrines of the law. 1 Kames, Eq. 190. See **APEX JURIS**.

**IN ARBITRIUM JUDICIS.** At the pleasure of the judge.

**IN ARCTA ET SALVA CUSTODIA.** In close and safe custody. 3 Bl. Comm. 415.

**IN ARTICULO.** In a moment; immediately. Cod. 1, 34, 2.

**IN ARTICULO MORTIS.** In the article of death; at the point of death. 1 Johns. 159.

In *atrocioribus delictis punitur affectus licet non sequatur effectus*. 2 Rolle R. 82. In more atrocious crimes the intent is punished, though an effect does not follow.

**IN AUTRE DROIT.** L. Fr. In another's right. As representing another. An executor, administrator, or trustee sues *in autre droit*.

**IN BANCO.** In bank; in the bench. A term applied to proceedings in the court in bank, as distinguished from proceedings at *nisi prius*. Also, in the English court of common bench.

**IN BLANK.** A term applied to the indorsement of a bill or note, where it consists merely of the indorser's name, without restriction to any particular indorsee. 2 Steph. Comm. 164.

**IN BONIS.** Among the goods or property; in actual possession. Inst. 4, 2, 2. In *bonis defuncti*, among the goods of the deceased.

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**IN CAMERA.** In chambers; in private. A cause is said to be heard *in camera* either when the hearing is had before the judge in his private room, or when all spectators are excluded from the court-room.

**IN CAPITA.** To the heads; by heads or polls. Persons succeed to an inheritance *in capita* when they individually take equal shares. So challenges to individual jurors are challenges *in capita*, as distinguished from challenges to the array.

**IN CAPITE.** In chief. 2 Bl. Comm. 60. Tenure *in capite* was a holding directly from the king.

In *casu extremæ necessitatis omnia sunt communia*. Hale, P. C. 54. In cases of extreme necessity, everything is in common.

**IN CASU PROVISIO.** In a (or the) case provided. *In tali casu editum et provisum*, in such case made and provided. Townsh. Pl. 164, 165.

**IN CAUSA.** In the cause, as distinguished from *in initialibus*, (*q. v.*) A term in Scotch practice. 1 Brown, Ch. 252.

**IN CHIEF.** Principal; primary; directly obtained. A term applied to the evidence obtained from a witness upon his examination in court by the party producing him.

Tenure in chief, or *in capite*, is a holding directly of the king or chief lord.

In *civilibus ministerium excusat, in criminalibus non item*. In civil matters agency (or service) excuses, but not so in criminal matters. Loft, 228; Tray. Lat. Max. 243.

In *claris non est locus conjecturis*. In things obvious there is no room for conjecture.

**IN COMMENDAM.** In commendation; as a commended living. 1 Bl. Comm. 393. See **COMMENDA**.

A term applied in Louisiana to a limited partnership, answering to the French "*en commandite*." Civil Code La. art. 2810.

In *commodato hæc pactio, ne dolus præstetur, rata non est*. In the contract of loan, a stipulation not to be liable for fraud is not valid. Dig. 13, 7, 17, pr.

**IN COMMUNI.** In common. Fleta, lib. 3, c. 4, § 2.

In *conjunctivis, oportet utramque partem esse veram*. In conjunctives, it is

necessary that each part be true. Wing. Max. 13, max. 9. In a condition consisting of divers parts in the copulative, both parts must be performed.

**IN CONSIDERATIONE INDE.** In consideration thereof. 3 Salk. 64, pl. 5.

**IN CONSIDERATIONE LEGIS.** In consideration or contemplation of law; in abeyance. Dyer, 102b.

**IN CONSIDERATIONE PRÆMIS-SORUM.** In consideration of the premises. 1 Strange, 535.

In *consimili casu, consimile debet esse remedium*. Harar. 65. In similar cases the remedy should be similar.

**IN CONSPECTU EJUS.** In his sight or view. 12 Mod. 95.

In *consuetudinibus, non diuturnitas temporis sed soliditas rationis est consideranda*. In customs, not length of time, but solidity of reason, is to be considered. Co. Litt. 141a. The antiquity of a custom is to be less regarded than its reasonableness.

**IN CONTINENTI.** Immediately; without any interval or intermission. Calvin. Sometimes written as one word, "*incontinenti*."

In *contractibus, benigna; in testamentis, benignior; in restitutionibus, benignissima interpretatio facienda est*. Co. Litt. 112. In contracts, the interpretation is to be liberal; in wills, more liberal; in restitutions, most liberal.

In *contractibus, rei veritas potius quam scriptura perspici debet*. In contracts, the truth of the matter ought to be regarded rather than the writing. Cod. 4, 22, 1.

In *contractibus, tacite insunt [veniunt] quæ sunt moris et consuetudinis*. In contracts, matters of custom and usage are tacitly implied. A contract is understood to contain the customary clauses, although they are not expressed. Story, Bills, § 143; 3 Kent, Comm. 260, note; Broom, Max. 842.

In *contrahenda venditione, ambiguum pactum contra venditorem interpretandum est*. In the contract of sale, an ambiguous agreement is to be interpreted against the seller. Dig. 50, 17, 172. See *Id.* 18, 1, 21.

In *conventionibus, contrahentium voluntas potius quam verba spectari pla-*

out. In agreements, the intention of the contracting parties, rather than the words used, should be regarded. 17 Johns. 150; Broom, Max. 551.

**IN CORPORE.** In body or substance; in a material thing or object.

**IN CRASTINO.** On the morrow. *In crastino Animarum*, on the morrow of All Souls. 1 Bl. Comm. 342.

In criminalibus, probationes debent esse luce clariores. In criminal cases, the proofs ought to be clearer than light. 3 Inst. 210.

In criminalibus, sufficit generalis malitia intentionis, cum facto parisi gradus. In criminal matters or cases, a general malice of intention is sufficient, [if united] with an act of equal or corresponding degree. Bac. Max. p. 65, reg. 15; Broom, Max. 323.

In criminalibus, voluntas reputabitur pro facto. In criminal acts, the will will be taken for the deed. 3 Inst. 106.

**IN CUJUS REI TESTIMONIUM.** In testimony whereof. The initial words of the concluding clause of ancient deeds in Latin, literally translated in the English forms.

**IN CUSTODIA LEGIS.** In the custody or keeping of the law. 2 Steph. Comm. 74.

**IN DELICTO.** In fault. See **IN PARI DELICTO**, etc.

**IN DIEM.** For a day; for the space of a day. Calvin.

In disjunctivis sufficit alteram partem esse veram. In disjunctives it is sufficient that either part be true. Where a condition is in the disjunctive, it is sufficient if either part be performed. Wing. Max. 13, max. 9; 7 East, 272; Broom, Max. 592.

**IN DOMINICO.** In demesne. *In domitico suo ut de feodo*, in his demesne as of fee.

**IN DORSO.** On the back. 2 Bl. Comm. 468; 2 Steph. Comm. 164. *In dorso recordi*, on the back of the record. 5 Coke, 45. Hence the English *indorse*, *indorsement*, etc.

In dubiis, benigniora præferenda sunt. In doubtful cases, the more favorable views are to be preferred; the more liberal interpretation is to be followed. Dig. 50, 17, 56; 2 Kent, Comm. 557.

In dubiis, magis dignum est accipiendum. Branch, Princ. In doubtful cases, the more worthy is to be accepted.

In dubiis, non præsumitur pro testamento. In cases of doubt, the presumption is not in favor of a will. Branch, Princ. But see Cro. Car. 51.

**IN DUBIO.** In doubt; in a state of uncertainty, or in a doubtful case.

In dubio, hæc legis constructio quam verba ostendunt. In a case of doubt, that is the construction of the law which the words indicate. Branch, Princ.

In dubio, pars mitior est sequenda. In doubt, the milder course is to be followed.

In dubio, sequendum quod tutius est. In doubt, the safer course is to be adopted.

**IN DUPLO.** In double. *Damna in duplo*, double damages. Fleta, lib. 4, c. 10, § 1.

**IN EADEM CAUSA.** In the same state or condition. Calvin.

**IN EMULATIONEM VICINI.** In envy or hatred of a neighbor. Where an act is done, or action brought, solely to hurt or distress another, it is said to be *in emulationem vicini*. 1 Kames, Eq. 56.

In eo quod plus sit, semper inest et minus. In the greater is always included the less also. Dig. 50, 17, 110.

**IN EQUITY.** In a court of equity, as distinguished from a court of law; in the purview, consideration, or contemplation of equity; according to the doctrines of equity.

**IN ESSE.** In being. Actually existing. Distinguished from *in posse*, which means "that which is not, but may be." A child before birth is *in posse*; after birth, *in esse*.

**IN EVIDENCE.** Included in the evidence already adduced. The "facts in evidence" are such as have already been proved in the cause. J

**IN EXCAMBIO.** In exchange. Formal words in old deeds of exchange.

**IN EXITU.** In issue. *De materia in exitu*, of the matter in issue. 12 Mod. 372. K

In expositione instrumentorum, mala grammatica, quod fieri potest, vitanda est. In the construction of instruments, bad grammar is to be avoided as much as possible. 6 Coke, 39; 2 Pars. Cont. 26. L

**IN EXTENSO.** In extension; at full length; from beginning to end, leaving out nothing. M

**IN EXTREMIS.** In extremity; in the last extremity; in the last illness. 20 Johns. 502; 2 Bl. Comm. 375, 500. *Agens in extremis*, being in extremity. Bract. fol. 373b. Declarations *in extremis*, dying declarations. 15 Johns. 286; 1 Greenl. Ev. § 156.

**IN FACIE CURIÆ.** In the face of the court. Dyer, 28.

**IN FACIE ECCLESIE.** In the face of the church. A term applied in the law of England to marriages, which are required to be solemnized in a parish church or public chapel, unless by dispensation or license. 1 Bl. Comm. 439; 2 Steph. Comm. 288, 289. Applied in Bracton to the old mode of conferring dower. Bract. fol. 92; 2 Bl. Comm. 133.

**IN FACIENDO.** In doing; in feaſance; in the performance of an act. 2 Story, Eq. Jur. § 1308.

**IN FACT.** Actual, real; as distinguished from implied or inferred. Resulting from the acts of parties, instead of from the act or intendment of law.

**IN FACTO.** In fact; in deed. *In factō dicit*, in fact says. 1 Salk. 22, pl. 1.

*In factō quod se habet ad bonum et malum, magis de bono quam de malo lex intendit.* In an act or deed which admits of being considered as both good and bad, the law intends more from the good than from the bad; the law makes the more favorable construction. Co. Litt. 78b.

*In favorabilibus magis attenditur quod prodest quam quod nocet.* In things favored, what profits is more regarded than what prejudices. Bac. Max. p. 57, in reg. 12.

**IN FAVOREM LIBERTATIS.** In favor of liberty.

**IN FAVOREM VITÆ.** In favor of life.

*In favorem vitæ, libertatis, et innocentie, omnia præsumuntur.* In favor of life, liberty, and innocence, every presumption is made. Lofft. 125.

**IN FEODO.** In fee. Bract. fol. 207; Fleta, lib. 2, c. 64, § 15. *Seisitus in feodo*, seised in fee. Fleta, lib. 3, c. 7, § 1.

*In fictione juris semper æquitas existit.* In the fiction of law there is always equity; a legal fiction is always consistent

with equity. 11 Coke, 51a; Broom, Max. 127, 130.

**IN FIERI.** In being made; in process of formation or development; hence, incomplete or inchoate. Legal proceedings are described as *in fieri* until judgment is entered.

**IN FINE.** Lat. At the end. Used, in references, to indicate that the passage cited is at the *end* of a book, chapter, section, etc.

**IN FORMA PAUPERIS.** In the character or manner of a pauper. Describes permission given to a poor person to sue without liability for costs.

**IN FORO.** In a (or the) forum, court, or tribunal.

**IN FORO CONSCIENTIÆ.** In the tribunal of conscience; conscientiously; considered from a moral, rather than a legal, point of view.

**IN FORO CONTENTIOSO.** In the forum of contention or litigation.

**IN FORO ECCLESIASTICO.** In an ecclesiastical forum; in the ecclesiastical court. Fleta, lib. 2, c. 57, § 13.

**IN FORO SÆCULARI.** In a secular forum or court. Fleta, lib. 2, c. 57, § 14; 1 Bl. Comm. 20.

**IN FRAUDEM CREDITORUM.** In fraud of creditors; with intent to defraud creditors. Inst. 1, 6, pr., 3.

**IN FRAUDEM LEGIS.** In fraud of the law. 3 Bl. Comm. 94. With the intent or view of evading the law. 1 Johns. 424, 432.

**IN FULL.** Relating to the whole or *full* amount; as a receipt in full. Complete; giving all details.

**IN FULL LIFE.** Continuing in both physical and civil existence; that is, neither actually dead nor *civiliter mortuus*.

**IN FUTURO.** In future; at a future time; the opposite of *in præsentis*. 2 Bl. Comm. 166, 175.

**IN GENERALI PASSAGIO.** In the general passage; that is, on the journey to Palestine with the general company or body of Crusaders. This term was of frequent occurrence in the old law ofessoins, as a means of accounting for the absence of the party, and was distinguished from *simplex passagium*, which meant that he was performing a pilgrimage to the Holy Land alone.



**In generalibus versatur error.** Error dwells in general expressions. 3 Sum. 290; 1 Cush. 292.

**IN GENERE.** In kind; in the same *genus* or class; the same in quantity and quality, but not individually the same. In the Roman law, things which may be given or restored *in genere* are distinguished from such as must be given or restored *in specie*; that is, identically. Mackeld. Rom. Law, § 161.

**IN GREMIO LEGIS.** In the bosom of the law; in the protection of the law; in abeyance. 1 Coke, 131a; T. Raym. 319.

**IN GROSS.** In a large quantity or sum; without division or particulars; by wholesale.

At large; not annexed to or dependent upon another thing. Common in gross is such as is neither appendant nor appurtenant to land, but is annexed to a man's person. 2 Bl. Comm. 34.

**IN HAC PARTE.** In this behalf; on this side.

**IN HÆC VERBA.** In these words; in the same words.

**In hæredes non solent transire actiones quæ pœnales ex maleficio sunt.** 2 Inst. 442. Penal actions arising from anything of a criminal nature do not pass to heirs.

**In his enim quæ sunt favorabilia animæ, quamvis sunt damnosa rebus, fiat aliquando extensio statuti.** In things that are favorable to the spirit, though injurious to property, an extension of the statute should sometimes be made. 10 Coke, 101.

**In his quæ de jure communi omnibus conceduntur, consuetudo alicujus patriæ vel loci non est alleganda.** 11 Coke, 85. In those things which by common right are conceded to all, the custom of a particular district or place is not to be alleged.

**IN HOC.** In this; in respect to this.

**IN IISDEM TERMINIS.** In the same terms. 9 East, 487.

**IN INDIVIDUO.** In the distinct, identical, or individual form; *in specie*. Story, Bailm. § 97.

**IN INFINITUM.** Infinitely; indefinitely. Imports indefinite succession or continuance.

**IN INITIALIBUS.** In the preliminaries. A term in Scotch practice, applied to the preliminary examination of a witness as to the following points: Whether he knows the parties, or bears ill will to either of them, or has received any reward or promise of reward for what he may say, or can lose or gain by the cause, or has been told by any person what to say. If the witness answer these questions satisfactorily, he is then examined *in causa*, in the cause. Bell, Dict. "Evidence."

**IN INITIO.** In or at the beginning. *In initio litis*, at the beginning, or in the first stage of the suit. Bract. fol. 400.

**IN INTEGRUM.** To the original or former state. Calvin.

**IN INVIDIAM.** To excite a prejudice.

**IN INVITUM.** Against an unwilling party; against one not assenting. A term applied to proceedings against an adverse party, to which he does not consent.

**IN IPSIS FAUCIBUS.** In the very throat or entrance. *In ipsis faucibus* of a port, actually entering a port. 1 C. Rob. Adm. 233, 234.

**IN ITINERE.** In eyre; on a journey or circuit. In old English law, the justices *in itinere* (or in eyre) were those who made a circuit through the kingdom once in seven years for the purposes of trying causes. 3 Bl. Comm. 58.

In course of transportation; on the way; not delivered to the vendee. In this sense the phrase is equivalent to "*in transitu*."

**IN JUDGMENT.** In a court of justice; in a seat of judgment. Lord Hale is called "one of the greatest and best men who ever sat in judgment." 1 East, 306.

**In judiciis, minori ætati succurritur.** In courts or judicial proceedings, infancy is aided or favored. Jenk. Cent. 46, case 89.

**IN JUDICIO.** In Roman law. In the course of an actual trial; before a judge, (*judex*.) A cause, during its preparatory stages, conducted before the prætor, was said to be *in jure*; in its second stage, after it had been sent to a *judex* for trial, it was said to be *in judicio*.

**In judicio non creditur nisi juratis.** Cro. Car. 64. In a trial, credence is given only to those who are sworn.

**IN JURE.** In law; according to law. In the Roman practice, the procedure in an

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action was divided into two stages. The first was said to be *in jure*; it took place before the prætor, and included the formal and introductory part and the settlement of questions of law. The second stage was committed to the *judex*, and comprised the investigation and trial of the facts; this was said to be *in judicio*.

**IN JURE ALTERIUS.** In another's right. Hale, Anal. § 26.

**In jure, non remota causa sed proxima spectatur.** Bac. Max. reg. 1. In law, the proximate, and not the remote, cause is regarded.

**IN JURE PROPRIO.** In one's own right. Hale, Anal. § 26.

**IN JUS VOCARE.** To call, cite, or summon to court. Inst. 4, 16, 3; Calvin. *In jus vocando*, summoning to court. 3 Bl. Comm. 279.

**IN KIND.** In the same kind, class, or genus. A loan is returned "in kind" when not the identical article, but one corresponding and equivalent to it, is given to the lender. See **IN GENERE**.

**IN LAW.** In the intendment, contemplation, or inference of the law; implied or inferred by law; existing in law or by force of law. See **IN FACT**.

**IN LECTO MORTALI.** On the deathbed. Fleta, lib. 5, c. 28, § 12.

**IN LIMINE.** On or at the threshold; at the very beginning; preliminarily.

**IN LITEM.** For a suit; to the suit. Greenl. Ev. § 348.

**IN LOCO.** In place; in lieu; instead; in the place or stead. Townsh. Pl. 38.

**IN LOCO PARENTIS.** In the place of a parent; instead of a parent; charged, factiously, with a parent's rights, duties, and responsibilities.

**In majore summa continetur minor.** 5 Coke, 115. In the greater sum is contained the less.

**IN MAJOREM CAUTELAM.** For greater security. 1 Strange, 105, arg.

**IN MALAM PARTEM.** In a bad sense, so as to wear an evil appearance.

**In maleficiis voluntas spectatur, non exitus.** In evil deeds regard must be had to the intention, and not to the result. Dig. 48, 8, 14; Broom, Max. 324.

**In maleficio, rati habitio mandato comparatur.** In a case of malfeasance, ratification is equivalent to command. Dig. 50, 17, 152, 2.

**In maxima potentia minima licentia.** In the greatest power there is the least freedom. Hob. 159.

**IN MEDIAS RES.** Into the heart of the subject, without preface or introduction.

**IN MEDIO.** Intermediate. A term applied, in Scotch practice, to a fund held between parties litigant.

**In mercibus illicitis non sit commercium.** There should be no commerce in illicit or prohibited goods. 3 Kent, Comm. 262, note.

**IN MERCY.** To be in mercy is to be at the discretion of the king, lord, or judge in respect to the imposition of a fine or other punishment.

**IN MISERICORDIA.** The entry on the record where a party was in mercy was, "*Ideo in misericordia*," etc. Sometimes "*miseriordia*" means the being quit of all ameracements.

**IN MITIORI SENSU.** In the milder sense; in the less aggravated acceptation. In actions of slander, it was formerly the rule that, if the words alleged would admit of two constructions, they should be taken in the less injurious and defamatory sense, or *in mitiori sensu*.

**IN MODUM ASSISÆ.** In the manner or form of an assize. Bract. fol. 183b. *In modum jurata*, in manner of a jury. Id. fol. 181b.

**IN MORA.** In default; literally, in delay. In the civil law, a borrower who omits or refuses to return the thing loaned at the proper time is said to be *in mora*. Story, Bailm. §§ 254, 259.

**In Scotch law.** A creditor who has begun without completing diligence necessary for attaching the property of his debtor is said to be *in mora*. Bell.

**IN MORTUA MANU.** Property owned by religious societies was said to be held *in mortua manu*, or in mortmain, since religious men were *civiliter mortui*. 1 Bl. Comm. 479; Tayl. Gloss.

**IN NOMINE DEI, AMEN.** In the name of God, Amen. A solemn introduction, anciently used in wills and many other

instruments. The translation is often used in wills at the present day.

**IN NOTIS.** In the notes.

**In novo casu, novum remedium apponendum est.** 2 Inst. 8. A new remedy is to be applied to a new case.

**IN NUBIBUS.** In the clouds; in abeyance; in custody of law. *In nubibus, in mare, in terrâ, vel in custodia legis,* in the air, sea, or earth, or in the custody of the law. Tayl. Gloss. In case of abeyance, the inheritance is figuratively said to rest *in nubibus, or in gremio legis.*

**IN NULLIUS BONIS.** Among the goods or property of no person; belonging to no person, as treasure-trove and wreck were anciently considered.

**IN NULLO EST ERRATUM.** In nothing is there error. The name of the common plea or joinder in error, denying the existence of error in the record or proceedings; which is in the nature of a demurrer, and at once refers the matter of law arising thereon to the judgment of the court. 2 Tidd, Pr. 1173; 7 Metc. (Mass.) 285, 287.

**In obscura voluntate manumittentis, favendum est libertati.** Where the expression of the will of one who seeks to manumit a slave is ambiguous, liberty is to be favored. Dig. 50, 17, 179.

**In obscuris, inspici solere quod verisimilius est, aut quod plerumque fieri solet.** In obscure cases, we usually look at what is most probable, or what most commonly happens. Dig. 50, 17, 114.

**In obscuris, quod minimum est sequimur.** In obscure or doubtful cases, we follow that which is the least. Dig. 50, 17, 9; 2 Kent, Comm. 557.

**IN ODIUM SPOLIATORIS.** In hatred of a despoiler, robber, or wrong-doer. 1 Gall. 174; 2 Story, 99; 1 Greenl. Ev. § 348.

**In odium spoliatoris omnia præsumuntur.** To the prejudice (in condemnation) of a despoiler all things are presumed; every presumption is made against a wrong-doer. 1 Vern. 452.

**In omni actione ubi duæ concurrunt districtiones, videlicet, in rem et in personam, illa districtio tenenda est quæ magis timetur et magis ligat.** In every action where two distresses concur, that is, *in rem* and *in personam*, that is to be chosen which is most dreaded, and which binds most

firmly. Bract. fol. 372; Fleta, l. 6, c. 14, § 28.

**In omni re nascitur res quæ ipsam rem exterminat.** In everything there arises a thing which destroys the thing itself. Everything contains the element of its own destruction. 2 Inst. 15.

**IN OMNIBUS.** In all things; on all points. "A case parallel *in omnibus.*" 10 Mod. 104.

**In omnibus contractibus, sive nominatis sive innominatis, permutatio continetur.** In all contracts, whether nominate or innominate, an exchange [of value, *i. e.*, a consideration] is implied. Gravin. lib. 2, § 12; 2 Bl. Comm. 444, note.

**In omnibus obligationibus in quibus dies non ponitur, præsentî die debetur.** In all obligations in which a date is not put, the debt is due on the present day; the liability accrues immediately. Dig. 50, 17, 14.

**In omnibus [fere] pœnalibus judiciis, et ætati et imprudentiæ succurritur.** In nearly all penal judgments, immaturity of age and imbecility of mind are favored. Dig. 50, 17, 108; Broom, Max. 314.

**In omnibus quidem, maxime tamen in jure, æquitas spectanda sit.** In all things, but especially in law, equity is to be regarded. Dig. 50, 17, 90; Story, Bailm. § 257.

**IN PACATO SOLO.** In a country which is at peace.

**IN PACE DEI ET REGIS.** In the peace of God and the king. Fleta, lib. 1, c. 31, § 6. Formal words in old appeals of murder.

**IN PAIS.** This phrase, as applied to a legal transaction, primarily means that it has taken place without legal proceedings. Thus a widow was said to make a request *in pais* for her dower when she simply applied to the heir without issuing a writ. (Co. Litt. 32b.) So conveyances are divided into those by matter of record and those by matter *in pais*. In some cases, however, "matters *in pais*" are opposed not only to "matters of record," but also to "matters in writing," *i. e.*, deeds, as where estoppel by deed is distinguished from estoppel by matter *in pais*. (Id. 352a.) Sweet.

**IN PAPER.** A term formerly applied to the proceedings in a cause before the record was made up. 3 Bl. Comm. 406; 2 Bur-

rows, 1098. Probably from the circumstance of the record being always on parchment. The opposite of "on record." 1 Burrows, 322.

**IN PARI CAUSA.** In an equal cause. In a cause where the parties on each side have equal rights.

In *pari causa* possessor potior haberi debet. In an equal cause he who has the possession should be preferred. Dig. 50, 17, 128, 1.

**IN PARI DELICTO.** In equal fault; equally culpable or criminal; in a case of equal fault or guilt.

In *pari delicto potior est conditio possidentis*, [defendentis.] In a case of equal or mutual fault [between two parties] the condition of the party in possession [or defending] is the better one. 2 Burrows, 926. Where each party is equally in fault, the law favors him who is actually in possession. Broom, Max. 290, 729. Where the fault is mutual, the law will leave the case as it finds it. Story, Ag. § 195.

**IN PARI MATERIA.** Upon the same matter or subject. Statutes *in pari materia* are to be construed together. 7 Conn. 456.

**IN PATIENDO.** In suffering, permitting, or allowing.

**IN PECTORE JUDICIS.** In the breast of the judge. Latch, 180. A phrase applied to a judgment.

**IN PEJOREM PARTEM.** In the worst part; on the worst side. Latch, 159, 160.

**IN PERPETUAM REI MEMORIAM.** In perpetual memory of a matter; for preserving a record of a matter. Applied to depositions taken in order to preserve the testimony of the deponent.

**IN PERPETUUM REI TESTIMONIUM.** In perpetual testimony of a matter; for the purpose of declaring and settling a thing forever. 1 Bl. Comm. 86.

**IN PERSON.** A party, plaintiff or defendant, who sues out a writ or other process, or appears to conduct his case in court himself, instead of through a solicitor or counsel, is said to act and appear *in person*.

**IN PERSONAM, IN REM.** In the Roman law, from which they are taken, the expressions "*in rem*" and "*in personam*" were always opposed to one another, an act or proceeding *in personam* being one done or di-

rected against or with reference to a specific person, while an act or proceeding *in rem* was one done or directed with reference to no specific person, and consequently against or with reference to all whom it might concern, or "all the world." The phrases were especially applied to actions; an *actio in personam* being the remedy where a claim against a specific person arose out of an obligation, whether *ex contractu* or *ex maleficio*, while an *actio in rem* was one brought for the assertion of a right of property, easement, *status*, etc., against one who denied or infringed it. See Inst. 4, 6, 1; Gaius, 4, 1, 1-10; 5 Sav. Syst. 13, et seq.; Dig. 2, 14, 7, 8; Id. 4, 2, 9, 1.

From this use of the terms, they have come to be applied to signify the antithesis of "available against a particular person," and "available against the world at large." Thus, *jura in personam* are rights primarily available against specific persons; *jura in rem*, rights only available against the world at large.

So a judgment or decree is said to be *in rem* when it binds third persons. Such is the sentence of a court of admiralty on a question of prize, or a decree of nullity or dissolution of marriage, or a decree of a court in a foreign country as to the *status* of a person domiciled there.

Lastly, the terms are sometimes used to signify that a judicial proceeding operates on a thing or a person. Thus, it is said of the court of chancery that it acts *in personam*, and not *in rem*, meaning that its decrees operate by compelling defendants to do what they are ordered to do, and not by producing the effect directly. Sweet.

In *personam actio est, qua cum eo agimus qui obligatus est nobis ad faciendum aliquid vel dandum*. The action *in personam* is that by which we sue him who is under obligation to us to do something or give something. Dig. 44, 7, 25; Bract. 101b.

**IN PIOS USUS.** For pious uses; for religious purposes. 2 Bl. Comm. 505.

**IN PLENA VITA.** In full life. Yearb. P. 18 Hen. VI. 2.

**IN PLENO COMITATU.** In full county court. 3 Bl. Comm. 86.

**IN PLENO LUMINE.** In public; in common knowledge; in the light of day.

In *pœnalibus causis benignius interpretandum est*. In penal causes or cases.

the more favorable interpretation should be adopted. Dig. 50, 17, (197,) 155, 2; Plowd. 86b, 124; 2 Hale, P. C. 365.

**IN POSSE.** In possibility; not in actual existence. See **IN ESSE**.

**IN POTESTATE PARENTIS.** In the power of a parent. Inst. 1, 8, pr.; Id. 1, 9; 2 Bl. Comm. 498.

**IN PRÆMISSORUM FIDEM.** In confirmation or attestation of the premises. A notarial phrase.

In præparatoriis ad iudicium favetur actori. 2 Inst. 57. In things preceding judgment the plaintiff is favored.

**IN PRÆSENTI.** At the present time. 2 Bl. Comm. 166. Used in opposition to *in futuro*.

In præsentia majoris potestatis, minor potestas cessat. In the presence of the superior power, the inferior power ceases. Jenk. Cent. 214, c. 53. The less authority is merged in the greater. Broom, Max. 111.

**IN PRENDER.** L. Fr. In taking. A term applied to such incorporeal hereditaments as a party entitled to them was to *take* for himself; such as common. 2 Steph. Comm. 23; 3 Bl. Comm. 15.

In pretio emptionis et venditionis, naturaliter licet contrahentibus se circumvenire. In the price of buying and selling, it is naturally allowed to the contracting parties to overreach each other. 1 Story, Cont. 606.

**IN PRIMIS.** In the first place. A phrase used in argument.

**IN PRINCIPIO.** At the beginning.

**IN PROMPTU.** In readiness; at hand.

In propria causa nemo iudex. No one can be judge in his own cause. 12 Coke, 13.

**IN PROPRIA PERSONA.** In one's own proper person.

In quo quis delinquit, in eo de jure est puniendus. In whatever thing one offends, in that is he rightfully to be punished. Co. Litt. 233b; Wing Max. 204, max. 58. The punishment shall have relation to the nature of the offense.

**IN RE.** In the affair; in the matter of. This is the usual method of entitling a judicial proceeding in which there are not adversary parties, but merely some *res* concerning which judicial action is to be taken, such as

a bankrupt's estate, an estate in the probate court, a proposed public highway, etc. It is also sometimes used as a designation of a proceeding where one party makes an application on his own behalf, but such proceedings are more usually entitled "*Ex parte* \_\_\_\_\_."

In re communi neminem dominorum jure facere quicquam, invito altero, posse. One co-proprietor can exercise no authority over the common property against the will of the other. Dig. 10, 3, 28.

In re communi potior est conditio prohibentis. In a partnership the condition of one who forbids is the more favorable.

In re dubia, benigniorem interpretationem sequi, non minus justius est quam tutius. In a doubtful matter, to follow the more liberal interpretation is not less the juster than the safer course. Dig. 50, 17, 192, 1.

In re dubia, magis inficiatio quam affirmatio intelligenda. In a doubtful matter, the denial or negative is to be understood, [or regarded,] rather than the affirmative. Godb. 37.

In re lupanari, testes lupanares admittentur. In a matter concerning a brothel, prostitutes are admitted as witnesses. 6 Barb. 320, 324.

In re pari potioem causam esse prohibentis constat. In a thing equally shared [by several] it is clear that the party refusing [to permit the use of it] has the better cause. Dig. 10, 3, 28. A maxim applied to partnerships, where one partner has a right to withhold his assent to the acts of his copartner. 3 Kent, Comm. 45.

In re propria iniquum admodum est alicui licentiam tribuere sententiæ. It is extremely unjust that any one should be judge in his own cause. J

In rebus manifestis, errat qui auctoritates legum allegat; quia perspicue vera non sunt probanda. In clear cases, he mistakes who cites legal authorities; for obvious truths are not to be proved. 5 Coke, 67a. Applied to cases too plain to require the support of authority; "because," says the report, "he who endeavors to prove them obscures them." K

In rebus quæ sunt favorabilia animæ, quamvis sunt damnosa rebus, fiat aliquando extensio statuti. 10 Coke, 101. L  
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In things that are favorable to the spirit, though injurious to things, an extension of a statute should sometimes be made.

**IN REM.** A technical term used to designate proceedings or actions instituted *against the thing*, in contradistinction to personal actions, which are said to be *in personam*. See **IN PERSONAM**.

It is true that, in a strict sense, a proceeding *in rem* is one taken directly against property, and has for its object the disposition of property, without reference to the title of individual claimants; but, in a larger and more general sense, the terms are applied to actions between parties, where the direct object is to reach and dispose of property owned by them, or of some interest therein. Such are cases commenced by attachment against the property of debtors, or instituted to partition real estate, foreclose a mortgage, or enforce a lien. So far as they affect property in this state, they are substantially proceedings *in rem* in the broader sense which we have mentioned. 95 U. S. 734.

*In rem actio est per quam rem nostram quæ ab alio possidetur petimus, et semper adversus eum est qui rem possidet.* The action *in rem* is that by which we seek our property which is possessed by another, and is always against him who possesses the property. Dig. 44, 7, 25; Bract. fol. 102.

**IN RENDER.** A thing is said to lie *in render* when it must be rendered or given by the tenant; as rent. It is said to lie *in prender* when it consists in the right in the lord or other person to *take* something.

In republica maxime conservanda sunt jura belli. In a state the laws of war are to be especially upheld. 2 Inst. 58.

**IN RERUM NATURA.** In the nature of things; in the realm of actuality; in existence. In a dilatory plea, an allegation that the plaintiff is not *in rerum natura* is equivalent to averring that the person named is fictitious. 3 Bl. Comm. 301. In the civil law the phrase is applied to things. Inst. 2, 20, 7.

In restitutionem, non in pœnam hæres succedit. The heir succeeds to the restitution, not to the penalty. An heir may be compelled to make restitution of a sum unlawfully appropriated by the ancestor, but is not answerable criminally, as for a penalty. 2 Inst. 198.

In restitutionibus benignissima interpretatio facienda est. Co. Litt. 112. The most benignant interpretation is to be made in restitutions.

In satisfactionibus non permittitur amplius fieri quam semel factum est. In payments, more must not be received than has been received once for all. 9 Coke, 53.

**IN SCRINIO JUDICIS.** In the writing-case of the judge; among the judge's papers. "That is a thing that rests *in scrinio judicis*, and does not appear in the body of the decree." Hardr. 51.

**IN SEPARALI.** In several; in severalty. Fleta, lib. 2, c. 54, § 20.

**IN SIMILI MATERIA.** Dealing with the same or a kindred subject-matter.

**IN SIMPLICI PEREGRINATIONE.** In simple pilgrimage. Bract. fol. 338. A phrase in the old law of essoins. See **IN GENERALI PASSAGIO**.

**IN SOLIDO.** In the civil law. For the whole; as a whole. An obligation *in solido* is one where each of the several obligors is liable for the whole; that is, it is joint and several. Possession *in solidum* is exclusive possession.

When several persons obligate themselves to the obligee by the terms "*in solido*," or use any other expressions which clearly show that they intend that each one shall be separately bound to perform the whole of the obligation, it is called an "obligation *in solido*" on the part of the obligors. Civil Code La. art. 2082.

**IN SOLIDUM.** For the whole. *Si plures sint fidejussores, quotquot erunt numero, singuli in solidum tenentur*, if there be several sureties, however numerous they may be, they are individually bound for the whole debt. Inst. 3, 21, 4. *In parte sive in solidum*, for a part or for the whole. Id. 4, 1, 16. See Id. 4, 6, 20; Id. 4, 7, 2.

**IN SOLO.** In the soil or ground. *In solo alieno*, in another's ground. *In solo proprio*, in one's own ground. 2 Steph. Comm. 20.

**IN SPECIE.** Specific; specifically. Thus, to decree performance *in specie* is to decree specific performance.

In kind; in the same or like form. A thing is said to exist *in specie* when it retains its existence as a distinct individual of a particular class.

**IN STATU QUO.** In the condition in which it was. See **STATUS QUO**.

In stipulationibus cum quæritur quid actum sit verba contra stipulatorem in-

terpretanda sunt. In the construction of agreements words are interpreted against the person using them. Thus, the construction of the *stipulatio* is against the stipulator, and the construction of the *promissio* against the promissor. Dig. 45, 1, 38, 18; Broom, Max. 599.

In stipulationibus, id tempus spectatur quo contrahimus. In stipulations, the time when we contract is regarded. Dig. 50, 17, 144, 1.

IN STIRPES. In the law of intestate succession. According to the roots or stocks; by representation; as distinguished from succession *per capita*. See PER STIRPES; PER CAPITA.

IN SUBSIDIUM. In aid.

In suo quisque negotio hebetior est quam in alieno. Every one is more dull in his own business than in another's.

IN TANTUM. In so much; so much; so far; so greatly. Reg. Orig. 97, 106.

IN TERMINIS TERMINANTIBUS. In terms of determination; exactly in point. 11 Coke, 406. In express or determinate terms. 1 Leon. 93.

IN TERROREM. In terror or warning; by way of threat. Applied to legacies given upon condition that the recipient shall not dispute the validity or the dispositions of the will; such a condition being usually regarded as a mere threat.

IN TERROREM POPULI. Lat. To the terror of the people. A technical phrase necessary in indictments for riots. 4 Car. & P. 373.

In testamentis plenius testatoris intentionem scrutamur. In wills we more especially seek out the intention of the testator. 3 Bulst. 103; Broom, Max. 555.

In testamentis plenius voluntates testantium interpretantur. Dig. 50, 17, 12. In wills the intention of testators is more especially regarded. "That is to say," says Mr. Broom, (Max., 568,) "a will will receive a more liberal construction than its strict meaning, if alone considered, would permit."

In testamentis ratio tacita non debet considerari, sed verba solum spectari debent; adeo per divinationem mentis a verbis recedere durum est. In wills an unexpressed meaning ought not to be considered, but the words alone ought to be

looked to; so hard is it to recede from the words by guessing at the intention.

IN TESTIMONIUM. Lat. In witness; in evidence whereof.

IN TOTIDEM VERBIS. In so many words; in precisely the same words; word for word.

IN TOTO. In the whole; wholly; completely; as the award is void *in toto*.

In toto et pars continetur. In the whole the part also is contained. Dig. 50, 17, 113.

In traditionibus scriptorum, non quod dictum est, sed quod gestum est, inspicitur. In the delivery of writings, not what is said, but what is done, is looked to. 9 Coke, 137a.

IN TRAJECTU. In the passage over; on the voyage over. See Sir William Scott, 3 C. Rob. Adm. 141.

IN TRANSITU. In transit; on the way or passage; while passing from one person or place to another. 2 Kent, Comm. 540-552. On the voyage. 1 C. Rob. Adm. 338.

IN VACUO. Without object; without concomitants or coherence.

IN VADIO. In gage or pledge. 2 Bl. Comin. 157.

IN VENTRE SA MERE. L. Fr. In his mother's womb; spoken of an unborn child.

In veram quantitatem fidejussor tenetur, nisi pro certa quantitate accessit. Let the surety be holden for the true quantity, unless he agree for a certain quantity. 17 Mass. 597.

In verbis, non verba, sed res et ratio, quaerenda est. Jenk. Cent. 132. In the construction of words, not the mere words, but the thing and the meaning, are to be inquired after.

IN VINCULIS. In chains; in actual custody. Gilb. Forum Rom. 97.

Applied also, figuratively, to the condition of a person who is compelled to submit to terms which oppression and his necessities impose on him. 1 Story, Eq. Jur. § 302.

IN VIRIDI OBSERVANTIA. Present to the minds of men, and in full force and operation.

IN WITNESS WHEREOF. The initial words of the concluding clause in deeds: "In witness whereof the said parties have

hereunto set their hands," etc. A translation of the Latin phrase "*in cuius rei testimonium.*"

**INADEQUATE PRICE.** A term applied to indicate the want of a sufficient consideration for a thing sold, or such a price as would ordinarily be entirely incommensurate with its intrinsic value.

**INADMISSIBLE.** That which, under the established rules of law, cannot be admitted or received; e. g., parol evidence to contradict a written contract.

**IN ÆDIFICATIO.** In the civil law. Building on another's land with one's own materials, or on one's own land with another's materials.

**INALIENABLE.** Not subject to alienation; the characteristic of those things which cannot be bought or sold or transferred from one person to another, such as rivers and public highways, and certain personal rights; e. g., liberty.

**INAUGURATION.** The act of installing or inducting into office with formal ceremonies, as the coronation of a sovereign, the inauguration of a president or governor, or the consecration of a prelate.

**INBLAURA.** In old records. Profit or product of ground. Cowell.

**INBORH.** In Saxon law. A security, pledge, or *hypotheca*, consisting of the chattels of a person unable to obtain a personal "borg," or surety.

**INBOUND COMMON.** An uninclosed common, marked out, however, by boundaries.

**INCAPACITY.** Want of capacity; want of power or ability to take or dispose; want of legal ability to act.

**INCASTELLARE.** To make a building serve as a castle. Jacob.

**INCAUSTUM, or ENCAUSTUM.** Ink. Fleta, l. 2, c. 27, § 5.

**Incaute factum pro non facto habetur.** A thing done unwarily (or unadvisedly) will be taken as not done. Dig. 28, 4, 1.

**INCENDIARY.** A house-burner; one guilty of arson; one who maliciously and willfully sets another person's building on fire.

**Incendium ære alieno non exuit debitorem.** Cod. 4, 2, 11. A fire does not release a debtor from his debt.

**INCEPTION.** Commencement; opening; initiation. The beginning of the operation of a contract or will.

**Incerta pro nullis habentur.** Uncertain things are held for nothing. Dav. Ir. K. B. 33.

**Incerta quantitas vitiat actum.** 1 Rolle R. 465. An uncertain quantity vitiates the act.

**INCEST.** The crime of sexual intercourse or cohabitation between a man and woman who are related to each other within the degrees wherein marriage is prohibited by law.

**INCESTUOUS ADULTERY.** The elements of this offense are that defendant, being married to one person, has had sexual intercourse with another related to the defendant within the prohibited degrees. 11 Ga. 53.

**INCESTUOUS BASTARDY.** Incestuous bastards are those who are produced by the illegal connection of two persons who are relations within the degrees prohibited by law. Civil Code La. art. 183.

**INCH.** A measure of length, containing one-twelfth part of a foot; originally supposed equal to three barleycorns.

**INCH OF CANDLE.** A mode of sale at one time in use among merchants. A notice is first given upon the exchange, or other public place, as to the time of sale. The goods to be sold are divided into lots, printed papers of which, and the conditions of sale, are published. When the sale takes place, a small piece of candle, about an inch long, is kept burning, and the last bidder, when the candle goes out, is entitled to the lot or parcel for which he bids. Wharton.

**INCHARTARE.** To give, or grant, and assure anything by a written instrument.

**INCHOATE.** Imperfect; unfinished; begun, but not completed; as a contract not executed by all the parties.

**INCHOATE DOWER.** A wife's interest in the lands of her husband during his life, which may become a right of dower upon his death.

**INCIDENT.** This word, used as a noun, denotes anything which inseparably belongs



to, or is connected with, or inherent in, another thing, called the "principal." In this sense a court-baron is incident to a manor. Also, less strictly, it denotes anything which is usually connected with another, or connected for some purposes, though not inseparably. Thus, the right of alienation is incident to an estate in fee-simple, though separable in equity.

**INCIDERE.** Lat. In the civil and old English law. To fall into. Calvin.

To fall out; to happen; to come to pass. Calvin.

To fall upon or under; to become subject or liable to. *Incidere in legem*, to incur the penalty of a law. Brissonius.

**INCILE.** Lat. In the civil law. A trench. A place sunk by the side of a stream, so called because it is *cut* (*incidatur*) into or through the stone or earth. Dig. 43, 21, 1, 5. The term seems to have included ditches (*fossæ*) and wells, (*putei*.)

**INCIPIATUR.** Lat. It is begun; it begins. In old practice, when the pleadings in an action at law, instead of being recited at large on the issue-roll, were set out merely by their commencements, this was described as entering the *incipitur*; *i. e.*, the beginning.

**INCISED WOUND.** In medical jurisprudence. A cut or incision on a human body; a wound made by a cutting instrument, such as a razor. Burrill, Circ. Ev. 693; Whart. & S. Med. Jur. § 808.

**INCIVILE.** Irregular; improper; out of the due course of law.

*Incivile est, nisi tota lege perspecta, una aliqua particula ejus proposita, judicare, vel respondere.* It is improper, without looking at the whole of a law, to give judgment or advice, upon a view of any one clause of it. Dig. 1, 3, 24.

*Incivile est, nisi tota sententia inspecta, de aliqua parte judicare.* It is irregular, or legally improper, to pass an opinion upon any part of a sentence, without examining the whole. Hob. 171a.

**INCIVISM.** Unfriendliness to the state or government of which one is a citizen.

**INCLAUSA.** In old records. A home close or inclosure near the house. Paroch. Antiq. 31; Cowell.

**INCLOSE.** To shut up. "To inclose a jury," in Scotch practice, is to shut them up in a room by themselves. Bell.

**INCLOSED LANDS.** Lands which are actually inclosed and surrounded with fences. 7 Mees. & W. 441.

**INCLOSURE.** In English law. Inclosure is the act of freeing land from rights of common, commonable rights, and generally all rights which obstruct cultivation and the productive employment of labor on the soil.

Also, an artificial fence around one's estate. 39 Vt. 34, 326; 36 Wis. 42. See **CLOSE**.

*Inclusio unius est exclusio alterius.* The inclusion of one is the exclusion of another. The certain designation of one person is an absolute exclusion of all others. 11 Coke, 58b.

**INCLUSIVE.** Embraced; comprehended; comprehending the stated limits or extremes. Opposed to "exclusive."

**INCOLA.** Lat. In the civil law. An inhabitant; a dweller or resident. Properly, one who has transferred his domicile to any country.

*Incolas domicilium facit.* Residence creates domicile. 1 Johns. Cas. 363, 366.

**INCOME.** The return in money from one's business, labor, or capital invested; gains, profit, or private revenue.

"Income" means that which comes in or is received from any business or investment of capital, without reference to the outgoing expenditures; while "profits" generally means the gain which is made upon any business or investment when both receipts and payments are taken into account. "Income," when applied to the affairs of individuals, expresses the same idea that "revenue" does when applied to the affairs of a state or nation. 4 Hill, 20; 7 Hill, 504.

**INCOME TAX.** A tax on the yearly profits arising from property, professions, trades, and offices. 2 Steph. Comm. 573. **J**

*Incommodum non solvit argumentum.* An inconvenience does not destroy an argument. **K**

**INCOMMUNICATION.** In Spanish law. The condition of a prisoner who is not permitted to see or to speak with any person visiting him during his confinement. A person accused cannot be subjected to this treatment unless it be expressly ordered by the judge, for some grave offense, and it cannot be continued for a longer period than is absolutely necessary. This precaution is resorted to for the purpose of preventing the **M**

accused from knowing beforehand the testimony of the witnesses, or from attempting to corrupt them and concert such measures as will efface the traces of his guilt. As soon, therefore, as the danger of his doing so has ceased, the interdiction ceases likewise. Escriche.

**INCOMPATIBLE.** Two or more relations, offices, functions, or rights which cannot naturally, or may not legally, exist in or be exercised by the same person at the same time, are said to be incompatible. Thus, the relations of lessor and lessee of the same land, in one person at the same time, are incompatible. So of trustee and beneficiary of the same property.

**INCOMPETENCY.** Lack of ability, legal qualification, or fitness to discharge the required duty.

As applied to evidence, the word "incompetent" means not proper to be received; inadmissible, as distinguished from that which the court should admit for the consideration of the jury, though they may not find it worthy of credence.

**In French law.** Inability or insufficiency of a judge to try a cause brought before him, proceeding from lack of jurisdiction.

**INCONCLUSIVE.** That which may be disproved or rebutted; not shutting out further proof or consideration. Applied to evidence and presumptions.

**INCONSULTO.** In the civil law. Unadvisedly; unintentionally. Dig. 28, 4, 1.

**INCONTINENCE.** Want of chastity; indulgence in unlawful carnal connection.

**INCOPOLITUS.** A proctor or vicar.

**Incorporalia bello non adquiruntur.** Incorporal things are not acquired by war. 5 Maule & S. 104.

**INCORPORAMUS.** We incorporate. One of the words by which a corporation may be created in England. 1 Bl. Comm. 473; 3 Steph. Comm. 173.

**INCORPORATE.** 1. To create a corporation; to confer a corporate franchise upon determinate persons.

2. To declare that another document shall be taken as part of the document in which the declaration is made as much as if it were set out at length therein.

**INCORPORATION.** 1. The act or process of forming or creating a corporation; the formation of a legal or political body, with

the quality of perpetual existence and succession, unless limited by the act of incorporation.

2. The method of making one document of any kind become a part of another separate document by referring to the former in the latter, and declaring that the former shall be taken and considered as a part of the latter the same as if it were fully set out therein. This is more fully described as "incorporation by reference." If the one document is copied at length in the other, it is called "actual incorporation."

3. In the civil law. The union of one domain to another.

**INCORPOREAL.** Without body; not of material nature; the opposite of "corporeal," (q. v.)

**INCORPOREAL CHATTELS.** A class of incorporeal rights growing out of or incident to things *personal*; such as patent rights and copyrights. 2 Steph. Comm. 72.

**INCORPOREAL HEREDITAMENT.** Anything, the subject of property, which is inheritable and not tangible or visible. 2 Woodd. Lect. 4. A right issuing out of a thing corporate (whether real or personal) or concerning or annexed to or exercisable within the same. 2 Bl. Comm. 20; 1 Washb. Real Prop. 10.

**INCORPOREAL PROPERTY.** In the civil law. That which consists in legal right merely. The same as choses in action at common law.

**INCORRIGIBLE ROGUE.** A species of rogue or offender, described in the statutes 5 Geo. IV. c. 83, and 1 & 2 Vict. c. 38. 4 Steph. Comm. 309.

**INCREASE.** (1) The produce of land; (2) the offspring of animals.

**INCREASE, AFFIDAVIT OF.** Affidavit of payment of increased costs, produced on taxation.

**INCREASE, COSTS OF.** In English law. It was formerly a practice with the jury to award to the successful party in an action the nominal sum of 40s. only for his costs; and the court assessed by their own officer the actual amount of the successful party's costs; and the amount so assessed, over and above the nominal sum awarded by the jury, was thence called "costs of increase." Lush, Com. Law Pr. 775. The practice has now wholly ceased. Rapal. & Law.

**INCREMENTUM.** Increase or improvement, opposed to *decrementum* or abatement.

**INCROACHMENT.** An unlawful gaining upon the right or possession of another. See **ENCROACHMENT**.

**INCULPATE.** To impute blame or guilt; to accuse; to involve in guilt or crime.

**INCULPATORY.** In the law of evidence. Going or tending to establish guilt; intended to establish guilt; criminative. Burrill, Circ. Ev. 251, 252.

**INCUMBENT.** A person who is in present possession of an office; one who is legally authorized to discharge the duties of an office. 11 Ohio, 50.

In ecclesiastical law, the term signifies a clergyman who is in possession of a benefice.

**INCUMBER.** To incumber land is to make it subject to a charge or liability; *e. g.*, by mortgaging it. Incumbrances include not only mortgages and other voluntary charges, but also liens, *lites pendentes*, registered judgments, and writs of execution, etc. Sweet.

**INCUMBRANCE.** Any right to, or interest in, land which may subsist in third persons, to the diminution of the value of the estate of the tenant, but consistently with the passing of the fee. 8 Neb. 8; 2 Greenl. Ev. § 242.

A claim, lien, or liability attached to property; as a mortgage, a registered judgment, etc.

**INCUMBRANCER.** The holder of an incumbrance, *e. g.*, a mortgage, on the estate of another.

**INCUR.** Men contract debts; they incur liabilities. In the one case, they act affirmatively; in the other, the liability is incurred or cast upon them by act or operation of law. "Incur" means something beyond contracts, —something not embraced in the word "debts." 15 How. Pr. 48; 5 Abb. Pr. 162.

**INCURRAMENTUM.** The liability to a fine, penalty, or amercement. Cowell.

**INDE.** Lat. Thence; thenceforth; thereof; thereupon; for that cause.

*Inde datæ leges ne fortior omnia posset.* Laws are made to prevent the stronger

from having the power to do everything. Dav. Ir. K. B. 36.

**INDEBITATUS.** Lat. Indebted. *Nunquam indebitatus*, never indebted. The title of the plea substituted in England for *nil debet*.

**INDEBITATUS ASSUMPSIT.** Lat. Being indebted, he promised or undertook. This is the name of that form of the action of *assumpsit* in which the declaration alleges a debt or obligation to be due from the defendant, and then avers that, in consideration thereof, he promised to pay or discharge the same.

**INDEBITI SOLUTIO.** Lat. In the civil and Scotch law. A payment of what is not due. When made through ignorance or by mistake, the amount paid might be recovered back by an action termed "*condictio indebiti*." (Dig. 12, 6.) Bell.

**INDEBITUM.** In the civil law. Not due or owing. (Dig. 12, 6.) Calvin.

**INDEBTEDNESS.** The state of being in debt, without regard to the ability or inability of the party to pay the same. See 1 Story, Eq. Jur. 343; 2 Hill, Abr. 421.

The word implies an absolute or complete liability. A contingent liability, such as that of a surety before the principal has made default, does not constitute indebtedness. On the other hand, the money need not be immediately payable. Obligations yet to become due constitute indebtedness, as well as those already due. 9 Mo. 149.

**INDECENCY.** An act against good behavior and a just delicacy. 2 Serg. & R. 91.

This is scarcely a technical term of the law, and is not susceptible of exact definition or description in its juridical uses. The question whether or not a given act, publication, etc., is indecent is for the court and jury in the particular case.

**INDECENT EXPOSURE.** Exposure to sight of the private parts of the body in a lewd or indecent manner in a public place. It is an indictable offense at common law, and by statute in many of the states.

**INDECIMABLE.** In old English law. That which is not titheable, or liable to pay tithe. 2 Inst. 490.

**INDEFEASIBLE.** That which cannot be defeated, revoked, or made void. This term is usually applied to an estate or right which cannot be defeated.

**INDEFENSUS.** In old English practice. Undefended; undenied by pleading.

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A defendant who makes no defense or plea. Blount.

**INDEFINITE FAILURE OF ISSUE.**

A failure of issue not merely at the death of the party whose issue are referred to, but at any subsequent period, however remote. 1 Steph. Comm. 562. A failure of issue whenever it shall happen, sooner or later, without any fixed, certain, or definite period within which it must happen. 4 Kent, Comm. 274.

**INDEFINITE NUMBER.** An uncertain or indeterminate number. A number which may be increased or diminished at pleasure.

**INDEFINITE PAYMENT.** In Scotch law. Payment without specification. Indefinite payment is where a debtor, owing several debts to one creditor, makes a payment to the creditor, without specifying to which of the debts he means the payment to be applied. See Bell.

*In definitum æquipollet universali.* The undefined is equivalent to the whole. 1 Vent. 368.

*Indefinitum supplet locum universalis.* The undefined or general supplies the place of the whole. Branch, Princ.

**INDEMNIFICATUS.** Lat. Indemnified. See **INDEMNIFY**.

**INDEMNIFY.** To save harmless; to secure against loss or damage; to give security for the reimbursement of a person in case of an anticipated loss falling upon him.

Also to make good; to compensate; to make reimbursement to one of a loss already incurred by him.

**INDEMNIS.** Lat. Without hurt, harm, or damage; harmless.

**INDEMNITEE.** The person who, in a contract of indemnity, is to be indemnified or protected by the other.

**INDEMNITOR.** The person who is bound, by an indemnity contract, to indemnify or protect the other.

**INDEMNITY.** An indemnity is a collateral contract or assurance, by which one person engages to secure another against an anticipated loss, or to prevent him from being damnified by the legal consequences of an act or forbearance on the part of one of the parties or of some third person. See Civil Code Cal. § 2772. Thus, insurance is a con-

tract of indemnity. So an indemnifying bond is given to a sheriff who fears to proceed under an execution where the property is claimed by a stranger.

The term is also used to denote a compensation given to make the person whole from a loss already sustained; as where the government gives indemnity for private property taken by it for public use.

A legislative act, assuring a general dispensation from punishment or exemption from prosecution to persons involved in offenses, omissions of official duty, or acts in excess of authority, is called an indemnity; strictly it is an act of indemnity.

**INDEMNITY CONTRACT.** An agreement between two parties, whereby the one party, the indemnitor, either agrees to indemnify and save harmless the other party, the indemnitee, from loss or damage, or binds himself to do some particular act or thing, or to protect the indemnitee against liability to, or the claim of, a third party. 10 Amer. & Eng. Enc. Law, 402.

**INDEMPNIS.** The old form of writing *indemnitis*. Townsh. Pl. 19. So, *indempnificatus* for *indemnificatus*.

**INDENIZATION.** The act of making a denizen, or of naturalizing.

**INDENT, n.** In American law. A certificate or indented certificate issued by the government of the United States at the close of the Revolution, for the principal or interest of the public debt. Webster.

**INDENT, v.** To cut in a serrated or waving line. In old conveyancing, if a deed was made by more parties than one, it was usual to make as many copies of it as there were parties, and each was cut or indented (either in acute angles, like the teeth of a saw, or in a waving line) at the top or side, to tally or correspond with the others, and the deed so made was called an "indenture." Anciently, both parts were written on the same piece of parchment, with some word or letters written between them through which the parchment was cut, but afterwards, the word or letters being omitted, indenting came into use, the idea of which was that the genuineness of each part might be proved by its fitting into the angles cut in the other. But at length even this was discontinued, and at present the term serves only to give name to the species of deed executed by two or more parties, as opposed to a deed-poll, (*q. v.*) 2 Bl. Comm. 295.

To bind by indentures; to apprentice; as to indent a young man to a shoe-maker. Webster.

**INDENTURE.** A deed to which two or more persons are parties, and in which these enter into reciprocal and corresponding grants or obligations towards each other; whereas a deed-poll is properly one in which only the party making it executes it, or binds himself by it as a deed, though the grantors or grantees therein may be several in number. 3 Washb. Real Prop. 811. See **INDENT**, *v.*

**INDENTURE OF APPRENTICESHIP.** A contract in two parts, by which a person, generally a minor, is bound to serve another in his trade, art, or occupation for a stated time, on condition of being instructed in the same.

**INDEPENDENCE.** The state or condition of being free from dependence, subjection, or control. Political independence is the attribute of a nation or state which is entirely autonomous, and not subject to the government, control, or dictation of any exterior power.

**INDEPENDENT CONTRACT.** One in which the mutual acts or promises have no relation to each other, either as equivalents or considerations. Civil Code La. art. 1769; 1 Bouv. Inst. no. 699.

**INDEPENDENT COVENANTS.** Covenants in an instrument which are independent of each other, or where the performance of one, or the right to require its performance, or to obtain damages for its non-performance, does not depend upon the performance of the other.

*Independenter se habet assecuratio a viaggio navis.* The voyage insured is an independent or distinct thing from the voyage of the ship. 3 Kent, Comm. 318, note.

**INDETERMINATE.** That which is uncertain, or not particularly designated; as if I sell you one hundred bushels of wheat, without stating what wheat. 1 Bouv. Inst. no. 950.

**INDEX.** A book containing references, alphabetically arranged, to the contents of a series or collection of volumes; or an addition to a single volume or set of volumes containing such references to its contents.

*Index animi sermo.* Language is the exponent of the intention. The language of

a statute or instrument is the best guide to the intention. Broom, Max. 622.

**INDIAN COUNTRY.** This term does not necessarily import territory owned and occupied by Indians, but it means all those portions of the United States designated by this name in the legislation of congress. 4 Sawy. 121.

**INDIAN TRIBE.** A separate and distinct community or body of the aboriginal Indian race of men found in the United States.

**INDIANS.** The aboriginal inhabitants of North America.

**INDICARE.** In the civil law. To show or discover. To fix or tell the price of a thing. Calvin. To inform against; to accuse.

**INDICATIF.** An abolished writ by which a prosecution was in some cases removed from a court-christian to the queen's bench. Enc. Lond.

**INDICATION.** In the law of evidence. A sign or token; a fact pointing to some inference or conclusion. Burriil, Circ. Ev. 251, 252, 263, 275.

**INDICATIVE EVIDENCE.** This is not evidence properly so called, but the mere suggestion of evidence proper, which may possibly be procured if the suggestion is followed up. Brown.

**INDICAVIT.** In English practice. A writ of prohibition that lies for a patron of a church, whose clerk is sued in the spiritual court by the clerk of another patron, for tithes amounting to a fourth part of the value of the living. 8 Bl. Comm. 91; 3 Steph. Comm. 711. So termed from the emphatic word of the Latin form. Reg. Orig. 35b, 36.

**INDICIA.** Signs; indications. Circumstances which point to the existence of a given fact as probable, but not certain. For example, "*indicia* of partnership" are any circumstances which would induce the belief that a given person was in reality, though not ostensibly, a member of a given firm.

**INDICIUM.** In the civil law. A sign or mark. A species of proof, answering very nearly to the *circumstantial evidence* of the common law. Best, Pres. p. 13, § 11, note; Wills, Circ. Ev. 34.

**INDICT.** See **INDICTMENT.**

**INDICTABLE.** Proper or necessary to be prosecuted by process of indictment.

**INDICTED.** Charged in an indictment with a criminal offense. See **INDICTMENT**.

**INDICTEE.** A person indicted.

**INDICTIO.** In old public law. A declaration; a proclamation. *Indictio belli*, a declaration or indiction of war. An indictment.

**INDICTION, CYCLE OF.** A mode of computing time by the space of fifteen years, instituted by Constantine the Great; originally the period for the payment of certain taxes. Some of the charters of King Edgar and Henry III. are dated by indictions. Wharton.

**INDICTMENT.** An indictment is an accusation in writing found and presented by a grand jury, legally convoked and sworn, to the court in which it is impaneled, charging that a person therein named has done some act, or been guilty of some omission, which, by law, is a public offense, punishable on indictment. Code Iowa 1880, § 4295; Pen. Code Cal. § 917; Code Ala. 1886, § 4364.

A presentment differs from an indictment in that it is an accusation made by a grand jury of their own motion, either upon their own observation and knowledge, or upon evidence before them; while an indictment is preferred at the suit of the government, and is usually framed in the first instance by the prosecuting officer of the government, and by him laid before the grand jury, to be found or ignored. An information resembles in its form and substance an indictment, but is filed at the mere discretion of the proper law officer of the government, without the intervention or approval of a grand jury. 2 Story, Const. §§ 1784, 1786.

In Scotch law. An indictment is the form of process by which a criminal is brought to trial at the instance of the lord advocate. Where a private party is a principal prosecutor, he brings his charge in what is termed the "form of criminal letters."

Indictment de felony est contra pacem domini regis, coronam et dignitatem suam, in genere et non in individuo; quia in Angliâ non est interregnum. Jenk. Cent. 205. Indictment for felony is against the peace of our lord the king, his crown and dignity in general, and not against his individual person; because in England there is no interregnum.

**INDICTOR.** He who causes another to be indicted. The latter is sometimes called the "indictee."

**INDIFFERENT.** Impartial; unblased; disinterested.

**INDIGENA.** In old English law. A subject born; one born within the realm, or naturalized by act of parliament. Co. Litt. 8a. The opposite of "*alienigena*," (q. v.)

**INDIRECT EVIDENCE.** Evidence which does not tend directly to prove the controverted fact, but to establish a state of facts, or the existence of other facts, from which it will follow as a logical inference.

Inferential evidence as to the truth of a disputed fact, not by testimony of any witness to the fact, but by collateral circumstances ascertained by competent means. 1 Starkie, Ev. 15.

**INDISTANTER.** Forthwith; without delay.

**INDITEE.** L. Fr. In old English law. A person indicted. Mirr. c. 1, § 3; 9 Coke, pref.

**INDIVIDUUM.** Lat. In the civil law. That cannot be divided. Calvin.

**INDIVISIBLE.** Not susceptible of division or apportionment; inseparable; entire. Thus, a contract, covenant, consideration, etc., may be divisible or indivisible; *i. e.*, separable or entire.

**INDIVISUM.** That which two or more persons hold in common without partition; undivided.

**INDORSAT.** In old Scotch law. Indorsed. 2 Pitc. Crim. Tr. 41.

**INDORSE.** To write a name on the back of a paper or document. Bills of exchange and promissory notes are indorsed by a party's writing his name on the back. 7 Pick. 117.

"Indorse" is a technical term, having sufficient legal certainty without words of more particular description. 7 Vt. 351.

**INDORSEE.** The person to whom a bill of exchange, promissory note, bill of lading, etc., is assigned by indorsement, giving him a right to sue thereon.

**INDORSEE IN DUE COURSE.** An indorsee in due course is one who, in good faith, in the ordinary course of business, and for value, before its apparent maturity or presumptive dishonor, and without knowledge of its actual dishonor, acquires a negotiable instrument duly indorsed to him, or indorsed generally, or payable to the bearer. Civil Code Cal. § 3123.

**INDORSEMENT.** The act of a payee, drawee, accommodation indorser, or holder of a bill, note, check, or other negotiable instrument, in writing his name upon the back of the same, with or without further or qualifying words, whereby the property in the same is assigned and transferred to another.

That which is so written upon the back of a negotiable instrument.

One who writes his name upon a negotiable instrument, otherwise than as a maker or acceptor, and delivers it, with his name thereon, to another person, is called an "indorser," and his act is called "indorsement." Civil Code Cal. § 3108; Civil Code Dak. § 1836.

*An indorsement in full* is one in which mention is made of the name of the indorsee. Chit. Bills, 170.

*A blank indorsement* is one which does not mention the name of the indorsee, and consists, generally, simply of the name of the indorser written on the back of the instrument. 1 Daniel, Neg. Inst. § 693.

*A conditional indorsement* is one by which the indorser annexes some condition (other than the failure of prior parties to pay) to his liability. The condition may be either precedent or subsequent. 1 Daniel, Neg. Inst. § 697.

*A restrictive indorsement* is one which is so worded as to restrict the further negotiability of the instrument.

*A qualified indorsement* is one which restrains or limits or qualifies or enlarges the liability of the indorser, in any manner different from what the law generally imports as his true liability, deducible from the nature of the instrument. Chit. Bills, (8th Ed.) 261; 7 Taunt. 160.

In criminal law. An entry made upon the back of a writ or warrant.

**INDORSER.** He who indorses; *i. e.*, being the payee or holder, writes his name on the back of a bill of exchange, etc.

**INDUCEMENT.** In contracts. The benefit or advantage which the promisor is to receive from a contract is the inducement for making it.

In criminal evidence. Motive; that which leads or tempts to the commission of crime. Burrill, Circ. Ev. 283.

In pleading. That portion of a declaration or of any subsequent pleading in an action which is brought forward by way of explanatory introduction to the main allegations. Brown.

**INDUCIÆ.** In international law. A truce; a suspension of hostilities; an agreement during war to abstain for a time from warlike acts.

In old maritime law. A period of twenty days after the safe arrival of a vessel under bottomry, to dispose of the cargo, and raise the money to pay the creditor, with interest.

In old English practice. Delay or indulgence allowed a party to an action; further time to appear in a cause. Bract. fol. 352b; Fleta, lib. 4, c. 5, § 8.

In Scotch practice. Time allowed for the performance of an act. Time to appear to a citation. Time to collect evidence or prepare a defense.

**INDUCIÆ LEGALES.** In Scotch law. The days between the citation of the defendant and the day of appearance; the days between the test day and day of return of the writ.

**INDUCTIO.** In the civil law. Obliteration, by drawing the pen or *stylus* over the writing. Dig. 28, 4; Calvin.

**INDUCTION.** In ecclesiastical law. Induction is the ceremony by which an incumbent who has been instituted to a benefice is vested with full possession of all the profits belonging to the church, so that he becomes seised of the temporalities of the church, and is then complete incumbent. It is performed by virtue of a mandate of induction directed by the bishop to the archdeacon, who either performs it in person, or directs his precept to one or more other clergymen to do it. Phillim. Ecc. Law, 477.

**INDULGENCE.** In the Roman Catholic Church. A remission of the punishment due to sins, granted by the pope or church, and supposed to save the sinner from purgatory. Its abuse led to the Reformation in Germany. Wharton. Forbearance, (*q. v.*)

**INDULTO.** In ecclesiastical law. A dispensation granted by the pope to do or obtain something contrary to the common law.

In Spanish law. The condonation or remission of the punishment imposed on a criminal for his offense. This power is exclusively vested in the king.

**INDUMENT.** Endowment, (*q. v.*)

**INDUSTRIAL AND PROVIDENT SOCIETIES.** Societies formed in England for carrying on any labor, trade, or handicraft, whether wholesale or retail, in-

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cluding the buying and selling of land and also (but subject to certain restrictions) the business of banking.

**INDUSTRIAL SCHOOLS.** Schools (established by voluntary contribution) in which industrial training is provided, and in which children are lodged, clothed, and fed, as well as taught.

**INDUSTRIAM, PER.** Lat. A qualified property in animals *fera natura* may be acquired *per industriam, i. e.*, by a man's reclaiming and making them tame by art, industry, and education; or by so confining them within his own immediate power that they cannot escape and use their natural liberty. 2 Steph. Comm. 5.

**INEBRIATE.** A person addicted to the use of intoxicating liquors; an habitual drunkard.

Any person who habitually, whether continuously or periodically, indulges in the use of intoxicating liquors to such an extent as to stupefy his mind, and to render him incompetent to transact ordinary business with safety to his estate, shall be deemed an inebriate, within the meaning of this chapter: provided, the habit of so indulging in such use shall have been at the time of inquisition of at least one year's standing. Code N. C. 1883, § 1671.

**INELIGIBILITY.** Disqualification or legal incapacity to be elected to an office. Thus, an alien or naturalized citizen is ineligible to be elected president of the United States.

**INELIGIBLE.** Disqualified to be elected to an office; also disqualified to hold an office if elected or appointed to it. 28 Wis. 99.

*Inesse potest donationi, modus, conditio sive causa; ut modus est; si conditio; quia causa.* In a gift there may be manner, condition, and cause; as [*ut*] introduces a manner; if, [*si,*] a condition; because, [*quia,*] a cause. Dyer, 138.

**INEST DE JURE.** Lat. It is implied of right; it is implied by law.

**INEVITABLE.** Incapable of being avoided; fortuitous; transcending the power of human care, foresight, or exertion to avoid or prevent, and therefore suspending legal relations so far as to excuse from the performance of contract obligations, or from liability for consequent loss.

**INEVITABLE ACCIDENT.** An inevitable accident is one produced by an irresistible physical cause; an accident which

cannot be prevented by human skill or foresight, but results from natural causes, such as lightning or storms, perils of the sea, inundations or earthquakes, or sudden death or illness. By irresistible force is meant an interposition of human agency, from its nature and power absolutely uncontrollable. 11 La. Ann. 427. As used in the civil law, this term is nearly synonymous with "fortuitous event."

Inevitable accident is where a vessel is pursuing a lawful avocation in a lawful manner, using the proper precautions against danger, and an accident occurs. The highest degree of caution that can be used is not required. It is enough that it is reasonable under the circumstances; such as is usual in similar cases, and has been found by long experience to be sufficient to answer the end in view,—the safety of life and property. 7 Wall. 196.

Inevitable accident is only when the disaster happens from natural causes, without negligence or fault on either side, and when both parties have endeavored, by every means in their power, with due care and caution, and with a proper display of nautical skill, to prevent the occurrence of the accident. 12 Ct. Cl. 491.

**INEWARDUS.** A guard; a watchman. Domesday.

**INFALISTATUS.** In old English law. Exposed upon the sands, or sea-shore. A species of punishment mentioned in Hengham. Cowell.

**INFAMIA.** Lat. Infamy; ignominy or disgrace.

By *infamia juris* is meant infamy established by law as the consequence of crime; *infamia facti* is where the party is supposed to be guilty of such crime, but it has not been judicially proved. 17 Mass. 515, 541.

**INFAMIS.** Lat. In Roman law. A person whose right of reputation was diminished (involving the loss of some of the rights of citizenship) either on account of his infamous avocation or because of conviction for crime. Mackeld. Rom. Law, § 135.

**INFAMOUS CRIME.** A crime which entails infamy upon one who has committed it. See **INFAMY**.

The term "infamous"—*i. e.*, without fame or good report—was applied at common law to certain crimes, upon the conviction of which a person became incompetent to testify as a witness, upon the theory that a person would not commit so heinous a crime unless he was so depraved as to be unworthy of credit. These crimes are treason, felony, and the *crimen falsi*. Abbott.

A crime punishable by imprisonment in the state prison or penitentiary, with or without hard labor, is an infamous crime, within the provision of the fifth amendment



of the constitution that "no person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury." 117 U. S. 348, 6 Sup. Ct. Rep. 777.

"Infamous," as used in the fifth amendment to the United States constitution, in reference to crimes, includes those only of the class called "*crimen falsi*," which both involve the charge of falsehood, and may also injuriously affect the public administration of justice by introducing falsehood and fraud. 15 N. B. R. 335.

By the Revised Statutes of New York the term "infamous crime," when used in any statute, is directed to be construed as including every offense punishable with death or by imprisonment in a state-prison, and no other. 2 Rev. St. (p. 702, § 81,) p. 657, § 32.

**INFAMY.** A qualification of a man's legal *status* produced by his conviction of an infamous crime and the consequent loss of honor and credit, which, at common law, rendered him incompetent as a witness, and by statute in some jurisdictions entails other disabilities.

**INFANCY.** Minority; the state of a person who is under the age of legal majority, —at common law, twenty-one years. According to the sense in which this term is used, it may denote the condition of the person merely with reference to his years, or the contractual disabilities which non-age entails, or his *status* with regard to other powers or relations.

**INFANGENTHEF.** In old English law. A privilege of lords of certain manors to judge any thief taken within their fee.

**INFANS.** In the civil law. A child under the age of seven years; so called "*quasi imposfandi*," (as not having the faculty of speech.) Cod. Theodos. 8, 18, 8.

*Infans non multum a furioso distat.* An infant does not differ much from a lunatic. Bract. 1. 3, c. 2, § 8; Dig. 50, 17, 5, 40; 1 Story, Eq. Jur. §§ 223, 224, 242.

**INFANT.** A person within age, not of age, or not of full age; a person under the age of twenty-one years; a minor. Co. Litt. 171b; 1 Bl. Comm. 463-466; 2 Kent, Comm. 233.

**INFANTIA.** In the civil law. The period of infancy between birth and the age of seven years. Calvin.

**INFANTICIDE.** The murder or killing of an infant soon after its birth. The fact of the birth distinguishes this act from "feticide" or "procuring abortion," which terms

denote the destruction of the *fetus* in the womb.

**INFANTS' MARRIAGE ACT.** The statute 18 & 19 Vict. c. 43. By virtue of this act every infant, (if a male, of twenty, or, if a female, of seventeen, years,—section 4,) upon or in contemplation of marriage, may, with the sanction of the chancery division of the high court, make a valid settlement or contract for a settlement of property. Whar-ton.

**INFANZON.** In Spanish law. A person of noble birth, who exercises within his domains and inheritance no other rights and privileges than those conceded to him. Es-criche.

**INFEFT.** In Scotch law. To give seisin or possession of lands; to invest or enfeoff. 1 Kames, Eq. 215.

**INFETMENT.** In old Scotch law. Investiture or infeudation, including both charter and seisin. 1 Forb. Inst. pt. 2, p. 110.

In later law. *Saisine*, or the instrument of possession. Bell.

**INFENSARE CURIAM.** An expression applied to a court when it suggested to an advocate something which he had omitted through mistake or ignorance. Spelman.

**INFEOFFMENT.** The act or instrument of feoffment. In Scotland it is synonymous with "*saisine*," meaning the instrument of possession. Formerly it was synonymous with "investiture." Bell.

**INFERENCE.** In the law of evidence. A truth or proposition drawn from another which is supposed or admitted to be true. A process of reasoning by which a fact or proposition sought to be established is deduced as a logical consequence from other facts, or a state of facts, already proved or admitted.

An inference is a deduction which the reason of the jury makes from the facts proved, without an express direction of law to that effect. Code Civil Proc. Cal. § 1958.

**INFERENCE.** In the law of evidence. Operating in the way of inference; argumentative. Presumptive evidence is sometimes termed "inferential." 4 Pa. St. 272.

**INFERIOR.** One who, in relation to another, has less power and is below him; one who is bound to obey another. He who makes the law is the superior; he who is

bound to obey it, the inferior. 1 Bouv. Inst. no. 8.

**INFERIOR COURT.** This term may denote any court subordinate to the chief appellate tribunal in the particular judicial system; but it is commonly used as the designation of a court of special, limited, or statutory jurisdiction, whose record must show the existence and attaching of jurisdiction in any given case, in order to give presumptive validity to its judgment. See Cooley, Const. Lim. 508.

The English courts of judicature are classed generally under two heads,—the superior courts and the inferior courts; the former division comprising the courts at Westminster, the latter comprising all the other courts in general, many of which, however, are far from being of inferior importance in the common acceptance of the word. Brown.

**INFEUODATION.** The placing in possession of a freehold estate; also the granting of tithes to laymen.

**INFICIARI.** Lat. In the civil law. To deny; to deny one's liability; to refuse to pay a debt or restore a pledge; to deny the allegation of a plaintiff; to deny the charge of an accuser. Calvin.

**INFICIATIO.** Lat. In the civil law. Denial; the denial of a debt or liability; the denial of the claim or allegation of a party plaintiff. Calvin.

**INFIDEL.** One who does not believe in the existence of a God who will reward or punish in this world or that which is to come. Willes, 550. One who professes no religion that can bind his conscience to speak the truth. 1 Greenl. Ev. § 368.

**INFIDELIS.** In old English law. An infidel or heathen.

In feudal law. One who violated fealty.

**INFIDELITAS.** In feudal law. Infidelity; faithlessness to one's feudal oath. Spelman.

**INFIDUCIARE.** In old European law. To pledge property. Spelman.

**INFIHT.** Sax. An assault made on a person inhabiting the same dwelling.

**Infinitum in jure reprobatur.** That which is endless is reprobated in law. 12 Coke, 24. Applied to litigation.

**INFIRM.** Weak, feeble. The testimony of an "infirm" witness may be taken *de bene esse* in some circumstances. See 1 P. Wms. 117.

**INFIRMATIVE.** In the law of evidence. Having the quality of diminishing force; having a tendency to weaken or render infirm. 3 Benth. Jud. Ev. 14; Best, Pres. § 217.

**INFIRMATIVE CONSIDERATION.** In the law of evidence. A consideration, supposition, or hypothesis of which the criminative facts of a case admit, and which tends to weaken the inference or presumption of guilt deducible from them. Burrill, Circ. Ev. 153-155.

**INFIRMATIVE FACT.** In the law of evidence. A fact set up, proved, or even supposed, in opposition to the criminative facts of a case, the tendency of which is to weaken the force of the inference of guilt deducible from them. 3 Benth. Jud. Ev. 14; Best, Pres. § 217, et seq.

**INFIRMATIVE HYPOTHESIS.** A term sometimes used in criminal evidence to denote an hypothesis or theory of the case which assumes the defendant's innocence, and explains the criminative evidence in a manner consistent with that assumption.

**INFORMAL.** Deficient in legal form; inartificially drawn up.

**INFORMALITY.** Want of legal form.

**INFORMATION.** In practice. An accusation exhibited against a person for some criminal offense, without an indictment. 4 Bl. Comm. 308.

An accusation in the nature of an indictment, from which it differs only in being presented by a competent public officer on his oath of office, instead of a grand jury on their oath. 1 Bish. Crim. Proc. § 141.

The word is also frequently used in the law in its sense of communicated knowledge, and affidavits are frequently made, and pleadings and other documents verified, on "information and belief."

**In French law.** The act or instrument which contains the depositions of witnesses against the accused. Poth. Proc. Civil, § 2, art. 5.

**INFORMATION IN THE NATURE OF A QUO WARRANTO.** A proceeding against the usurper of a franchise or office. See QUO WARRANTO.

**INFORMATION OF INTRUSION.**

A proceeding instituted by the state prosecuting officer against intruders upon the public domain. See Gen. St. Mass. c. 141; 3 Pick. 224; 6 Leigh, 588.

**INFORMATUS NON SUM.** In practice. I am not informed. A formal answer made by the defendant's attorney in court to the effect that he has not been advised of any defense to be made to the action. Thereupon judgment by default passes.

**INFORMER.** A person who informs or prefers an accusation against another, whom he suspects of the violation of some penal statute.

A common informer is a person who sues for a penalty which is given to any person who will sue for it, as opposed to a penalty which is only given to a person specially aggrieved by the act complained of. 3 Bl. Comm. 161.

**INFORTIATUM.** The name given by the glossators to the second of the three parts or volumes into which the Pandects were divided. The glossators at Bologna had at first only two parts, the first called "*Digestum Vetus*," (the Old Digest,) and the last called "*Digestum Novum*," (the New Digest.) When they afterwards received the middle or second part, they separated from the *Digestum Novum* the beginning it had then, and added it to the second part, from which enlargement the latter received the name "*Infortiatum*." Mackeld. Rom. Law, § 110.

**INFORTUNIUM, HOMICIDE PER.** Where a man doing a lawful act, without intention of hurt, unfortunately kills another.

**INFRA.** Lat. Below; underneath; within. This word occurring by itself in a book refers the reader to a subsequent part of the book, like "*post*." It is the opposite of "*ante*" and "*supra*," (*q. v.*)

**INFRA ÆTATEM.** Under age; not of age. Applied to minors.

**INFRA ANNOS NUBILES.** Under marriageable years; not yet of marriageable age.

**INFRA ANNUM.** Under or within a year. Bract. fol. 7.

**INFRA ANNUM LUCTÛS.** (Within the year of mourning.) The phrase is used in reference to the marriage of a widow within a year after her husband's death, which was prohibited by the civil law.

**INFRA BRACHIA.** Within her arms. Used of a husband *de jure*, as well as *de facto*. 2 Inst. 317. Also *inter brachia*. Bract. fol. 148b. It was in this sense that a woman could only have an appeal for murder of her husband *inter brachia sua*.

**INFRA CIVITATEM.** Within the state. 1 Camp. 23, 24.

**INFRA CORPUS COMITATUS.** Within the body (territorial limits) of a county. In English law, waters which are *infra corpus comitatus* are exempt from the jurisdiction of the admiralty.

**INFRA DIGNITATEM CURIÆ.** Beneath the dignity of the court; unworthy of the consideration of the court. Where a bill in equity is brought upon a matter too trifling to deserve the attention of the court, it is demurrable, as being *infra dignitatem curiæ*.

**INFRA FUROREM.** During madness; while in a state of insanity. Bract. fol. 19b.

**INFRA HOSPITIUM.** Within the inn. When a traveler's baggage comes *infra hospitium*, *i. e.*, in the care and under the custody of the innkeeper, the latter's liability attaches.

**INFRA JURISDICTIONEM.** Within the jurisdiction. 2 Strange, 827.

**INFRA LIGEANTIAM REGIS.** Within the king's ligeance. Comb. 212.

**INFRA METAS.** Within the bounds or limits. *Infra metas forestæ*, within the bounds of the forest. Fleta, lib. 2, c. 41, § 12. *Infra metas hospiti*, within the limits of the household; within the verge. *Id.* lib. 2, c. 2, § 2.

**INFRA PRÆSIDIA.** Within the protection; within the defenses. In international law, when a prize, or other captured property, is brought into a port of the captors, or within their lines, or otherwise under their complete custody, so that the chance of rescue is lost, it is said to be *infra præsidia*.

**INFRA QUATUOR MARIA.** Within the four seas; within the kingdom of England; within the jurisdiction.

**INFRA QUATUOR PARIETES.** Within four walls. 2 Crabb, Real Prop. p. 106, § 1089.

**INFRA REGNUM.** Within the realm.

**INFRA SEX ANNOS.** Within six years.

**INFRA TRIDUUM.** Within three days. Formal words in old appeals. *Fleta*, lib. 1, c. 31, § 6; *Id.* c. 35, § 3.

**INFRACTION.** A breach, violation, or infringement; as of a law, a contract, a right or duty.

In French law, this term is used as a general designation of all punishable actions.

**INFRINGEMENT.** A breaking into; a trespass or encroachment upon; a violation of a law, regulation, contract, or right. Used especially of invasions of the rights secured by patents, copyrights, and trademarks.

**INFUGARE.** To put to flight.

**INFULA.** A coif, or a cassock. *Jacob*.

**INFUSION.** In medical jurisprudence. The process of steeping in liquor; an operation by which the medicinal qualities of a substance may be extracted by a liquor without boiling. Also the product of this operation. "Infusion" and "decoction," though not identical, are *ejusdem generis* in law. 3 *Camp.* 74. See **DECOCTION**.

**INGE.** Meadow, or pasture. *Jacob*.

**INGENIUM.** (1) Artifice, trick, fraud; (2) an engine, machine, or device. *Spelman*.

**INGENUITAS.** Liberty given to a servant by manumission.

**INGENUITAS REGNI.** In old English law. The freemen, yeomanry, or commonalty of the kingdom. *Cowell*. Applied sometimes also to the barons.

**INGENUUS.** In Roman law. A person who, immediately that he was born, was a free person. He was opposed to *libertinus*, or *libertus*, who, having been born a slave, was afterwards manumitted or made free. It is not the same as the English law term "*generosus*," which denoted a person not merely free, but of good family. There were no distinctions among *ingenui*; but among *libertini* there were (prior to Justinian's abolition of the distinctions) three varieties, namely: Those of the highest rank, called "*Cives Romani*;" those of the second rank, called "*Latini Juniani*;" and those of the lowest rank, called "*Deiiticii*." *Brown*.

**INGRATITUDE.** In Roman law, ingratitude was accounted a sufficient cause for revoking a gift or recalling the liberty of a freedman. Such is also the law of France,

with respect to the first case. But the English law has left the matter entirely to the moral sense.

**INGRESS, EGRESS, AND REGRESS.** These words express the right of a lessee to enter, go upon, and return from the lands in question.

**INGRESSU.** In English law. An ancient writ of entry, by which the plaintiff or complainant sought an entry into his lands. Abolished in 1833.

**INGRESSUS.** In old English law. Ingress; entry. The relief paid by an heir to the lord was sometimes so called. *Cowell*.

**INGROSSATOR.** An engrosser. *Ingrossator magni rotuli*, engrosser of the great roll; afterwards called "clerk of the pipe." *Spelman*; *Cowell*.

**INGROSSING.** The act of making a fair and perfect copy of any document from a rough draft of it, in order that it may be executed or put to its final purpose.

**INHABITANT.** One who resides actually and permanently in a given place, and has his domicile there.

"The words 'inhabitant,' 'citizen,' and 'resident,' as employed in different constitutions to define the qualifications of electors, mean substantially the same thing; and one is an inhabitant, resident, or citizen at the place where he has his domicile or home." *Cooley*, *Const. Lim.* \*600. But the terms "resident" and "inhabitant" have also been held not synonymous, the latter implying a more fixed and permanent abode than the former, and importing privileges and duties to which a mere resident would not be subject. 40 *Ill.* 197.

**INHABITED HOUSE DUTY.** A tax assessed in England on inhabited dwelling-houses, according to their annual value, (St. 14 & 15 *Vict.* c. 36; 32 & 33 *Vict.* c. 14, § 11,) which is payable by the occupier, the landlord being deemed the occupier where the house is let to several persons, (St. 48 *Geo.* III. c. 55, Schedule B.) Houses occupied solely for business purposes are exempt from duty, although a care-taker may dwell therein, and houses partially occupied for business purposes are to that extent exempt. *Sweet*.

**INHERENT POWER.** An authority possessed without its being derived from another. A right, ability, or faculty of doing a thing, without receiving that right, ability, or faculty from another.

**INHERETRIX.** The old term for "heir-ess." *Co. Litt.* 13a.

**INHERIT.** To take by inheritance; to take as heir on the death of the ancestor. "To inherit to" a person is a common expression in the books. 3 Coke, 41; 2 Bl. Comm. 254, 255.

**INHERITABLE BLOOD.** Blood which has the purity (freedom from attainder) and legitimacy necessary to give its possessor the character of a lawful heir; that which is capable of being the medium for the transmission of an inheritance.

**INHERITANCE.** An estate in things real, descending to the heir. 2 Bl. Comm. 201.

Such an estate in lands or tenements or other things as may be inherited by the heir. *Termines de la Ley*.

An estate or property which a man has by descent, as heir to another, or which he may transmit to another, as his heir. Litt. § 9.

A perpetuity in lands or tenements to a man and his heirs. Cowell; Blount.

"Inheritance" is also used in the old books where "hereditament" is now commonly employed. Thus, Coke divides inheritances into corporeal and incorporeal, into real, personal, and mixed, and into entire and several.

In the civil law. The succession of the heir to all the rights and property of the estate-leaver. It is either testamentary, where the heir is created by will, or *ab intestato*, where it arises merely by operation of law. Heinec. § 484.

**INHERITANCE ACT.** The English statute of 3 & 4 Wm. IV. c. 106, by which the law of inheritance or descent has been considerably modified. 1 Steph. Comm. 359, 500.

**INHIBITION.** In ecclesiastical law. A writ issuing from a superior ecclesiastical court, forbidding an inferior judge to proceed further in a cause pending before him. In this sense it is closely analogous to the writ of *prohibition* at common law.

Also the command of a bishop or ecclesiastical judge that a clergyman shall cease from taking any duty.

In Scotch law. A species of diligence or process by which a debtor is prohibited from contracting any debt which may become a burden on his heritable property, in competition with the creditor at whose instance the inhibition is taken out; and from granting any deed of alienation, etc., to the prejudice of the creditor. Brande.

In the civil law. A prohibition which the law makes or a judge ordains to an individual. Halifax, Civil Law, p. 126.

**INHIBITION AGAINST A WIFE.** In Scotch law. A writ in the sovereign's name, passing the signet, which prohibits all and sundry from having transactions with a wife or giving her credit. Bell; Ersk. Inst. 1, 6, 26.

**INHOC.** In old records. A nook or corner of a common or fallow field, inclosed and cultivated. Kennett, Par. Antiq. 297, 298; Cowell.

**INHONESTUS.** In old English law. Unseemly; not in due order. Fleta, lib. 1, c. 31, § 8.

*Iniquissima pax est anteposenda iustissimo bello.* The most unjust peace is to be preferred to the justest war. 18 Wend. 257, 305.

**INIQUITY.** In Scotch practice. A technical expression applied to the decision of an inferior judge who has decided contrary to law; he is said to have committed iniquity. Bell.

*Iniquum est alios permittere, alios inhibere mercaturam.* It is inequitable to permit some to trade and to prohibit others. 3 Inst. 181.

*Iniquum est aliquem rei sui esse iudicem.* It is wrong for a man to be a judge in his own cause. Branch, Princ.; 12 Coke, 113.

*Iniquum est ingenuis hominibus non esse liberam rerum suarum alienationem.* It is unjust that freemen should not have the free disposal of their own property. Co. Litt. 223a; Hob. 87; 4 Kent, Comm. 131.

**INITIAL.** That which *begins* or stands at the *beginning*. The first letter of a man's name.

**INITIALIA TESTIMONII.** In Scotch law. Preliminaries of testimony. The preliminary examination of a witness, before examining him in chief, answering to the *voir dire* of the English law, though taking a somewhat wider range. Wharton.

**INITIATE.** Commenced; inchoate. *Curtesy initiate* is the interest which a husband has in the wife's lands after a child is born who may inherit, but before the wife dies.

**INITIATIVE.** In French law. The name given to the important prerogative conferred by the *charte constitutionnelle*, article 16, on the late king to propose through his ministers projects of laws. 1 Toullier, no. 39.

**INJUNCTION.** A prohibitive writ issued by a court of equity, at the suit of a party complainant, directed to a party defendant in the action, or to a party made a defendant for that purpose, forbidding the latter to do some act, or to permit his servants or agents to do some act, which he is threatening or attempting to commit, or restraining him in the continuance thereof, such act being unjust and inequitable, injurious to the plaintiff, and not such as can be adequately redressed by an action at law.

An injunction is a writ or order requiring a person to refrain from a particular act. It may be granted by the court in which the action is brought, or by a judge thereof, and when made by a judge it may be enforced as an order of the court. Code Civil Proc. Cal. § 525.

*Mandatory injunctions* command defendant to do a particular thing. *Preventive*, command him to refrain from an act.

An injunction is called "preliminary" or "provisional," or an "injunction *pendente lite*," when it is granted at the outset of a suit brought for the purpose of restraining the defendant from doing the act threatened, until the suit has been heard and the rights of the parties determined. It is called "final" or "perpetual" when granted upon a hearing and adjudication of the rights in question, and as a measure of permanent relief.

**INJURIA.** Injury; wrong; the privation or violation of right. 3 Bl. Comm. 2.

**INJURIA ABSQUE DAMNO.** Injury or wrong without damage. A wrong done, but from which no loss or damage results, and which, therefore, will not sustain an action.

*Injuria fit ei cui convicium dictum est, vel de eo factum carmen famosum.* An injury is done to him of whom a reproachful thing is said, or concerning whom an infamous song is made. 9 Coke, 60.

*Injuria illata judici, seu locum tenenti regis, videtur ipsi regi illata maxime si fiat in exercentem officium.* 3 Inst. 1. An injury offered to a judge, or person representing the king, is considered as offered to the king himself, especially if it be done in the exercise of his office.

*Injuria non excusat injuriam.* One wrong does not justify another. Broom, Max. 395. See 6 El. & Bl. 47.

*Injuria non præsimitur.* Injuries not presumed. Co. Litt. 232. Cruel, oppressive, or tortuous conduct will not be presumed. Best. Ev. p. 336, § 298.

*Injuria propria non cadet in beneficium facientis.* One's own wrong shall not fall to the advantage of him that does it. A man will not be allowed to derive benefit from his own wrongful act. Branch, Princ.

*Injuria servi dominum pertingit.* The master is liable for injury done by his servant. Lofft, 229.

**INJURIOUS WORDS.** In Louisiana. Slander, or libelous words. Civil Code La. art. 3501.

**INJURY.** Any wrong or damage done to another, either in his person, rights, reputation, or property.

In the civil law. A delict committed in contempt or outrage of any one, whereby his body, his dignity, or his reputation is maliciously injured. Voet, Com. ad Pand. 47, t. 10, no. 1.

*Injustum est, nisi tota lege inspecta, de una aliqua ejus particula proposita judicare vel respondere.* 8 Coke, 117b. It is unjust to decide or respond as to any particular part of a law without examining the whole of the law.

**INLAGARE.** In old English law. To restore to protection of law. To restore a man from the condition of outlawry. Opposed to *utlagare*. Bract. lib. 3, tr. 2, c. 14, § 1; Du Cange.

**INLAGATION.** Restoration to the protection of law. Restoration from a condition of outlawry.

**INLAGH.** A person within the law's protection; contrary to *utlagh*, an outlaw. Cowell.

**INLAND.** Within a country, state, or territory; within the same country.

In old English law, inland was used for the *demesne* (*q. v.*) of a manor; that part which lay next or most convenient for the lord's mansion-house, as within the view thereof, and which, therefore, he kept in his own hands for support of his family and for hospitality; in distinction from outland or utland, which was the portion let out to tenants. Cowell; Kennett; Spelman.

**INLAND BILL OF EXCHANGE.** A bill of which both the drawer and drawee reside within the same state or country. Oth-

erwise called a "domestic bill," and distinguished from a "foreign bill."

**INLAND NAVIGATION.** Within the meaning of the legislation of congress upon the subject, this phrase means navigation upon the rivers of the country, but not upon the great lakes. 24 How. 1; 6 Biss. 364.

**INLAND TRADE.** Trade wholly carried on at home; as distinguished from commerce, (which see.)

**INLANTAL, INLANTALE.** Demesne or inland, opposed to *delantal*, or land tenanted. Cowell.

**INLAUGHE.** Sax. In old English law. Under the law, (*sub lege*,) in a frank-pledge, or decenary. Bract. fol. 125b.

**INLAW.** To place under the protection of the law. "Swearing obedience to the king in a leet, which doth *inlaw* the subject." Bacon.

**INLEASED.** In old English law. Entangled, or ensnared. 2 Inst. 247; Cowell; Blount.

**INLIGARE.** In old European law. To confederate; to join in a league, (*in ligam coire*.) Spelman.

**INMATE.** A person who lodges or dwells in the same house with another, occupying different rooms, but using the same door for passing in and out of the house. Webster; Jacob.

**INN.** An inn is a house where a traveler is furnished with everything which he has occasion for while on his way. 3 Barn. & Ald. 283. See 5 Sandf. 242; 35 Conn. 183.

Under the term "inn" the law includes all taverns, hotels, and houses of public general entertainment for guests. Code Ga. 1882, § 2114.

The words "inn," "tavern," and "hotel" are used synonymously to designate what is ordinarily and popularly known as an "inn" or "tavern," or place for the entertainment of travelers, and where all their wants can be supplied. A restaurant where meals only are furnished is not an inn or tavern. 54 Barb. 311; 1 Hilt. 193.

An inn is distinguished from a private boarding-house mainly in this: that the keeper of the latter is at liberty to choose his guests, while the innkeeper is obliged to entertain and furnish all travelers of good conduct and means of payment with what they may have occasion for, as such travelers, while on their way. 33 Cal. 557.

The distinction between a boarding-house and an inn is that in the former the guest is under an express contract for a certain time at a certain rate; in the latter the guest is entertained from day to day upon an implied contract. 2 E. D. Smith, 143.

**INNAMIUM.** A pledge.

**INNAVIGABILITY.** In insurance law. The condition of being *innavigable*, (q. v.) The foreign writers distinguish "innavigability" from "shipwreck." 3 Kent, Comm. 323, and note. The term is also applied to the condition of streams which are not large enough or deep enough, or are otherwise unsuited, for navigation.

**INNAVIGABLE.** As applied to streams, not capable of or suitable for navigation; impassable by ships or vessels.

As applied to vessels in the law of marine insurance, it means unfit for navigation; so damaged by misadventures at sea as to be no longer capable of making a voyage. See 3 Kent, Comm. 323, note.

**INNER BARRISTER.** A serjeant or queen's counsel, in England, who is admitted to plead within the bar.

**INNER HOUSE.** The name given to the chambers in which the first and second divisions of the court of session in Scotland hold their sittings. See OUTER HOUSE.

**INNINGS.** In old records. Lands recovered from the sea by draining and banking. Cowell.

**INNKEEPER.** One who keeps an *inn* or house for the lodging and entertainment of travelers. The keeper of a common inn for the lodging and entertainment of travelers and passengers, their horses and attendants, for a reasonable compensation. Story, Bailm. § 475. One who keeps a tavern or coffee-house in which lodging is provided. 2 Steph. Comm. 133.

One who receives as guests all who choose to visit his house, without any previous agreement as to the time of their stay, or the terms. His liability as innkeeper ceases when his guest pays his bill, and leaves the house with the declared intention of not returning, notwithstanding the guest leaves his baggage behind him. 5 Sandf. 243.

**INNOCENCE.** The absence of guilt. The law presumes in favor of innocence.

**INNOCENT CONVEYANCES.** A technical term of the English law of conveying, used to designate such conveyances as may be made by a leasehold tenant without working a forfeiture. These are said to be lease and re-lease, bargain and sale, and, in case of a life-tenant, a covenant to stand seised. See 1 Chit. Pr. 243.

**INNOMINATE.** In the civil law. Not named or classed; belonging to no specific class; ranking under a general head. A

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term applied to those contracts for which no certain or precise remedy was appointed, but a general action on the case only. Dig. 2, 1, 4, 7, 2; Id. 19, 4, 5.

**INNOMINATE CONTRACTS**, literally, are the "unclassified" contracts of Roman law. They are contracts which are neither *re, verbis, literis*, nor *consensu* simply, but some mixture of or variation upon two or more of such contracts. They are principally the contracts of *permutatio, de astimato, precarium, and transactio*. Brown.

**INNONIA**. In old English law. A close or inclosure, (*clausum, inclausura*.) Spelman.

**INNOTESCIMUS**. Lat. We make known. A term formerly applied to letters patent, derived from the emphatic word at the conclusion of the Latin forms. It was a species of exemplification of charters of feoffment or other instruments not of record. 5 Coke, 54a.

**INNOVATION**. In Scotch law. The exchange of one obligation for another, so as to make the second obligation come in the place of the first, and be the only subsisting obligation against the debtor. Bell. The same with "novation," (*q. v.*)

**INNOXIARE**. In old English law. To purge one of a fault and make him innocent.

**INNS OF CHANCERY**. So called because anciently inhabited by such clerks as chiefly studied the framing of writs, which regularly belonged to the cursitors, who were officers of the court of chancery. There are nine of them,—Clement's, Clifford's, and Lyon's Inn; Furnival's, Thavies, and Symond's Inn; New Inn; and Barnard's and Staples' Inn. These were formerly preparatory colleges for students, and many entered them before they were admitted into the inns of court. They consist chiefly of solicitors, and possess corporate property, hall, chambers, etc., but perform no public functions like the inns of court. Wharton.

**INNS OF COURT**. These are certain private unincorporated associations, in the nature of collegiate houses, located in London, and invested with the exclusive privilege of calling men to the bar; that is, conferring the rank or degree of a barrister. They were founded probably about the beginning of the fourteenth century. The principal inns of court are the Inner Temple,

Middle Temple, Lincoln's Inn, and Gray's Inn. (The two former originally belonged to the Knights Templar; the two latter to the earls of Lincoln and Gray respectively.) These bodies now have a "common council of legal education," for giving lectures and holding examinations. The inns of chancery, distinguishable from the foregoing, but generally classed with them under the general name, are the buildings known as "Clifford's Inn," "Clement's Inn," "New Inn," "Staples' Inn," and "Barnard's Inn." They were formerly a sort of collegiate houses in which law students learned the elements of law before being admitted into the inns of court, but they have long ceased to occupy that position.

**INNUENDO**. This Latin word (commonly translated "meaning") was the technical beginning of that clause in a declaration or indictment for slander or libel in which the application of the language charged to the plaintiff was pointed out. Hence it gave its name to the whole clause; and this usage is still retained, although an equivalent English word is now substituted. Thus, it may be charged that the defendant said "he (*meaning* the said plaintiff) is a perjurer."

The word is also used, (though more rarely,) in other species of pleadings, to introduce an explanation of a preceding word, charge, or averment.

It is said to mean no more than the words "*id est,*" "*scilicet,*" or "meaning," or "aforesaid," as explanatory of a subject-matter sufficiently expressed before; as "such a one, *meaning* the defendant," or "such a subject, *meaning* the subject in question." Cowp. 688. It is only explanatory of some matter already expressed. It serves to point out where there is precedent matter, but never for a new charge. It may *apply* what is *already expressed*, but cannot add to or enlarge or change the sense of the previous words. 1 Chit. Pl. 422.

**INOFFICIOSUM**. In the civil law. Inofficious; contrary to natural duty or affection. Used of a will of a parent which disinherited a child without just cause, or that of a child which disinherited a parent, and which could be contested by *querela inofficiosi testamenti*. Dig. 2, 5, 3, 13; Paulus, lib. 4, tit. 5, § 1.

**INOFFICIOUS TESTAMENT**. A will not in accordance with the testator's natural affection and moral duties. Williams, Ex'rs, (7th Ed.) 38.



**INOFICIOCIDAD.** In Spanish law. Everything done contrary to a duty or obligation assumed, as well as in opposition to the piety and affection dictated by nature. Escriche.

**INOPS CONSILII.** Lat. Destitute of counsel; without legal counsel. A term applied to the acts or condition of one acting without legal advice, as a testator drafting his own will.

**INORDINATUS.** An Intestate.

**INPENY and OUTPENY.** In old English law. A customary payment of a penny on entering into and going out of a tenancy, (*pro exitu de tenura, et pro ingressu.*) Spelman.

**INQUEST.** 1. A body of men appointed by law to inquire into certain matters. The grand jury is sometimes called the "grand inquest."

2. The judicial inquiry made by a jury summoned for the purpose is called an "inquest." The finding of such men, upon an investigation, is also called an "inquest."

3. The inquiry by a coroner, termed a "coroner's inquest," into the manner of the death of any one who has been slain, or has died suddenly or in prison.

4. This name is also given to a species of proceeding under the New York practice, allowable where the defendant in a civil action has not filed an affidavit of merits nor verified his answer. In such case the issue may be taken up, out of its regular order, on plaintiff's motion, and tried without the admission of any affirmative defense.

An inquest is a trial of an issue of fact where the plaintiff alone introduces testimony. The defendant is entitled to appear at the taking of the inquest, and to cross-examine the plaintiff's witnesses; and, if he do appear, the inquest must be taken before a jury, unless a jury be expressly waived by him. 6 How. Pr. 118.

**INQUEST OF OFFICE.** In English practice. An inquiry made by the king's (or queen's) officer, his sheriff, coroner, or escheator, *virtute officii*, or by writ sent to them for that purpose, or by commissioners specially appointed, concerning any matter that entitles the king to the possession of lands or tenements, goods or chattels; as to inquire whether the king's tenant for life died seised, whereby the reversion accrues to the king; whether A., who held immediately of the crown, died without heir, in which case the lands belong to the king by escheat; whether B. be attainted of treason, whereby his estate

is forfeited to the crown; whether C., who has purchased land, be an alien, which is another cause of forfeiture, etc. 3 Bl. Comm. 258. These *inquests of office* were more frequent in practice during the continuance of the military tenures than at present; and were devised by law as an authentic means to give the king his right by solemn matter of record. Id. 258, 259; 4 Steph. Comm. 40, 41. Sometimes simply termed "*office*," as in the phrase "office found," (*q. v.*) See 7 Cranch, 603.

**INQUILINUS.** In Roman law. A tenant; one who hires and occupies another's house; but particularly, a tenant of a hired house in a city, as distinguished from *colonus*, the hirer of a house or estate in the country. Calvin.

**INQUIRENDO.** An authority given to some official person to institute an inquiry concerning the crown's interests.

**INQUIRY.** The writ of inquiry is a judicial process addressed to the sheriff of the county in which the venue is laid, stating the former proceedings in the action, and, "because it is unknown what damages the plaintiff has sustained," commanding the sheriff that, by the oath of twelve men of his county, he diligently inquire into the same, and return the inquisition into court. This writ is necessary after an interlocutory judgment, the defendant having let judgment go by default, to ascertain the *quantum* of damages. Wharton.

**INQUISITIO.** In old English law. An inquisition or inquest. *Inquisitio post mortem*, an inquisition after death. An inquest of office held, during the continuance of the military tenures, upon the death of every one of the king's tenants, to inquire of what lands he died seised, who was his heir, and of what age, in order to entitle the king to his marriage, wardship, relief, primer seisin, or other advantages, as the circumstances of the case might turn out. 3 Bl. Comm. 258. *Inquisitio patriæ*, the inquisition of the country; the ordinary jury, as distinguished from the grand assise. Bract. fol. 15b.

**INQUISITION.** In practice. An inquiry or inquest; particularly, an investigation of certain facts made by a sheriff, together with a jury impaneled by him for the purpose.

**INQUISITOR.** A designation of sheriffs, coroners *super visum corporis*, and the like,

who have power to inquire into certain matters.

**INROLL.** A form of "enroll," used in the old books. 3 Rep. Ch. 63, 73; 3 East, 410.

**INROLLMENT.** See **ENROLLMENT**.

**INSANE.** Unsound in mind; of unsound mind; deranged, disordered, or diseased in mind. Violently deranged; mad.

**INSANITY.** A manifestation of disease of the brain, characterized by a general or partial derangement of one or more faculties of the mind, and in which, while consciousness is not abolished, mental freedom is perverted, weakened, or destroyed. Ham. Nervous System, 332.

The prolonged departure, without any adequate cause, from the states of feeling and modes of thinking usual to the individual in health. Bouvier.

This is not, strictly speaking, a legal term, but it is commonly used to denote that state of mind which prevents a person from knowing right from wrong, and, therefore, from being responsible for acts which in a sane person would be criminal. Pope, Lun. 6, 19, 356.

By insanity is not meant a total deprivation of reason, but only an inability, from defect of perception, memory, and judgment, to do the act in question. So, by a lucid interval is not meant a perfect restoration to reason, but a restoration so far as to be able, beyond doubt, to comprehend and to do the act with such reason, memory, and judgment as to make it a legal act. 2 Del. Ch. 283.

*Insanus est qui, abjecta ratione, omnia cum impetu et furore facit.* He is insane who, reason being thrown away, does everything with violence and rage. 4 Coke, 128.

**INSCRIBERE.** Lat. In the civil law. To subscribe an accusation. To bind one's self, in case of failure to prove an accusation, to suffer the same punishment which the accused would have suffered had he been proved guilty. Calvin.

**INSCRIPTIO.** Lat. In the civil law. A written accusation in which the accuser undertakes to suffer the punishment appropriate to the offense charged, if the accused is able to clear himself of the accusation. Calvin.; Cod. 9, 1, 10; Id. 9, 2, 16, 17.

**INSCRIPTION.** In evidence. Anything written or engraved upon a metallic or other solid substance, intended for great durability; as upon a tombstone, pillar, tablet, medal, ring, etc.

**INSCRIPTIONES.** The name given by the old English law to any written instrument by which anything was granted. Blount.

**INSENSIBLE.** In pleading. Unintelligible; without sense or meaning, from the omission of material words, etc. Steph. Pl. 377.

**INSETENA.** In old records. An inditch; an interior ditch; one made within another, for greater security. Spelman.

**INSIDIATORES VIARUM.** Lat. Highwaymen; persons who lie in wait in order to commit some felony or other misdemeanor.

**INSIGNIA.** Ensigns or arms; distinctive marks; badges; *indicia*; characteristics.

**INSILIARIUS.** An evil counsellor. Cowell.

**INSILIUM.** Evil advice or counsel. Cowell.

**INSIMUL.** Lat. Together; jointly. Townsh. Pl. 44.

**INSIMUL COMPUTASSENT.** They accounted together. The name of the count in *assumpsit* upon an account stated; it being averred that the parties had settled their accounts together, and defendant engaged to pay plaintiff the balance.

**INSIMUL TENUIT.** One species of the writ of *formedon* brought against a stranger by a coparcener on the possession of the ancestor, etc. Jacob.

**INSINUACION.** In Spanish law. The presentation of a public document to a competent judge, in order to obtain his approbation and sanction of the same, and thereby give it judicial authenticity. Escriche.

**INSINUARE.** Lat. In the civil law. To put into; to deposit a writing in court, answering nearly to the modern expression "to file." *Si non mandatum actis insinuatum est*, if the power or authority be not deposited among the records of the court. Inst. 4, 11, 3.

To declare or acknowledge before a judicial officer; to give an act an official form.

**INSINUATIO.** Lat. In old English law. Information or suggestion. *Ex insinuatione*, on the information. Reg. Jud. 25, 50.

**INSINUATION.** In the civil law. The transcription of an act on the public registers, like our recording of deeds. It was not necessary in any other alienation but that appropriated to the purpose of donation. Inst. 2, 7, 2.

**INSINUATION OF A WILL.** In the civil law. The first production of a will, or the leaving it with the registrar, in order to its probate. Cowell; Blount.

**INSOLVENCY.** The condition of a person who is insolvent; inability to pay one's debts; lack of means to pay one's debts. Such a relative condition of a man's assets and liabilities that the former, if all made immediately available, would not be sufficient to discharge the latter. Or the condition of a person who is unable to pay his debts as they fall due, or in the usual course of trade and business. See 2 Kent, Comm. 389; 4 Hill, 652; 15 N. Y. 141, 200; 3 Gray, 600; 2 Bell, Comm. 162.

As to the distinction between bankruptcy and insolvency, see **BANKRUPTCY**.

**INSOLVENCY FUND.** In English law. A fund, consisting of moneys and securities, which, at the time of the passing of the bankruptcy act, 1861, stood, in the Bank of England, to the credit of the commissioners of the insolvent debtors' court, and was, by the twenty-sixth section of that act, directed to be carried by the bank to the account of the accountant in bankruptcy. Provision has now been made for its transfer to the commissioners for the reduction of the national debt. Robs. Bankr. 20, 56.

**INSOLVENT.** One who cannot or does not pay; one who is unable to pay his debts; one who is not solvent; one who has not means or property sufficient to pay his debts.

A debtor is "insolvent," within the meaning of the bankrupt act, when he is unable to pay his debts and meet his engagements in the ordinary course of business, as persons in trade usually do. 3 Ben. 153; Id. 520; 1 Abb. (U. S.) 440; 1 Dill. 186.

A trader is insolvent when he is not in a condition to meet his engagements or pay his debts in the usual and ordinary course of business. His solvency or insolvency does not depend upon the simple question whether his assets at the date alleged will or will not satisfy all the demands against him, due and to become due. 33 Cal. 625.

**INSOLVENT LAW.** A term applied to a law, usually of one of the states, regulating the settlement of insolvent estates, and according a certain measure of relief to insolvent debtors.

**INSPECTATOR.** A prosecutor or adversary.

**INSPECTION.** The examination or testing of food, fluids, or other articles made subject by law to such examination, to ascertain their fitness for use or commerce.

Also the examination by a private person

of public records and documents; or of the books and papers of his opponent in an action, for the purpose of better preparing his own case for trial.

**INSPECTION LAWS.** Laws authorizing and directing the inspection and examination of various kinds of merchandise intended for sale, especially food, with a view to ascertaining its fitness for use, and excluding unwholesome or unmarketable goods from sale, and directing the appointment of official inspectors for that purpose. See Const. U. S. art. 1, § 10, cl. 2; Story, Const. § 1017, et seq.

**INSPECTION OF DOCUMENTS.** This phrase refers to the right of a party, in a civil action, to inspect and make copies of documents which are essential or material to the maintenance of his cause, and which are either in the custody of an officer of the law or in the possession of the adverse party.

**INSPECTION, TRIAL BY.** A mode of trial formerly in use in England, by which the judges of a court decided a point in dispute, upon the testimony of their own senses, without the intervention of a jury. This took place in cases where the fact upon which issue was taken must, from its nature, be evident to the court from ocular demonstration, or other irrefragable proof; and was adopted for the greater expedition of a cause. 3 Bl. Comm. 331.

**INSPECTORS.** Officers whose duty it is to examine the quality of certain articles of merchandise, food, weights and measures, etc.

**INSPECTORSHIP, DEED OF.** In English law. An instrument entered into between an insolvent debtor and his creditors, appointing one or more persons to inspect and oversee the winding up of such insolvent's affairs on behalf of the creditors. J

**INSPEXIMUS.** Lat. In old English law. We have inspected. An exemplification of letters patent, so called from the emphatic word of the old forms. 5 Coke, 536. K

**INSTALLATION.** The ceremony of inducting or investing with any charge, office, or rank, as the placing a bishop into his see, a dean or prebendary into his stall or seat, or a knight into his order. Wharton. L

**INSTALLMENTS.** Different portions of the same debt payable at different successive periods as agreed. Brown. M

**INSTANCE.** In pleading and practice. Solicitation, properly of an earnest or urgent kind. An act is often said to be done at a party's "special *instance* and request."

In the civil and French law. A general term, designating all sorts of actions and judicial demands. Dig. 44, 7, 58.

In ecclesiastical law. Causes of *instance* are those proceeded in at the solicitation of some party, as opposed to causes of office, which run in the name of the judge. Hallifax, Civil Law, p. 156.

In Scotch law. That which may be insisted on at one diet or course of probation. Wharton.

**INSTANCE COURT.** In English law. That division or department of the court of admiralty which exercises all the ordinary admiralty jurisdiction, with the single exception of prize cases, the latter belonging to the branch called the "Prize Court."

The term is sometimes used in American law for purposes of explanation, but has no proper application to admiralty courts in the United States, where the powers of both instance and prize courts are conferred without any distinction. 3 Dall. 6; 1 Gall. 563; 3 Kent, Comm. 355, 378.

**INSTANCIA.** In Spanish law. The institution and prosecution of a suit from its commencement until definitive judgment. The first instance, "*primera instancia*," is the prosecution of the suit before the judge competent to take cognizance of it at its inception; the second instance, "*secunda instancia*," is the exercise of the same action before the court of appellate jurisdiction; and the third instance, "*tercera instancia*," is the prosecution of the same suit, either by an application of revision before the appellate tribunal that has already decided the cause, or before some higher tribunal, having jurisdiction of the same. Escriche.

**INSTANTER.** Immediately; instantly; forthwith; without delay. Trial *instanter* was had where a prisoner between attainder and execution pleaded that he was not the same who was attainted.

When a party is ordered to plead *instanter*, he must plead the same day. The term is usually understood to mean within twenty-four hours.

**INSTAR.** Lat. Likeness; the likeness, size, or equivalent of a thing. *Instar dentium*, like teeth. 2 Bl. Comm. 295. *Instar omnium*, equivalent or tantamount to all. Id. 146; 3 Bl. Comm. 231.

**INSTAURUM.** In old English deeds. A stock or store of cattle, and other things; the whole stock upon a farm, including cattle, wagons, plows, and all other implements of husbandry. 1 Mon. Angl. 548b; Fleta, lib. 2, c. 72, § 7. *Terra instaurata*, land ready stocked.

**INSTIGATION.** Incitation; urging; solicitation. The act by which one incites another to do something, as to commit some crime or to commence a suit.

**INSTIRPARE.** To plant or establish.

**INSTITOR.** Lat. In the civil law. A clerk in a store; an agent.

**INSTITORIA ACTIO.** Lat. In the civil law. The name of an action given to those who had contracted with an *institor* (*q. v.*) to compel the principal to performance. Inst. 4, 7, 2; Dig. 14, 3, 1; Story, Ag. § 426.

**INSTITORIAL POWER.** The charge given to a clerk to manage a shop or store. 1 Bell, Comm. 506, 507.

**INSTITUTE, v.** To inaugurate or commence; as to institute an action.

To nominate, constitute, or appoint; as to institute an heir by testament. Dig. 28, 5, 65.

**INSTITUTE, n.** In the civil law. A person named in the will as heir, but with a direction that he shall pass over the estate to another designated person, called the "substitute."

In Scotch law. The person to whom an estate is first given by destination or limitation; the others, or the heirs of tailzie, are called "substitutes."

**INSTITUTES.** A name sometimes given to text-books containing the elementary principles of jurisprudence, arranged in an orderly and systematic manner. For example, the Institutes of Justinian, of Gaius, of Lord Coke.

**INSTITUTES OF GAIUS.** An elementary work of the Roman jurist Gaius; important as having formed the foundation of the Institutes of Justinian, (*q. v.*) These Institutes were discovered by Niebuhr in 1816, in a *codex rescriptus* of the library of the cathedral chapter at Verona, and were first published at Berlin in 1820. Two editions have since appeared. Mackeld. Rom. Law, § 54.

**INSTITUTES OF JUSTINIAN.** One of the four component parts or principal di-

visions of the *Corpus Juris Civilis*, being an elementary treatise on the Roman law, in four books. This work was compiled from earlier sources, (resting principally on the Institutes of Gaius,) by a commission composed of Tribonian and two others, by command and underdirection of the emperor Justinian, and was first published November 21, A. D. 529.

**INSTITUTES OF LORD COKE.** The name of four volumes by Lord Coke, published A. D. 1628. The first is an extensive comment upon a treatise on tenures, compiled by Littleton, a judge of the common pleas, *temp.* Edward IV. This comment is a rich mine of valuable common-law learning, collected and heaped together from the ancient reports and Year Books, but greatly defective in method. It is usually cited by the name of "Co. Litt.," or as "1 Inst." The second volume is a comment upon old acts of parliament, without systematic order; the third a more methodical treatise on the pleas of the crown; and the fourth an account of the several species of courts. These are cited as 2, 3, or 4 "Inst.," without any author's name. Wharton.

**INSTITUTIO HÆREDIS.** Lat. In Roman law. The appointment of the *hæres* in the will. It corresponds very nearly to the nomination of an executor in English law. Without such an appointment the will was void at law, but the *prætor* (*i. e.*, equity) would, under certain circumstances, carry out the intentions of the testator. Brown.

**INSTITUTION.** The commencement or inauguration of anything. The first establishment of a law, rule, rite, etc. Any custom, system, organization, etc., firmly established. An elementary rule or principle.

In practice. The commencement of an action or prosecution; as, A. B. has instituted a suit against C. D. to recover damages for trespass.

In political law. A law, rite, or ceremony enjoined by authority as a permanent rule of conduct of government. Webster.

A system or body of usages, laws, or regulations, of extensive and recurring operation, containing within itself an organism by which it effects its own independent action, continuance, and generally its own further development. Its object is to generate, effect, regulate, or sanction a succession of acts, transactions, or productions of a peculiar kind or class. We are likewise in the habit of calling single laws or usages "institu-

tions," if their operation is of vital importance and vast scope, and if their continuance is in a high degree independent of any interfering power. Lieb. Civil Lib. 300.

In corporation law. An organization or foundation, for the exercise of some public purpose or function; as an asylum or a university. By the term "institution" in this sense is to be understood an establishment or organization which is permanent in its nature, as distinguished from an enterprise or undertaking which is transient and temporary. 29 Ohio St. 206; 24 Ind. 391.

In ecclesiastical law. A kind of investiture of the spiritual part of the benefice, as induction is of the temporal; for by institution the care of the souls of the parish is committed to the charge of the clerk. Brown.

In the civil law. The designation by a testator of a person to be his heir.

In jurisprudence. The plural form of this word ("institutions") is sometimes used as the equivalent of "institutes," to denote an elementary text-book of the law.

**INSTITUTIONES.** Works containing the elements of any science; institutions or institutes. One of Justinian's principal law collections, and a similar work of the Roman jurist Gaius, are so entitled. See **INSTITUTES**.

**INSTRUCT.** To convey information as a client to an attorney, or as an attorney to a counsel; to authorize one to appear as advocate; to give a case in charge to the jury.

**INSTRUCTION.** In French criminal law. The first process of a criminal prosecution. It includes the examination of the accused, the preliminary interrogation of witnesses, collateral investigations, the gathering of evidence, the reduction of the whole to order, and the preparation of a document containing a detailed statement of the case, to serve as a brief for the prosecuting officers, and to furnish material for the indictment. J

**INSTRUCTIONS.** In common law. Orders given by a principal to his agent in relation to the business of his agency. K

In practice. A detailed statement of the facts and circumstances constituting a cause of action made by a client to his attorney for the purpose of enabling the latter to draw a proper declaration or procure it to be done by a pleader. L

**INSTRUMENT.** A written document; a formal or legal document in writing, such as a contract, deed, will, bond, or lease. M

**In the law of evidence.** Anything which may be presented as evidence to the senses of the adjudicating tribunal. The term "instruments of evidence" includes not merely documents, but witnesses and living things which may be presented for inspection. 1 Whart. Ev. § 615.

**INSTRUMENT OF APPEAL.** The document by which an appeal is brought in an English matrimonial cause from the president of the probate, divorce, and admiralty division to the full court. It is analogous to a petition. Browne, Div. 322.

**INSTRUMENT OF EVIDENCE.** Instruments of evidence are the *media* through which the evidence of facts, either disputed or required to be proved, is conveyed to the mind of a judicial tribunal; and they comprise persons, as well as writings. Best, Ev. § 123.

**INSTRUMENT OF SAISINE.** An instrument in Scotland by which the delivery of "saisine" (*i. e.*, seisin, or the feudal possession of land) is attested. It is subscribed by a notary, in the presence of witnesses, and is executed in pursuance of a "precept of saisine," whereby the "grantor of the deed" desires "any notary public to whom these presents may be presented" to give saisine to the intended grantee or grantees. It must be entered and recorded in the registers of saisines. Mozley & Whitley.

**INSTRUMENTA.** That kind of evidence which consists of writings not under seal; as court-rolls, accounts, and the like. 3 Co. Litt. 487.

**INSUCKEN MULTURES.** A quantity of corn paid by those who are thriled to a mill. See THIRLAGE.

**INSUFFICIENCY.** In equity pleading. The legal inadequacy of an answer in equity which does not fully and specifically reply to some one or more of the material allegations, charges, or interrogatories set forth in the bill.

**INSULA.** An island; a house not connected with other houses, but separated by a surrounding space of ground. Calvin.

**INSUPER.** Moreover; over and above. An old exchequer term, applied to a charge made *upon* a person in his account. Blount.

**INSURABLE INTEREST.** Such a real and substantial interest in specific property as will sustain a contract to indemnify the

person interested against its loss. If the assured had no real interest, the contract would be a mere wager policy.

Every interest in property, or any relation thereto, or liability in respect thereof, of such a nature that a contemplated peril might directly damnify the insured, is an insurable interest. Civil Code Cal. § 2546.

**INSURANCE.** A contract whereby, for a stipulated consideration, one party undertakes to compensate the other for loss on a specified subject by specified perils. The party agreeing to make the compensation is usually called the "insurer" or "underwriter;" the other, the "insured" or "assured;" the agreed consideration, the "premium;" the written contract, a "policy;" the events insured against, "risks" or "perils;" and the subject, right, or interest to be protected, the "insurable interest." 1 Phil. Ins. §§ 1-5.

Insurance is a contract whereby one undertakes to indemnify another against loss, damage, or liability arising from an unknown or contingent event. Civil Code Cal. § 2527; Civil Code Dak. § 1474.

Various classes or kinds of insurance are in use. *Marine* insurance applies to vessels, cargoes, and property exposed to maritime risks. *Fire* insurance covers buildings, merchandise, and other property on land exposed to injury by fire. *Life* insurance means the engagement to pay a stipulated sum upon the death of the insured, or of a third person in whose life the insured has an interest, either whenever it occurs, or in case it occurs within a prescribed term. *Accident* and *health* insurance include insurances of persons against injury from accident, or expense and loss of time from disease. Many other forms might exist, and several others have been to a limited extent introduced in recent times; such as insurance of valuables against theft, insurance of the lives and good condition of domestic animals, insurance of valuable plate-glass windows against breakage. Abbott.

**INSURANCE AGENT.** An agent employed by an insurance company to solicit risks and effect insurances.

Agents of insurance companies are called "general agents" when clothed with the general oversight of the companies' business in a state or large section of country, and "local agents" when their functions are limited and confined to some particular locality.

**INSURANCE BROKER.** A broker through whose agency insurances are effected. 3 Kent, Comm. 260. See BROKER.

**INSURANCE COMPANY.** A corporation or association whose business is to make contracts of insurance. They are either mutual companies or stock companies.

**INSURANCE POLICY.** See **POLICY.**

**INSURE.** To engage to indemnify a person against pecuniary loss from specified perils. To act as an insurer.

**INSURED.** The person who obtains insurance on his property, or upon whose life an insurance is effected.

**INSURER.** The underwriter or insurance company with whom a contract of insurance is made.

The person who undertakes to indemnify another by a contract of insurance is called the "insurer," and the person indemnified is called the "insured." Civil Code Cal. § 2538.

**INSURGENT.** One who participates in an insurrection; one who opposes the execution of law by force of arms, or who rises in revolt against the constituted authorities.

A distinction is often taken between "insurgent" and "rebel," in this: that the former term is not necessarily to be taken in a bad sense, inasmuch as an insurrection, though extralegal, may be just and timely in itself; as where it is undertaken for the overthrow of tyranny or the reform of gross abuses. According to Webster, an insurrection is an incipient or early stage of a rebellion.

**INSURRECTION.** A rebellion, or rising of citizens or subjects in resistance to their government. See **INSURGENT.**

Insurrection shall consist in any combined resistance to the lawful authority of the state, with intent to the denial thereof, when the same is manifested, or intended to be manifested, by acts of violence. Code Ga. 1882, § 4515.

**INTAKERS.** In old English law. A kind of thieves inhabiting Bedesdale, on the extreme northern border of England; so called because they *took in* or received such booties of cattle and other things as their accomplices, who were called "outparters," brought in to them from the borders of Scotland. Speiman; Cowell.

**INTAKES.** Temporary inclosures made by customary tenants of a manor under a special custom authorizing them to inclose part of the waste until one or more crops have been raised on it. Elton, Common, 277.

**INTEGER.** Whole; untouched. *Res integra* means a question which is new and undecided. 2 Kent, Comm. 177.

**INTEMPERANCE.** Habitual intemperance is that degree of intemperance from the use of intoxicating drinks which disqualifies the person a great portion of the time from properly attending to business, or

which would reasonably inflict a course of great mental anguish upon an innocent party. Civil Code Cal. § 106.

**INTEND.** To design, resolve, purpose. To apply a rule of law in the nature of presumption; to discern and follow the probabilities of like cases.

**INTENDANT.** One who has the charge, management, or direction of some office, department, or public business.

**INTENDED TO BE RECORDED.** This phrase is frequently used in conveyances, when reciting some other conveyance which has not yet been recorded, but which forms a link in the chain of title. In Pennsylvania, it has been construed to be a covenant, on the part of the grantor, to procure the deed to be recorded in a reasonable time. 2 Rawle, 14.

**INTENDENTE.** In Spanish law. The immediate agent of the minister of finance, or the chief and principal director of the different branches of the revenue, appointed in the various departments in each of the provinces into which the Spanish monarchy is divided. Escriche.

**INTENDMENT OF LAW.** The true meaning, the correct understanding or intention of the law; a presumption or inference made by the courts. Co. Litt. 78.

**INTENT.** In criminal law and the law of evidence. Purpose; formulated design; a resolve to do or forbear a particular act; aim; determination. In its literal sense, the stretching of the mind or will towards a particular object.

"Intent" expresses mental action at its most advanced point, or as it actually accompanies an outward, corporal act which has been determined on. *Intent* shows the presence of *will* in the act which consummates a crime. It is the exercise of intelligent will, the mind being fully aware of the nature and consequences of the act which is about to be done, and with such knowledge, and with full liberty of action, willing and electing to do it. Berrill, Circ. Ev. 284, and notes.

**INTENTIO.** Lat. In the civil law. The formal complaint or claim of a plaintiff before the prætor.

In old English law. A count or declaration in a real action, (*narratio*.) Bract. lib. 4, tr. 2, c. 2; Fleta, lib. 4, c. 7; Du Cange.

**Intentio cæca mala.** A blind or obscure meaning is bad or ineffectual. 2 Bulst. 179. Said of a testator's intention.

**Intentio inservire debet legibus, non leges intentioni.** The intention [of a party] ought to be subservient to [or in accordance with] the laws, not the laws to the intention. Co. Litt. 314a, 314b.

**Intentio mea imponit nomen operi meo.** Hob. 123. My intent gives a name to my act.

**INTENTION.** Meaning; will; purpose; design. "The *intention* of the testator, to be collected from the whole will, is to govern, provided it be not unlawful or inconsistent with the rules of law." 4 Kent, Comm. 534.

"Intention," when used with reference to the construction of wills and other documents, means the sense and meaning of it, as gathered from the words used therein. Parol evidence is not ordinarily admissible to explain this. When used with reference to civil and criminal responsibility, a person who contemplates any result, as not unlikely to follow from a deliberate act of his own, may be said to intend that result, whether he desire it or not. Thus, if a man should, for a wager, discharge a gun among a multitude of people, and any should be killed, he would be deemed guilty of intending the death of such person; for every man is presumed to intend the natural consequence of his own actions. Intention is often confounded with motive, as when we speak of a man's "good intentions." Mozley & Whitley.

**INTENTIONE.** A writ that lay against him who entered into lands after the death of a tenant in dower, or for life, etc., and held out to him in reversion or remainder. Fitzh. Nat. Brev. 203.

**INTER.** Lat. Among; between.

**INTER ALIA.** Among other things. A term anciently used in pleading, especially in reciting statutes, where the whole statute was not set forth at length. *Inter alia enactatum fuit*, among other things it was enacted. See Plowd. 65.

**Inter alias causas acquisitionis, magna, celebris, et famosa est causa donationis.** Among other methods of acquiring property, a great, much-used, and celebrated method is that of gift. Bract, fol. 11.

**INTER ALIOS.** Between other persons; between those who are strangers to a matter in question.

**INTER APICES JURIS.** Among the subtleties of the law. See **APEX JURIS**.

**INTER BRACHIA.** Between her arms. Fleta, lib. 1, c. 35, §§ 1, 2.

**INTER CÆTEROS.** Among others; in a general clause; not by name, (*nominationim*.) A term applied in the civil law to clauses of disinheritance in a will. Inst. 2, 13, 1; Id. 2, 13, 3.

**INTER CANEM ET LUPUM.** (Lat. Between the dog and the wolf.) The twilight; because then the dog seeks his rest, and the wolf his prey. 3 Inst. 63.

**INTER CONJUGES.** Between husband and wife.

**INTER CONJUNCTAS PERSONAS.** Between conjunct persons. By the act 1621, c. 18, all conveyances or alienations between conjunct persons, unless granted for onerous causes, are declared, as in a question with creditors, to be null and of no avail. Conjunct persons are those standing in a certain degree of relationship to each other; such, for example, as brothers, sisters, sons, uncles, etc. These were formerly excluded as witnesses, on account of their relationship; but this, as a ground of exclusion, has been abolished. Tray. Lat. Max.

**INTER PARTES.** Between parties. Instruments in which two persons unite, each making conveyance to, or engagement with, the other, are called "*papers inter partes*."

**INTER QUATUOR PARIETES.** Between four walls. Fleta, lib. 6, c. 55, § 4.

**INTER REGALIA.** In English law. Among the things belonging to the sovereign. Among these are rights of salmon fishing, mines of gold and silver, forests, forfeitures, casualties of superiority, etc., which are called "*regalia minora*," and may be conveyed to a subject. The *regalia majora* include the several branches of the royal prerogative, which are inseparable from the person of the sovereign. Tray. Lat. Max.

**INTER RUSTICOS.** Among the illiterate or unlearned.

**INTER SE, INTER SESE.** Among themselves. Story, Partn. § 405.

**INTER VIRUM ET UXOREM.** Between husband and wife.

**INTER VIVOS.** Between the living; from one living person to another. Where property passes by conveyance, the transaction is said to be *inter vivos*, to distinguish it from a case of succession or devise. So



an ordinary gift from one person to another is called a "gift *inter vivos*," to distinguish it from a donation made in contemplation of death, (*mortis causa*.)

**INTERCALARE.** In the civil law. To introduce or insert among or between others; to introduce a day or month into the calendar; to intercalate. Dig. 50, 16, 98, pr.

**INTERCEDERE.** In the civil law. To become bound for another's debt.

**INTERCHANGEABLY.** By way of exchange or interchange. This term properly denotes the method of signing deeds, leases, contracts, etc., executed in duplicate, where each party signs the copy which he delivers to the other.

**INTERCOMMON.** To enjoy a common mutually or promiscuously with the inhabitants or tenants of a contiguous township, vill, or manor. 2 Bl. Comm. 33; 1 Crabb, Real Prop. p. 271, § 290.

**INTERCOMMONING.** When the commons of two adjacent manors join, and the inhabitants of both have immemorially fed their cattle promiscuously on each other's common, this is called "intercommoning." *Termes de la Ley*.

**INTERCOMMUNING.** Letters of intercommuning were letters from the Scotch privy council passing (on their act) in the king's name, charging the lieges not to reset, supply, or intercommune with the persons thereby denounced; or to furnish them with meat, drink, house, harbor, or any other thing useful or comfortable; or to have any intercourse with them whatever,—under pain of being reputed art and part in their crimes, and dealt with accordingly; and desiring all sheriffs, bailies, etc., to apprehend and commit such rebels to prison. Bell.

**INTERCOURSE.** Communication; literally, a *running* or passing *between* persons or places; commerce.

**INTERDICT.** In Roman law. A decree of the prætor by means of which, in certain cases determined by the edict, he himself directly commanded what should be done or omitted, particularly in causes involving the right of possession or a *quasi* possession. In the modern civil law, interdicts are regarded precisely the same as actions, though they give rise to a summary proceeding. Mackeld. Rom. Law, § 258.

Interdicts are either prohibitory, restora-

tive, or exhibitory; the first being a prohibition, the second a decree for restoring possession lost by force, the third a decree for the exhibiting of accounts, etc. Heinec. § 1206.

An interdict was distinguished from an "action," (*actio*.) properly so called, by the circumstance that the prætor himself decided in the first instance, (*principaliter*.) on the application of the plaintiff, without previously appointing a *judex*, by issuing a decree commanding what should be done, or left undone. Gaius, 4, 139. It might be adopted as a remedy in various cases where a regular action could not be maintained, and hence interdicts were at one time more extensively used by the prætor than the *actiones* themselves. Afterwards, however, they fell into disuse, and in the time of Justinian were generally dispensed with. Mackeld. Rom. Law, § 253; Inst. 4, 15, 3.

In ecclesiastical law. An ecclesiastical censure, by which divine services are prohibited to be administered either to particular persons or in particular places.

In Scotch law. An order of the court of session or of an inferior court, pronounced, on cause shown, for stopping any act or proceedings complained of as illegal or wrongful. It may be resorted to as a remedy against any encroachment either on property or possession, and is a protection against any unlawful proceeding. Bell.

**INTERDICTION.** In French law. Every person who, on account of iusanity, has become incapable of controlling his own interests, can be put under the control of a guardian, who shall administer his affairs with the same effect as he might himself. Such a person is said to be "*interdit*," and his *status* is described as "interdiction." Arg. Fr. Merc. Law, 562.

In the civil law. A judicial decree, by which a person is deprived of the *exercise* of his civil rights.

**INTERDICTION OF FIRE AND WATER.** Banishment by an order that no man should supply the person banished with fire or water, the two necessities of life. J

**INTERDICTUM SALVIANUM.** Lat. In Roman law. The Salvian interdict. A process which lay for the owner of a farm to obtain possession of the goods of his tenant who had pledged them to him for the rent of the land. Inst. 4, 15, 3. K

**Interdum evenit ut exceptio quæ prima facie justa videtur, tamen inique noceat.** It sometimes happens that a plea which seems *prima facie* just, nevertheless is injurious and unequal. Inst. 4, 14, 1, 2. L

**M**

**INTERESSE.** Lat. Interest. The interest of money; also an interest in lands.

**INTERESSE TERMINI.** An interest in a term. That species of interest or property which a lessee for years acquires in the lands demised to him, before he has actually become possessed of those lands; as distinguished from that property or interest vested in him by the demise, and also reduced into possession by an actual entry upon the lands and the assumption of ownership therein, and which is then termed an "estate for years." Brown.

**INTEREST.** In property. The most general term that can be employed to denote a property in lands or chattels. In its application to lands or things real, it is frequently used in connection with the terms "estate," "right," and "title," and, according to Lord Coke, it properly includes them all. Co. Litt. 345b.

More particularly it means a right to have the advantage accruing from anything; any right in the nature of property, but less than title; a partial or undivided right; a title to a share.

The terms "interest" and "title" are not synonymous. A mortgagor in possession, and a purchaser holding under a deed defectively executed, have, both of them, absolute as well as insurable interests in the property, though neither of them has the legal title. 29 Conn. 20.

In the law of evidence. "Interest," in a statute that no witness shall be excluded by interest in the event of the suit, means "concern," "advantage," "good," "share," "portion," "part," or "participation." 11 Barb. 471; 11 Metc. (Mass.) 390.

A relation to the matter in controversy, or to the issue of the suit, in the nature of a prospective gain or loss, which actually does, or presumably might, create a bias or prejudice in the mind, inclining the person to favor one side or the other.

For money. Interest is the compensation allowed by law or fixed by the parties for the use or forbearance or detention of money. Civil Code Cal. § 1915.

*Legal* interest is the rate of interest established by the law of the country, and which will prevail in the absence of express stipulation; *conventional* interest is a certain rate agreed upon by the parties. 2 Cal. 568.

*Simple* interest is that which is paid for the principal or sum lent, at a certain rate or allowance, made by law or agreement of parties. *Compound* interest is interest upon interest, where accrued interest is added to

the principal sum, and the whole treated as a new principal, for the calculation of the interest for the next period.

**INTEREST, MARITIME.** See **MARITIME INTEREST.**

**INTEREST OR NO INTEREST.** These words, inserted in an insurance policy, mean that the question whether the insured has or has not an insurable interest in the subject-matter is waived, and the policy is to be good irrespective of such interest. The effect of such a clause is to make it a *wager* policy.

**INTEREST POLICY.** In insurance. One which actually, or *prima facie*, covers a substantial and insurable interest; as opposed to a *wager* policy.

Interest reipublicæ ne maleficia remaneant impunita. It concerns the state that crimes remain not unpunished. Jenk. Cent. pp. 30, 31, case 59; Wing. Max. 501.

Interest reipublicæ ne sua quis male utatur. It concerns the state that persons do not misuse their property. 6 Coke, 36a.

Interest reipublicæ quod homines conserventur. It concerns the state that [the lives of] men be preserved. 12 Coke, 62.

Interest reipublicæ res judicatas non rescindi. It concerns the state that things adjudicated be not rescinded. 2 Inst. 360. It is matter of public concern that solemn adjudications of the courts should not be disturbed. See Best, Ev. p. 41, § 44.

Interest reipublicæ suprema hominum testamenta rata haberi. It concerns the state that men's last wills be held valid, [or allowed to stand.] Co. Litt. 236b.

Interest reipublicæ ut carceres sint in tuto. It concerns the state that prisons be safe places of confinement. 2 Inst. 589.

Interest (imprimis) reipublicæ ut pax in regno conservetur, et quæcunque paci adversentur provide declinentur. It especially concerns the state that peace be preserved in the kingdom, and that whatever things are against peace be prudently avoided. 2 Inst. 158.

Interest reipublicæ ut quilibet re sua bene utatur. It is the concern of the state that every one uses his property properly.

Interest reipublicæ ut sit finis litium. It concerns the state that there be an end of lawsuits. Co. Litt. 303. It is for the gen-

eral welfare that a period be put to litigation. Broom, Max. 331, 343.

**INTEREST SUIT.** In English law. An action in the probate branch of the high court of justice, in which the question in dispute is as to which party is entitled to a grant of letters of administration of the estate of a deceased person. Wharton.

**INTEREST UPON INTEREST.** Compound interest, (*q. v.*)

**INTERFERENCE.** In patent law, this term designates a collision between rights claimed or granted; that is, where a person claims a patent for the whole or any integral part of the ground already covered by an existing patent or by a pending application.

**INTERIM.** In the mean time; meanwhile. An assignee *ad interim* is one appointed between the time of bankruptcy and appointment of the regular assignee. 2 Bell, Comm. 355.

**INTERIM COMMITTITUR.** Lat. "In the mean time, let him be committed." An order of court (or the docket-entry noting it) by which a prisoner is committed to prison and directed to be kept there until some further action can be taken, or until the time arrives for the execution of his sentence.

**INTERIM CURATOR.** A person appointed by justices of the peace to take care of the property of a felon convict, until the appointment by the crown of an administrator or administrators for the same purpose. Mozley & Whitley.

**INTERIM FACTOR.** In Scotch law. A judicial officer elected or appointed under the bankruptcy law to take charge of and preserve the estate until a fit person shall be elected trustee. 2 Bell, Comm. 357.

**INTERIM OFFICER.** One appointed to fill the office during a temporary vacancy, or during an interval caused by the absence or incapacity of the regular incumbent.

**INTERIM ORDER.** One made in the mean time, and until something is done.

**INTERIM RECEIPT.** A receipt for money paid by way of premium for a contract of insurance for which application is made. If the risk is rejected, the money is refunded, less the *pro rata* premium.

**INTERLAQUEARE.** In old practice. To link together, or interchangeably. Writs

were called "*interlaqueata*" where several were issued against several parties residing in different counties, each party being summoned by a separate writ to warrant the tenant, together with the other warrantors. Fleta, lib. 5, c. 4, § 2.

**INTERLINEATION.** The act of writing between the lines of an instrument; also what is written between lines.

**INTERLOCUTOR.** In Scotch practice. An order or decree of court; an order made in open court. 2 Swint. 362; Arkley, 32.

**INTERLOCUTOR OF RELEVANCY.** In Scotch practice. A decree as to the relevancy of a libel or indictment in a criminal case. 2 Alis. Crim. Pr. 373.

**INTERLOCUTORY.** Provisional; temporary; not final. Something intervening between the commencement and the end of a suit which decides some point or matter, but is not a final decision of the whole controversy.

**INTERLOCUTORY COSTS.** In practice. Costs accruing upon proceedings in the intermediate stages of a cause, as distinguished from final costs; such as the costs of motions. 3 Chit. Gen. Pr. 597.

**INTERLOCUTORY DECREE.** In equity practice. A provisional or preliminary decree, which is not final and does not determine the suit, but directs some further proceedings preparatory to the final decree. A decree pronounced for the purpose of ascertaining matter of law or fact preparatory to a final decree. 1 Barb. Ch. Pr. 326, 327.

**INTERLOCUTORY JUDGMENT.** A judgment which is not final is called "interlocutory;" that is, an interlocutory judgment is one which determines some preliminary or subordinate point or plea, or settles some step, question, or default arising in the progress of the cause, but does not adjudicate the ultimate rights of the parties, or finally put the case out of court. Thus, a judgment or order passed upon any provisional or accessory claim or contention is, in general, merely interlocutory, although it may finally dispose of that particular matter. 1 Black, Judgm. § 21.

**INTERLOCUTORY ORDER.** "An order which decides not the cause, but only settles some intervening matter relating to it; as when an order is made, on a motion in chancery, for the plaintiff to have an injunction to quiet his possession till the hearing of

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the cause. This or any such order, not being final, is interlocutory." *Termes de la Ley*.

**INTERLOCUTORY SENTENCE.** In the civil law. A sentence on some indirect question arising from the principal cause. *Hallifax, Civil Law, b. 3, ch. 9, no. 40.*

**INTERLOPERS.** Persons who run into business to which they have no right, or who interfere wrongfully; persons who enter a country or place to trade without license. *Webster.*

**INTERN.** To restrict or shut up a person, as a political prisoner, within a limited territory.

**INTERNATIONAL LAW.** The law which regulates the intercourse of nations; the law of nations. 1 *Kent, Comm. 1, 4.* The customary law which determines the rights and regulates the intercourse of independent states in peace and war. 1 *Wildm. Int. Law, 1.*

The system of rules and principles, founded on treaty, custom, precedent, and the consensus of opinion as to justice and moral obligation, which civilized nations recognize as binding upon them in their mutual dealings and relations.

*Public international law* is the body of rules which control the conduct of independent states in their relations with each other.

*Private international law* is that branch of municipal law which determines before the courts of what nation a particular action or suit should be brought, and by the law of what nation it should be determined; in other words, it regulates private rights as dependent on a diversity of municipal laws and jurisdictions applicable to the persons, facts, or things in dispute, and the subject of it is hence sometimes called the "conflict of laws." Thus, questions whether a given person owes allegiance to a particular state where he is domiciled, whether his *status*, property, rights, and duties are governed by the *lex sitūs*, the *lex loci*, the *lex fori*, or the *lex domicilii*, are questions with which private international law has to deal. *Sweet.*

**INTERNUNCIO.** A minister of a second order, charged with the affairs of the papal court in countries where that court has no nuncio.

**INTERNUNCIUS.** A messenger between two parties; a go-between. Applied to a broker, as the agent of both parties. 4 *C. Rob. Adm. 204.*

**INTERPELATION.** In the civil law. The act by which, in consequence of an agreement, the party bound declares that he will not be bound beyond a certain time. *Wolff, Inst. Nat. § 752.*

**INTERPLEADER.** When two or more persons claim the same thing (or fund) of a third, and he, laying no claim to it himself, is ignorant which of them has a right to it, and fears he may be prejudiced by their proceeding against him to recover it, he may file a bill in equity against them, the object of which is to make them litigate their title between themselves, instead of litigating it with him, and such a bill is called a "bill of interpleader." *Brown.*

By the statute 1 & 2 *Wm. IV. c. 58*, summary proceedings at *law* were provided for the same purpose, in actions of *assumpsit*, debt, detinue, and trover. And the same remedy is known, in one form or the other, in most or all of the United States.

Under the Pennsylvania practice, when goods levied upon by the sheriff are claimed by a third party, the sheriff takes a rule of interpleader on the parties, upon which, when made absolute, a feigned issue is framed, and the title to the goods is tested. The goods, pending the proceedings, remain in the custody of the defendant upon the execution of a forthcoming bond. *Bouvier.*

**INTERPOLATE.** To insert words in a complete document.

**INTERPOLATION.** The act of interpolating; the words interpolated.

**INTERPRET.** To construe; to seek out the meaning of language; to translate orally from one tongue to another.

*Interpretare et concordare leges legibus, est optimus interpretandi modus.* To interpret, and [in such a way as] to harmonize laws with laws, is the best mode of interpretation. 8 *Coke, 169a.*

*Interpretatio chartarum benigne facienda est, ut res magis valeat quam pereat.* The interpretation of deeds is to be liberal, that the thing may rather have effect than fail. *Broom, Max. 543.*

*Interpretatio fienda est ut res magis valeat quam pereat.* *Jenk. Cent. 198.* Such an interpretation is to be adopted that the thing may rather stand than fall.

*Interpretatio talis in ambiguis semper fienda est ut evitetur inconveniens et absurdum.* In cases of ambiguity, such an interpretation should always be made

that what is inconvenient and absurd may be avoided. 4 Inst. 328.

**INTERPRETATION.** The discovery and representation of the true meaning of any signs used to convey ideas. Lieb. Herm.

"Construction" is a term of wider scope than "interpretation;" for, while the latter is concerned only with ascertaining the sense and meaning of the subject-matter, the former may also be directed to explaining the legal effects and consequences of the instrument in question. Hence interpretation precedes construction, but stops at the written text.

*Close interpretation (interpretatio restricta)* is adopted if just reasons, connected with the formation and character of the text, induce us to take the words in their narrowest meaning. This species of interpretation has generally been called "literal," but the term is inadmissible. Lieb. Herm. 54.

*Extensive interpretation (interpretatio extensiva, called, also, "liberal interpretation")* adopts a more comprehensive signification of the word. Id. 58.

*Extravagant interpretation (interpretatio excedens)* is that which substitutes a meaning evidently beyond the true one. It is therefore not genuine interpretation. Id. 59.

*Free or unrestricted interpretation (interpretatio soluta)* proceeds simply on the general principles of interpretation in good faith, not bound by any specific or superior principle. Id. 59.

*Limited or restricted interpretation (interpretatio limitata)* is when we are influenced by other principles than the strictly hermeneutic ones. Id. 60.

*Predestined interpretation (interpretatio predestinata)* takes place if the interpreter, laboring under a strong bias of mind, makes the text subservient to his preconceived views or desires. This includes artful interpretation, (*interpretatio vafer,*) by which the interpreter seeks to give a meaning to the text other than the one he knows to have been intended. Id. 60.

It is said to be either "legal," which rests on the same authority as the law itself, or "doctrinal," which rests upon its intrinsic reasonableness. Legal interpretation may be either "authentic," when it is expressly provided by the legislator, or "usual," when it is derived from unwritten practice. Doctrinal interpretation may turn on the meaning of words and sentences, when it is called "grammatical," or on the intention of the legislator, when it is described as "logical." When logical interpretation stretches the words of a statute to cover its obvious mean-

ing, it is called "extensive;" when, on the other hand, it avoids giving full meaning to the words, in order not to go beyond the intention of the legislator, it is called "restrictive." Holl. Jur. 344.

**INTERPRETATION CLAUSE.** A section of a statute which defines the meaning of certain words occurring frequently in the other sections.

**INTERPRETER.** A person sworn at a trial to interpret the evidence of a foreigner or a deaf and dumb person to the court.

**INTERREGNUM.** An interval between reigns. The period which elapses between the death of a sovereign and the election of another. The vacancy which occurs when there is no government.

**INTERROGATOIRE.** In French law. An act which contains the interrogatories made by the judge to the person accused, on the facts which are the object of the accusation, and the answers of the accused. Poth. Proc. Crim. c. 4, art. 2, § 1.

**INTERROGATORIES.** A set or series of written questions drawn up for the purpose of being propounded to a party in equity, a garnishee, or a witness whose testimony is taken on deposition; a series of formal written questions used in the judicial examination of a party or a witness. In taking evidence on depositions, the interrogatories are usually prepared and settled by counsel, and reduced to writing in advance of the examination.

Interrogatories are either *direct* or *cross*, the former being those which are put on behalf of the party calling a witness; the latter are those which are interposed by the adverse party.

**INTERRUPTIO.** Lat. Interruption. A term used both in the civil and common law of prescription. Calvin.

*Interruptio multiplex non tollit præscriptionem semel obtentam.* 2 Inst. 654. Frequent interruption does not take away a prescription once secured.

**INTERRUPTION.** The occurrence of some act or fact, during the period of prescription, which is sufficient to arrest the running of the statute of limitations. It is said to be either "natural" or "civil," the former being caused by the act of the party; the latter by the legal effect or operation of some fact or circumstance.

Interruption of the possession is where the right is not enjoyed or exercised continuously; interruption of the right is where the person having or claiming the right ceases the exercise of it in such a manner as to show that he does not claim to be entitled to exercise it.

In Scotch law. The true proprietor's claiming his right during the course of prescription. Bell.

**INTERSECTION.** The point of intersection of two roads is the point where their middle lines intersect. 73 Pa. St. 127.

**INTERSTATE COMMERCE.** Traffic, intercourse, commercial trading, or the transportation of persons or property between or among the several states of the Union, or from or between points in one state and points in another state; commerce between two states, or between places lying in different states.

**INTERSTATE COMMERCE ACT.** The act of congress of February 4, 1887, designed to regulate commerce between the states, and particularly the transportation of persons and property, by carriers, between interstate points, prescribing that charges for such transportation shall be reasonable and just, prohibiting unjust discrimination, rebates, draw-backs, preferences, pooling of freights, etc., requiring schedules of rates to be published, establishing a commission to carry out the measures enacted, and prescribing the powers and duties of such commission and the procedure before it.

**INTERSTATE COMMERCE COMMISSION.** A commission created by the interstate commerce act (*q. v.*) to carry out the measures therein enacted, composed of five persons, appointed by the President; empowered to inquire into the business of the carriers affected, to enforce the law, to receive, investigate, and determine complaints made to them of any violation of the act, make annual reports, hold stated sessions, etc.

**INTERVENER.** An intervener is a person who voluntarily interposes in an action or other proceeding with the leave of the court.

**INTERVENING DAMAGES.** Such damages to an appellee as result from the delay caused by the appeal. 1 Tyler, 267.

**INTERVENTION.** In international law. Intervention is such an interference between two or more states as may (according to the event) result in a resort to force; while mediation always is, and is intended to

be and to continue, peaceful only. Intervention between a sovereign and his own subjects is not justified by anything in international law; but a remonstrance may be addressed to the sovereign in a proper case. Brown.

In English ecclesiastical law. The proceeding of a third person, who, not being originally a party to the suit or proceeding, but claiming an interest in the subject-matter in dispute, in order the better to protect such interest, interposes his claim. 2 Chit. Pr. 492; 3 Chit. Commer. Law, 633; 2 Hagg. Const. 137; 3 Phillim. Ecc. Law, 586.

In the civil law. The act by which a third party demands to be received as a party in a suit pending between other persons.

The intervention is made either for the purpose of being joined to the plaintiff, and to claim the same thing he does, or some other thing connected with it; or to join the defendant, and with him to oppose the claim of the plaintiff, which it is his interest to defeat. Poth. Proc. Civile, pt. 1, c. 2, § 7, no. 3.

**INTESTABILIS.** A witness incompetent to testify. Calvin.

**INTESTABLE.** One who has not testamentary capacity; *e. g.*, an infant, lunatic, or person civilly dead.

**INTESTACY.** The state or condition of dying without having made a valid will.

**INTESTATE.** Without making a will. A person is said to die intestate when he dies without making a will, or dies without leaving anything to testify what his wishes were with respect to the disposal of his property after his death. The word is also often used to signify the person himself. Thus, in speaking of the property of a person who died intestate, it is common to say "the intestate's property;" *i. e.*, the property of the person dying in an intestate condition. Brown.

Besides the strict meaning of the word as above given, there is also a sense in which intestacy may be partial; that is, where a man leaves a will which does not dispose of his whole estate, he is said to "die intestate" as to the property so omitted.

**INTESTATE SUCCESSION.** A succession is called "intestate" when the deceased has left no will, or when his will has been revoked or annulled as irregular. Therefore the heirs to whom a succession has fallen by the effects of law only are called "heirs *ab intestato*." Civil Code La. art. 1096.

**INTESTATO.** In the civil law. Intestate; without a will. Calvin.

**INTESTATUS.** In the civil and old English law. An intestate; one who dies without a will. Dig. 50, 17, 7.

**Intestatus decedit, qui aut omnino testamentum non fecit; aut non jure fecit; aut id quod fecerat ruptum irritumve factum est; aut nemo ex eo hæres exstitit.** A person dies intestate who either has made no testament at all or has made one not legally valid; or if the testament he has made be revoked, or made useless; or if no one becomes heir under it. Inst. 3, 1, pr.

**INTIMATION.** In the civil law. A notification to a party that some step in a legal proceeding is asked or will be taken. Particularly, a notice given by the party taking an appeal, to the other party, that the court above will hear the appeal.

In Scotch law. A formal written notice, drawn by a notary, to be served on a party against whom a stranger has acquired a right or claim; *e. g.*, the assignee of a debt must serve such a notice on the debtor, otherwise a payment to the original creditor will be good.

**INTIMIDATION.** In English law. Every person commits a misdemeanor, punishable with a fine or imprisonment, who wrongfully uses violence to or *intimidates* any other person, or his wife or children, with a view to compel him to abstain from doing, or to do, any act which he has a legal right to do, or abstain from doing. (St. 38 & 39 Vict. c. 86, § 7.) This enactment is chiefly directed against outrages by trades-unions. Sweet. There are similar statutes in many of the United States.

**INTIMIDATION OF VOTERS.** This, by statute in several of the states, is made a criminal offense. Under an early Pennsylvania act, it was held that, to constitute the offense of intimidation of voters, there must be a preconceived intention for the purpose of intimidating the officers or interrupting the election. 3 Yeates, 429.

**INTITLE.** An old form of "entitle." 6 Mod. 304.

**INTOL AND UTTOL.** In old records. Toll or custom paid for things imported and exported, or bought in and sold out. Cowell.

**INTOXICATE.** Generally relates to the use of strong drink. "Intoxicated," used without words of qualification, signifies a

condition produced by drinking intoxicating spirituous liquor, and is equivalent to "drunk." No additional word is needed to convey this idea. It is sometimes said that a person is intoxicated with opium, or with ether, or with laughing-gas; but this is an unusual or forced use of the word. A complaint, under a statute authorizing proceedings against persons found intoxicated, which avers that defendant was found intoxicated, is in this respect sufficient, and need not allege upon what he became so. 47 Vt. 294.

**INTOXICATING LIQUORS.** Those the use of which is ordinarily or commonly attended with entire or partial intoxication. 6 Park. Crim. R. 355.

The terms "intoxicating liquor" and "spirituous liquor" are not synonymous. All spirituous liquor is intoxicating, but all intoxicating liquor is not spirituous. Fermented liquor, though intoxicating, is not spirituous, because not distilled. 2 Gray, 501; 4 Gray, 18.

**INTRA.** Lat. In; near; within. "*Infra*" or "*inter*" has taken the place of "*intra*" in many of the more modern Latin phrases.

**INTRA ANNI SPATIUM.** Within the space of a year. Cod. 5, 9, 2. *Intra annale tempus.* Id. 6, 30, 19.

**INTRA FIDEM.** Within belief; credible. Calvin.

**INTRA LUCTUS TEMPUS.** Within the time of mourning. Cod. 9, 1, auth.

**INTRA MCENIA.** Within the walls (of a house.) A term applied to domestic or *menial* servants. 1 Bl. Comm. 425.

**INTRA PARIETES.** Between walls; among friends; out of court; without litigation. Calvin.

**INTRA PRÆSIDIA.** Within the defenses. See *INFRA PRÆSIDIA.*

**INTRA QUATUOR MARIA.** Within the four seas. Shep. Touch. 378.

**INTRA VIRES.** An act to said to be *intra vires* ("within the power") of a person or corporation when it is within the scope of his or its powers or authority. It is the opposite of *ultra vires*, (*q. v.*)

**INTRARE MARISCUM.** To drain a marsh or low ground, and convert it into herbage or pasture.

**INTRINSECUM SERVITIUM.** Common and ordinary duties with the lord's court.

**INTRINSIC VALUE.** The intrinsic value of a thing is its true, inherent, and essential value, not depending upon accident, place, or person, but the same everywhere and to every one. 5 Ired. 698.

**INTRODUCTION.** The part of a writing which sets forth preliminary matter, or facts tending to explain the subject.

**INTROMISSION.** In Scotch law. The assumption of authority over another's property, either legally or illegally. The irregular intermeddling with the effects of a deceased person, which subjects the party to the whole debts of the deceased, is called "*vitious intromission*." Kames, Eq. b. 3, c. 8, § 2.

**INTROMISSIONS.** Dealings in stock, goods, or cash of a principal coming into the hands of his agent, to be accounted for by the agent to his principal. 29 Eng. Law & Eq. 391.

**INTRONISATION.** In French ecclesiastical law. Enthronement. The installation of a bishop in his episcopal see.

**INTRUDER.** A stranger who, on the death of the ancestor, enters on the land, unlawfully, before the heir can enter.

**INTRUSION.** A species of injury by ouster or amotion of possession from the freehold, being an entry of a stranger, after a particular estate of freehold is determined, before him in remainder or reversion.

The name of a writ brought by the owner of a fee-simple, etc., against an intruder. New Nat. Brev. 453. Abolished by 3 & 4 Wm. IV. c. 57.

**INTUITUS.** A view; regard; contemplation. *Diverso intuitu*, (*q. v.*) with a different view.

**INUNDATION.** The overflow of waters by coming out of their bed.

**INURE.** To take effect; to result.

**INUREMENT.** Use; user; service to the use or benefit of a person. 100 U. S. 583.

*Inutilis labor et sine fructu non est effectus legis.* Useless and fruitless labor is not the effect of law. Co. Litt. 127b. The law forbids such recoveries whose ends are vain, chargeable, and unprofitable. Id; Wing. Max. p. 110, max. 38.

**INVADIARE.** To pledge or mortgage lands.

**INVADIATIO.** A pledge or mortgage.

**INVADIATUS.** One who is under pledge; one who has had sureties or pledges given for him. Spelman.

**INVALID.** Vain; inadequate to its purpose; not of binding force or legal efficacy; lacking in authority or obligation.

**INVASION.** An encroachment upon the rights of another; the incursion of an army for conquest or plunder. Webster.

**INVASIONES.** The inquisition of serjeanties and knights' fees. Cowell.

**INVECTA ET ILLATA.** Lat. In the civil law. Things carried in and brought in. Articles brought into a hired tenement by the hirer or tenant, and which became or were pledged to the lessor as security for the rent. Dig. 2, 14, 4, pr. The phrase is adopted in Scotch law. See Bell.

*Inveniens libellum famosum et non corrumpens punitur.* He who finds a libel and does not destroy it is punished. Moore, 813.

**INVENT.** To find out something new; to devise, contrive, and produce something not previously known or existing, by the exercise of independent investigation and experiment; particularly applied to machines, mechanical appliances, compositions, and patentable inventions of every sort.

**INVENTIO.** In the civil law. Finding; one of the modes of acquiring title to property by occupancy. Heinecc. lib. 2, tit. 1, § 350.

In old English law. A thing found; as goods, or treasure-trove. Cowell. The plural, "*inventiones*," is also used.

**INVENTION.** In patent law. The act or operation of finding out something new; the process of contriving and producing something not previously known or existing, by the exercise of independent investigation and experiment. Also the article or contrivance or composition so invented.

An "invention" differs from a "discovery." The former term is properly applicable to the contrivance and production of something that did not before exist; while discovery denotes the bringing into knowledge and use of something which, although it existed, was before unknown. Thus, we speak of the "discovery" of the properties of light, electricity, etc., while the telescope and the electric motor are the results of the process of "invention."

**INVENTOR.** One who finds out or contrives some new thing; one who devises some new art, manufacture, mechanical appliance,



or process; one who invents a patentable contrivance.

**INVENTORY.** A detailed list of articles of property; a list or schedule of property, containing a designation or description of each specific article; an itemized list of the various articles constituting a collection, estate, stock in trade, etc., with their estimated or actual values. In law, the term is particularly applied to such a list made by an executor, administrator, or assignee in bankruptcy.

**INVENTUS.** Lat. Found. *Thesaurus inventus*, treasure-trove. *Non est inventus*, [he] is not found.

**INVERITARE.** To make proof of a thing. Jacob.

**INVEST.** To loan money upon securities of a more or less permanent nature, or to place it in business ventures or real estate, or otherwise lay it out, so that it may produce a revenue or income.

To clothe one with the possession of a fief or benefice. See **INVESTITURE**.

**INVESTITIVE FACT.** The fact by means of which a right comes into existence; e. g., a grant of a monopoly, the death of one's ancestor. Holl. Jur. 132.

**INVESTITURE.** A ceremony which accompanied the grant of lands in the feudal ages, and consisted in the open and notorious delivery of possession in the presence of the other vassals, which perpetuated among them the *æra* of their new acquisition at the time when the art of writing was very little known; and thus the evidence of the property was reposed in the memory of the neighborhood, who, in case of disputed title, were afterwards called upon to decide upon it. Brown.

In ecclesiastical law. Investiture is one of the formalities by which the election of a bishop is confirmed by the archbishop. See Phillim. Ecc. Law, 42, et seq.

**INVESTMENT.** Money invested.

**INVIOABILITY.** The attribute of being secured against violation. The persons of ambassadors are inviolable.

**INVITO.** Lat. Being unwilling. Against or without the assent or consent.

**Invito beneficium non datur.** A benefit is not conferred on one who is unwilling to receive it; that is to say, no one can be compelled to accept a benefit. Dig. 50, 17, 69; Broom, Max. 699, note.

**INVITO DEBITORE.** Against the will of the debtor.

**INVITO DOMINO.** The owner being unwilling; against the will of the owner; without the owner's consent. In order to constitute larceny, the property must be taken *invito domino*.

**INVOICE.** In commercial law. An account of goods or merchandise sent by merchants to their correspondents at home or abroad, in which the marks of each package, with other particulars, are set forth. Marsh. Ins. 408; Dane, Abr. Index.

A list or account of goods or merchandise sent or shipped by a merchant to his correspondent, factor, or consignee, containing the particular marks of each description of goods, the value, charges, and other particulars. Jac. Sea Laws, 302.

A writing made on behalf of an importer, specifying the merchandise imported, and its true cost or value. And. Rev. Law, § 294.

**INVOICE BOOK.** A book in which invoices are copied.

**INVOICE PRICE** of goods means the prime cost. 7 Johns. 343.

**INVOLUNTARY.** An involuntary act is that which is performed with constraint (*q. v.*) or with repugnance, or without the will to do it. An action is involuntary, then, which is performed under duress. Wolff. Inst. Nat. § 5.

**INVOLUNTARY MANSLAUGHTER.** The unintentional killing of a person by one engaged in an unlawful, but not felonious, act. 4 Steph. Comm. 52.

**IOTA.** The minutest quantity possible. Iota is the smallest Greek letter. The word "jot" is derived therefrom.

**Ipsæ leges cupiunt ut jure regantur.** Co. Litt. 174. The laws themselves require that they should be governed by right.

**IPSE.** Lat. He himself; the same; the very person.

**IPSE DIXIT.** He himself said it; a bare assertion resting on the authority of an individual.

**IPSISSIMIS VERBIS.** In the identical words; opposed to "substantially." 7 How. 719; 5 Ohio St. 346.

**IPSO FACTO.** By the fact itself; by the mere fact. By the mere effect of an act or a fact.

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In English ecclesiastical law. A censure of excommunication in the ecclesiastical court, immediately incurred for divers offenses, after lawful trial.

**IPSO JURE.** By the law itself; by the mere operation of law. Calvin.

**Ira furor brevis est.** Anger is a short insanity. 4 Wend. 336, 355.

**IRA MOTUS.** Moved or excited by anger or passion. A term sometimes formerly used in the plea of *son assault demesne*. 1 Tidd, Pr. 645.

**IRE AD LARGUM.** To go at large; to escape; to be set at liberty.

**IRENARCHA.** In Roman law. An officer whose duties are described in Dig. 5, 4, 18, 7. See Id. 48, 3, 6; Cod. 10, 75. Literally, a peace-officer or magistrate.

**IRREGULAR.** Not according to rule; improper or insufficient, by reason of departure from the prescribed course.

**IRREGULAR DEPOSIT.** A species of deposit which arises when a party, having a sum of money which he does not think safe in his own hands, confides it to another, (*e. g.*, a bank,) who is to return to him not the same money, but a like sum, when he shall demand it. An irregular deposit differs from a *mutuum* simply in this respect: that the latter has principally in view the benefit of the borrower, and the former the benefit of the bailor. Story, Bailm. § 84; Poth. du Depot. 82, 83.

**IRREGULAR PROCESS.** Sometimes the term "irregular process" has been defined to mean process absolutely void, and not merely erroneous and voidable; but usually it has been applied to all process not issued in strict conformity with the law, whether the defect appears upon the face of the process, or by reference to extrinsic facts, and whether such defects render the process absolutely void or only voidable. 2 Ind. 252.

**IRREGULARITY.** Violation or non-observance of established rules and practices. The want of adherence to some prescribed rule or mode of proceeding; consisting either in omitting to do something that is necessary for the due and orderly conducting of a suit, or doing it in an unseasonable time or improper manner. 1 Tidd, Pr. 512. "Irregularity" is the technical term for every defect in practical proceedings, or the mode of conducting an action or defense, as dis-

tinguishable from defects in pleadings. 3 Cbit. Gen. Pr. 509.

The doing or not doing that, in the conduct of a suit at law, which, conformably with the practice of the court, ought or ought not to be done. 2 Ind. 252.

In canon law. Any impediment which prevents a man from taking holy orders.

**IRRELEVANCY.** The absence of the quality of relevancy in evidence or pleadings.

Irrelevancy, in an answer, consists in statements which are not material to the decision of the case; such as do not form or tender any material issue. 18 N. Y. 315, 321.

**IRRELEVANT.** In the law of evidence. Not relevant; not relating or applicable to the matter in issue; not supporting the issue.

**IRREMOVABILITY.** The *status* of a pauper in England, who cannot be legally removed from the parish or union in which he is receiving relief, notwithstanding that he has not acquired a settlement there. 3 Steph. Comm. 60.

**IRREPARABLE INJURY.** This phrase does not mean such an injury as is beyond the possibility of repair, or beyond possible compensation in damages, or necessarily great damage, but includes an injury, whether great or small, which ought not to be submitted to, on the one hand, or inflicted, on the other; and which, because it is so large or so small, or is of such constant and frequent occurrence, cannot receive reasonable redress in a court of law. 76 Ill. 322.

Wrongs of a repeated and continuing character, or which occasion damages that are estimated only by conjecture, and not by any accurate standard, are included. 3 Pittsb. R. 204.

**IRREPLEVIABLE.** That cannot be replevied or delivered on sureties. Spelled, also, "irreplevisable." Co. Litt. 145.

**IRRESISTIBLE FORCE.** A term applied to such an interposition of human agency as is, from its nature and power, absolutely uncontrollable; as the inroads of a hostile army. Story, Bailm. § 25.

**IRREVOCABLE.** Which cannot be revoked or recalled.

**IRRIGATION.** The operation of watering lands for agricultural purposes by artificial means.

**IRRITANCY.** In Scotch law. The happening of a condition or event by which

a charter, contract, or other deed, to which a clause irritant is annexed, becomes void.

**IRRITANT.** In Scotch law. Avoiding or making void; as an irritant clause. See IRRITANCY.

**IRRITANT CLAUSE.** In Scotch law. A provision by which certain prohibited acts specified in a deed are, if committed, declared to be null and void. A *resolutive* clause dissolves and puts an end to the right of a proprietor on his committing the acts so declared void.

**IRROGARE.** In the civil law. To impose or set upon, as a fine. Calvin. To inflict, as a punishment. To make or ordain, as a law.

**IRROTULATIO.** An enrolling; a record.

**IS QUI COGNOSCIT.** Lat. The cognizor in a fine. *Is cui cognoscitur*, the cognizee.

**ISH.** In Scotch law. The period of the termination of a tack or lease. 1 Bligh, 522.

**ISLAND.** A piece of land surrounded by water.

**ISSINT.** A law French term, meaning "thus," "so," giving its name to part of a plea in debt.

**ISSUABLE.** In practice. Leading to or producing an issue; relating to an issue or issues.

**ISSUABLE PLEA.** A plea to the merits; a traversable plea. A plea such that the adverse party can join issue upon it and go to trial.

It is true a plea in abatement is a plea, and, if it be properly pleaded, issues may be found on it. In the ordinary meaning of the word "plea," and of the word "issuable," such pleas may be called "issuable pleas," but, when these two words are used together, "issuable plea," or "issuable defense," they have a technical meaning, to-wit, pleas to the merits. 44 Ga. 434.

**ISSUABLE TERMS.** In the former practice of the English courts, Hilary term and Trinity term were called "issuable terms," because the issues to be tried at the assizes were made up at those terms. 3 Bl. Comm. 353. But the distinction is superseded by the provisions of the judicature acts of 1873 and 1875.

**ISSUE, v.** To send forth; to emit; to promulgate; as, an officer *issues* orders, pro-

cess *issues* from a court. To put into circulation; as, the treasury *issues* notes.

**ISSUE, n.** The act of issuing, sending forth, emitting, or promulgating; the giving a thing its first inception; as the issue of an order or a writ.

In pleading. The disputed point or question to which the parties in an action have narrowed their several allegations, and upon which they are desirous of obtaining the decision of the proper tribunal. When the plaintiff and defendant have arrived at some specific point or matter affirmed on the one side, and denied on the other, they are said to be at issue. The question so set apart is called the "issue," and is designated, according to its nature, as an "issue in fact" or an "issue in law." Brown.

Issues arise upon the pleadings, when a fact or conclusion of law is maintained by the one party and controverted by the other. They are of two kinds: (1) Of law; and (2) of fact. Code N. Y. § 248; Rev. Code Iowa 1880, § 2737; Code Civil Proc. Cal. § 588.

Issues are classified and distinguished as follows:

*General and special.* The former is raised by a plea which briefly and directly traverses the whole declaration, such as "not guilty" or "*non assumpsit*." The latter is formed when the defendant chooses one single material point, which he traverses, and rests his whole case upon its determination.

*Material and immaterial.* They are so described according as they do or do not bring up some material point or question which, when determined by the verdict, will dispose of the whole merits of the case, and leave no uncertainty as to the judgment.

*Formal and informal.* The former species of issue is one framed in strict accordance with the technical rules of pleading. The latter arises when the material allegations of the declaration are traversed, but in an artificial or untechnical mode.

*Real or feigned.* A real issue is one formed in a regular manner in a regular suit for the purpose of determining an actual controversy. A feigned issue is one made up by direction of the court, upon a supposed case, for the purpose of obtaining the verdict of a jury upon some question of fact collaterally involved in the cause.

*Common issue* is the name given to the issue raised by the plea of *non est factum* to an action for breach of covenant.

In real law. Descendants. All persons who have descended from a common ancestor

3 Ves. 257; 17 Ves. 481; 19 Ves. 547; 1 Rep. Leg. 90.

In this sense, the word includes not only a child or children, but all other descendants in whatever degree; and it is so construed generally in deeds. But, when used in wills, it is, of course, subject to the rule of construction that the intention of the testator, as ascertained from the will, is to have effect, rather than the technical meaning of the language used by him; and hence issue may, in such a connection, be restricted to children, or to descendants living at the death of the testator, where such an intention clearly appears. Abbott.

In business law. A class or series of bonds, debentures, etc., comprising all that are emitted at one and the same time.

**ISSUE IN FACT.** In pleading. An issue taken upon or consisting of matter of *fact*, the fact only, and not the law being disputed, and which is to be tried by a jury. 3 Bl. Comm. 314, 315; Co. Litt. 126*a*; 3 Steph. Comm. 572. See Code Civil Proc. Cal. § 590.

**ISSUE IN LAW.** In pleading. An issue upon matter of law, or consisting of matter of law, being produced by a demurrer on the one side, and a joinder in demurrer on the other. 3 Bl. Comm. 314; 3 Steph. Comm. 572, 580. See Code Civil Proc. Cal. § 589.

**ISSUE ROLL.** In English practice. A roll upon which the issue in actions at law was formerly required to be entered, the roll being entitled of the term in which the issue was joined. 2 Tidd, Pr. 733. It was not, however, the practice to enter the issue at full length, if triable by the country, until after the trial, but only to make an *incipitur* on the roll. Id. 734.

**ISSUES.** In English law. The goods and profits of the lands of a defendant against whom a writ of *distringas* or *distress infinite* has been issued, taken by virtue of such writ, are called "issues." 3 Bl. Comm. 280; 1 Chit. Crim. Law, 351.

**ITA EST.** Lat. So it is; so it stands. In modern civil law, this phrase is a form of attestation added to exemplifications from a notary's register when the same are made by the successor in office of the notary who made the original entries.

**ITA LEX SCRIPTA EST.** Lat. So the law is written. Dig. 40, 9, 12. The law must be obeyed notwithstanding the apparent rigor of its application. 3 Bl. Comm. 430. We must be content with the law as it stands, without inquiring into its reasons. 1 Bl. Comm. 32.

**ITA QUOD.** In old practice. So that. Formal words in writs. *Ita quod habeas corpus*, so that you have the body. 2 Mod. 180.

The name of the stipulation in a submission to arbitration which begins with the words "so as [*ita quod*] the award be made of and upon the premises."

In old conveyancing. So that. An expression which, when used in a deed, formerly made an estate upon condition. Litt. § 329. Sheppard enumerates it among the three words that are most proper to make an estate conditional. Shep. Touch. 121, 122.

*Ita semper fiat ratio ut valeat dispositio.* 6 Coke, 76. Let the interpretation be always such that the disposition may prevail.

**ITA TE DEUS ADJUVET.** Lat. So help you God. The old form of administering an oath in England, generally in connection with other words, thus: *Ita te Deus adjuvet, et sacrosancta Dei Evangelia*, So help you God, and God's holy Evangelists. *Ita te Deus adjuvet et omnes sancti*, So help you God and all the saints. Willes, 338.

*Ita utere tuo ut alienum non lædas.* Use your own property and your own rights in such a way that you will not hurt your neighbor, or prevent him from enjoying his. Frequently written, "*Sic utere tuo*," etc., (*q. v.*)

**ITEM.** Also; likewise; again. This word was formerly used to mark the beginning of a new paragraph or division after the first, whence is derived the common application of it to denote a separate or distinct particular of an account or bill.

The word is sometimes used as a verb. "The whole [costs] in this case that was thus *itemed* to counsel." Bunb. p. 164, case 233.

**ITER.** In the civil law. A way; a right of way belonging as a servitude to an estate in the country, (*prædium rusticum*.) The right of way was of three kinds: (1) *iter*, a right to walk, or ride on horseback, or in a litter; (2) *actus*, a right to drive a beast or vehicle; (3) *via*, a full right of way, comprising right to walk or ride, or drive beast or carriage. Heinec. § 408. Or, as some think, they were distinguished by the width of the objects which could be rightfully carried over the way; *e. g.*, *via*, 8 feet; *actus*, 4 feet, etc. Mackeld. Rom. Law, § 290; Bract. fol. 232; 4 Bell, H. L. Sc. 390.

In old English law. A journey, especially a circuit made by a justice in eyre, or itinerant justice, to try causes according to his own mission. Du Cange; Bract. lib. 3, cc. 11, 12, 13.

In maritime law. A way or route. The route or direction of a voyage; the route or way that is taken to make the voyage assured. Distinguished from the voyage itself.

*Iter est jus eundi, ambulandi hominis; non etiam jumentum agendi vel vehiculum.* A way is the right of going or walking, and does not include the right of driving a beast of burden or a carriage. Co. Litt.

56a; Inst. 2, 3, pr.; Mackeld. Rom. Law, § 318.

**ITERATIO.** Repetition. In the Roman law, a bonitary owner might liberate a slave, and the quiritary owner's repetition (*iteratio*) of the process effected a complete manumission. Brown.

**ITINERA.** Eyres, or circuits. 1 Reeve, Eng. Law, 52.

**ITINERANT.** Wandering; traveling; applied to justices who make circuits.

**IULE.** In old English law. Christmas.

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