

S. As an abbreviation, this letter stands for "section," "statute," and various other words of which it is the initial.

S. B. An abbreviation for "senate bill."

S. B. A. Small Business Administration.

S. C. An abbreviation for "same case." Inserted between two citations, it indicates that the same case is reported in both places. It is also an abbreviation for "supreme court," and for "select cases;" also for "South Carolina."

S. D. An abbreviation for "southern district."

S/D B/L. The abbreviation "S/D B/L" in a contract of sale means sight draft—bill of lading attached. *Attalla Oil & Fertilizer Co. v. Goddard*, 207 Ala. 287, 92 So. 794, 796.

S. E. C. Securities and Exchange Commission.

S. F. S. An abbreviation in the civil law for "*sine fraude sua*," (without fraud on his part.) Calvin.

S. L. An abbreviation for "session [or statute] laws."

S. P. An abbreviation of "*sine prole*," without issue. Also an abbreviation of "same principle," or "same point," indicating, when inserted between two citations, that the second involves the same doctrine as the first.

S. S. A collar formerly worn on state occasions by the Lord Chief Justice of England, and of the Common Pleas and the Lord Chief Baron—now only by the first named of these (*q. v.*).

S. S. A. Social Security Administration.

S. S. S. Selective Service System.

S. V. An abbreviation for "*sub voce*," under the word; used in references to dictionaries, and other works arranged alphabetically.

These letters also stand for "*sub verbo*," which has the same meaning as *sub voce*.

SABBATH. One of the names of the first day of the week; more properly called "Sunday," (*q. v.*). *Gunn v. State*, 89 Ga. 341, 15 S.E. 458; *State v. Reade*, 98 N.J.L. 596, 121 A. 288.

SABBATH-BREAKING. The offense of violating the laws prescribed for the observance of Sunday. *State v. Baltimore & O. R. Co.*, 15 W.Va. 381, 36 Am.Rep. 803; *State v. Popp*, 45 Md. 433.

SABBATUM. L. Lat. The Sabbath; also peace. Domesday.

SABBULONARIUM. A gravel pit, or liberty to dig gravel and sand; money paid for the same. Cowell.

SABINIANS. A school or sect of Roman jurists, under the early empire, founded by Ateius Capito, who was succeeded by M. Sabinus, from whom the name.

SABLE. The heraldic term for black. It is called "Saturn," by those who blazon by planets, and "diamond," by those who use the names of jewels.

Engravers commonly represent it by numerous perpendicular and horizontal lines, crossing each other. Wharton.

SABOTAGE. A method used by labor revolutionists to force employers to accede to demands made on them. It consists in a willful obstruction and interference with the normal processes of industry. It aims at inconveniencing and tying up all production, but stops short of actual destruction or of endangering human life directly. The original act of sabotage is said to have been the slipping of a wooden shoe, or sabot, of a workman into a loom, in the early days of the introduction of machinery, to impede production. *State v. Moilen*, 140 Minn. 112, 167 N.W. 345, 347, 1 A.L.R. 331; *State v. Tonn*, 195 Iowa, 94, 191 N.W. 530, 538.

SABURRA. L. Lat. In old maritime law. Ballast.

SAC. In old English law. A liberty of holding pleas; the jurisdiction of a manor court; the privilege claimed by a lord of trying actions of trespass between his tenants, in his manor court, and imposing fines and amerciaments in the same.

SACABURTH, SACABERE, SAKABERE. In old English law. He that is robbed, or by theft deprived of his money or goods, and puts in surety to prosecute the felon with fresh suit. *Bract. fol. 154b.*

SACCABOR. In old English law. The person from whom a thing had been stolen, and by whom the thief was freshly pursued. *Bract. fol. 154b.* See *Sacaburth*.

SACCULARIL. Lat. In Roman law. Cut-purses. 4 *Steph.Comm.* 125.

SACCUS. L. Lat. In old English law. A sack. A quantity of wool weighing thirty or twenty-eight stone. *Fleta*, l. 2, c. 79, § 10.

SACCUS CUM BROCHIA. L. Lat. In old English law. A service or tenure of finding a sack and a broach (pitcher) to the sovereign for the use of the army. *Bract. l. 2, c. 16.*

SACQUIER. In maritime law. The name of an ancient officer, whose business was to load and unload vessels laden with salt, corn, or fish, to prevent the ship's crew defrauding the merchant by false tale, or cheating him of his merchandise otherwise. *Laws Oleron*, art. 11; 1 *Pet.Adm. Append.* 25.

SACRA. Lat. In Roman law. The right to participate in the sacred rites of the city. *Butl.Hor. Jur.* 27.

SACRAMENTALES. L. Lat. In feudal law. Compurgators; persons who came to purge a defendant by their oath that they believed him innocent.

SACRAMENTI ACTIO. Lat. In the older practice of the Roman law, this was one of the forms of *legis actio*, consisting in the deposit of a stake or juridical wager. See *Sacramentum*.

SACRAMENTUM. Lat.

Roman Law

An oath, as being a very sacred thing; more particularly, the oath taken by soldiers to be true to their general and their country. Ainsw. Lex.

In one of the formal methods of beginning an action at law (*legis actiones*) known to the early Roman jurisprudence, the *sacramentum* was a sum of money deposited in court by each of the litigating parties, as a kind of wager or forfeit, to abide the result of the suit. The successful party received back his stake; the losing party forfeited his, and it was paid into the public treasury, to be expended for sacred objects, (*in sacris rebus*,) whence the name. See Mackeld. Rom. Law, § 203.

Common Law

An oath. Cowell.

SACRAMENTUM DECISIONIS. The voluntary or decisive oath of the civil law, where one of the parties to a suit, not being able to prove his case, offers to refer the decision of the cause to the oath of his adversary, who is bound to accept or make the same offer on his part, or the whole is considered as confessed by him. 3 Bl.Comm. 342.

SACRAMENTUM FIDELITATIS. In old English law. The oath of fealty. Reg. Orig. 303.

SACRAMENTUM HABET IN SE TRES COMITES,—VERITATEM, JUSTITIAM, ET JUDICIUM; VERITAS HABENDA EST IN JURATO; JUSTITIA ET JUSTICIUM IN JUDICE. An oath has in it three component parts,—truth, justice, and judgment; truth in the party swearing; justice and judgment in the judge administering the oath. 3 Inst. 160.

SACRAMENTUM SI FATUUM FUERIT, LICET FALSUM, TAMEN NON COMMITTIT PERJURIUM. 2 Inst. 167. A foolish oath, though false, makes not perjury.

SACRILEGE. In English criminal law. Larceny from a church. 4 Steph.Comm. 164. The crime of breaking a church or chapel, and stealing therein. 1 Russ. Crimes, 843.

In old English law. The desecration of anything considered holy; the alienation to laymen or to profane or common purposes of what was given to religious persons and to pious uses. Cowell.

SACRILEGIUM. Lat. In the civil law. The stealing of sacred things, or things dedicated to sacred uses; the taking of things out of a holy place. Calvin.

SACRILEGUS. Lat. In the civil and common law. A sacrilegious person; one guilty of sacrilege.

SACRILEGUS OMNIUM PRÆDONUM CUPIDITATEM ET SCELERA SUPERAT. 4 Coke, 106. A sacrilegious person transcends the cupidity and wickedness of all other robbers.

SACRISTAN. A sexton, anciently called "*sager-son*," or "*sagiston*;" the keeper of things belonging to divine worship.

SADBERGE. A denomination of part of the county palatine of Durham. Wharton.

SADISM. That state of sexual perversion in man in which the sexual inclination manifests itself by the desire to beat, to maltreat, humiliate and even to kill the person for whom the passion is conceived. 3 Witth. & Beck, Med.Jur. 739.

The opposite of *masochism* (*q. v.*).

SÆMEND. In old English law. An umpire, or arbitrator.

SÆPE CONSTITUTUM EST, RES INTER ALIOS JUDICATAS ALIIS NON PRÆJUDICARE. It has often been settled that matters adjudged between others ought not to prejudice those who were not parties. Dig. 42, 1, 63.

SÆPE VIATOREM NOVA, NON VETUS, ORBITA FALLIT. 4 Inst. 34. A new road, not an old one, often deceives the traveler.

SÆPENUMERO UBI PROPRIETAS VERBORUM ATTENDITUR, SENSUS VERITATIS AMITTITUR. Oftentimes where the propriety of words is attended to, the true sense is lost. Branch, Princ.; 7 Coke, 27.

SÆVITIA. Lat. In the law of divorce. Cruelty; anything which tends to bodily harm, and in that manner renders cohabitation unsafe. 1 Hagg. Const. 458.

SAFE. A metal receptacle for the preservation of valuables.

SAFE-CONDUCT. A guaranty or security granted by the king under the great seal to a stranger, for his safe coming into and passing out of the kingdom. Cowell.

One of the papers usually carried by vessels in time of war, and necessary to the safety of neutral merchantmen. It is in the nature of a license to the vessel to proceed on a designated voyage, and commonly contains the name of the master, the name, description, and nationality of the ship, the voyage intended, and other matters.

A distinction is sometimes made between a *passport*, conferring a general permission to travel in the territory belonging to, or occupied by, the belligerent, and a *safe-conduct*, conferring permission upon an enemy subject or others to proceed to a particular place for a defined object. II Opp. § 218.

SAFE DEPOSIT COMPANY. A company which maintains vaults for the deposit and safe-keeping of valuables in which compartments or boxes are rented to customers who have exclusive access thereto, subject to the oversight and under the rules and regulations of the company.

SAFE LIMIT OF SPEED. As regards limitation on speed of automobiles at crossings, the limit at which one may discern the approaching train and stop before he is in the danger zone. *Horton v. New York Cent. R. Co.*, 200 N.Y.S. 365, 366, 205 App.Div. 763.

SAFE LOADING PLACE. A place where a vessel can be rendered safe for loading by reasonable measures of precaution. 14 Q.B.D. 105; 54 L.J. Q.B. 121.

SAFE PLACE TO WORK. In the law of master and servant, a place in which the master has eliminated all danger which the exercise of reasonable care by the master would remove or guard against. *Melody v. Des Moines Union Ry. Co.*, 161 Iowa, 695, 141 N.W. 438, 439; *Blick v. Olds Motor Works*, 175 Mich. 640, 141 N.W. 680, 683, 49 L.R.A., N.S., 883.

Master's duty to provide a "safe place" to work includes places to and from which the employee might be required or expected to go. *High Splint Coal Co. v. Ramey's Adm'x*, 271 Ky. 532, 112 S.W.2d 1007, 1008.

The rule of furnishing of a "safe place to work" is generally applicable in cases of master and servant or in cases where work is being done on property, vessel, or otherwise, of owner. *The Ellenor*, D.C.Fla., 39 F.Supp. 576, 580.

SAFE-PLEDGE. A surety given that a man shall appear upon a certain day. *Bract. l. 4, c. 1.*

SAFEGUARD. In old English law. A special privilege or license, in the form of a writ, under the great seal, granted to strangers seeking their right by course of law within the king's dominions, and apprehending violence or injury to their persons or property from others. *Reg. Orig. 26.*

A notification by a belligerent commander that buildings or other property upon which the notification is posted up are exempt from interference on the part of his troops. *Holland, Laws and Customs of War 44.*

The term is likewise used to describe a guard of soldiers who are detailed to accompany enemy subjects or to protect certain enemy property. *II Obj. § 219.*

SAFETY APPLIANCE ACT. The act of Congress of March 2, 1893 (45 U.S.C.A. §§ 1-7), provides that after January 1, 1898, it shall be unlawful for common carriers in interstate commerce by railroad to use locomotive engines not equipped with power driving-wheel brakes and appliances for operating the train brake system, or to run a train that has not a sufficient number of cars in it so equipped that the engineer on the locomotive can control its speed without requiring hand brakes; and to haul or use on its line any car in interstate traffic "not equipped with couplers coupling automatically by impact, and which can be uncoupled without the necessity of men going between the ends of the cars."

SAFETY ISLAND. A cement sidewalk raised above the street level for the use and protection of pedestrians. *Strappelli v. City of Chicago*, 371 Ill. 72, 20 N.E.2d 43, 44.

SAGAMAN. A tale-teller; a secret accuser.

SAGES DE LA LEY. L. Fr. Sages of the law; persons learned in the law. A term applied to the chancellor and justices of the king's bench.

SAGIBARO. In old European law. A judge or justice; literally, a man of causes, or having charge or supervision of causes. One who administered justice and decided causes in the *mallum*, or public assembly. *Spelman.*

SAID. Before mentioned. This word is constantly used in contracts, pleadings, and other legal papers, with the same force as "aforesaid." *Murry v. State*, 150 Ark. 461, 234 S.W. 485, 486; *Greeley Nat. Bank v. Wolf*, C.C.A.Colo., 4 F.2d 67, 69.

SAIGA. In old European law. A German coin of the value of a penny, or of three pence.

SAIL. In insurance law. To put to sea; to begin a voyage. To get ship under way in complete readiness for voyage, with purpose of proceeding without further delay. *Northland Nav. Co. v. American Merchant Marine Ins. Co. of New York*, 212 N.Y.S. 541, 544, 214 App.Div. 571. The least locomotion, with readiness of equipment and clearance, satisfies a warranty to *sail*. *Pittegrew v. Pringle*, 3 Barn. & Adol. 514.

Vessel "sails" when she has intended cargo on-board and is in complete readiness for voyage with stores and crew aboard. *Archibald McNeil & Sons Co., of New York, v. Western Maryland Ry. Co.*, D.C.Pa., 42 F.2d 669, 677.

SAILING. When a vessel quits her moorings, in complete readiness for sea, and it is the actual and real intention of the master to proceed on the voyage, and she is afterwards stopped by head winds and comes to anchor, still intending to proceed as soon as wind and weather will permit, this is a sailing on the voyage within the terms of a policy of insurance. *Bowen v. Hope Ins. Co.*, 20 Pick. (Mass.) 278, 32 Am.Dec. 213.

SAILING INSTRUCTIONS. Written or printed directions, delivered by the commanding officer of a convoy to the several masters of the ships under his care, by which they are enabled to understand and answer his signals, to know the place of rendezvous appointed for the fleet in case of dispersion by storm, by an enemy, or otherwise. Without sailing instructions no vessel can have the protection and benefit of convoy. *Marsh. Ins. 368.*

SAILORS. Seamen; mariners.

SAINT MARTIN LE GRAND, COURT OF. An ancient court in London, of local importance, formerly held in the church from which it took its name.

SAINT SIMONISM. An elaborate form of non-communistic socialism. It is a scheme which does not contemplate an equal, but an unequal, division of the produce. It does not propose that all should be occupied alike, but differently, according to their vocation or capacity; the function of each being assigned, like grades in a regiment, by the choice of the directing authority, and the remuneration being by salary, proportioned to the importance, in the eyes of that authority, of the

function itself, and the merits of the person who fulfills it. 1 Mill.Pol.Econ. 258.

SAIO. In Gothic law. The ministerial officer of a court or magistrate, who brought parties into court and executed the orders of his superior. Spelman.

SAISIE. Fr. In French law. A judicial seizure or sequestration of property, of which there are several varieties. See *infra*.

SAISIE-ARRÊT. An attachment of property in the possession of a third person.

SAISIE-EXÉCUTION. A writ resembling that of *feri facias*; defined as that species of execution by which a creditor places under the hand of justice (custody of the law) his debtor's movable property liable to seizure, in order to have it sold, so that he may obtain payment of his debt out of the proceeds. Dalloz, Dict.

SAISIE-FORAINÉ. A permission given by the proper judicial officer to authorize a creditor to seize the property of his debtor in the district which the former inhabits. Dalloz, Dict. It has the effect of an attachment of property, which is applied to the payment of the debt due.

SAISIE-GAGERIE. A conservatory act of execution, by which the owner or principal lessor of a house or farm causes the furniture of the house or farm leased, and on which he has a lien, to be seized; similar to the *distress* of the common law. Dalloz, Dict.

SAISIE-IMMOBILIÈRE. The proceeding by which a creditor places under the hand of justice (custody of the law) the immovable property of his debtor, in order that the same may be sold, and that he may obtain payment of his debt out of the proceeds. Dalloz, Dict.

SAKE. In old English law. A lord's right of americing his tenants in his court. Keilw. 145.

Acquittance of suit at county courts and hundred courts. Fleta, l. 1, c. 47, § 7.

SALABLE. "Merchantable," fit for sale in usual course of trade, at usual selling prices. Foote v. Wilson, 104 Kan. 191, 178 P. 430; Stevens Tank & Tower Co. v. Berlin Mills Co., 112 Me. 336, 92 A. 180, 181.

SALABLE VALUE. Usual selling price at place where property is situated when its value is to be ascertained. Fort Worth & D. N. Ry. Co. v. Sugg, Tex.Civ.App., 68 S.W.2d 570, 572.

SALADINE TENTH. A tax imposed in England and France, in 1188, by Pope Innocent III., to raise a fund for the crusade undertaken by Richard I. of England and Philip Augustus of France, against Saladin, sultan of Egypt, then going to besiege Jerusalem. By this tax every person who did not enter himself a crusader was obliged to pay a tenth of his yearly revenue and of the value of all his movables, except his wearing apparel, books, and arms. The Carthusians, Bernardines,

and some other religious persons were exempt. Gibbon remarks that when the necessity for this tax no longer existed, the church still clung to it as too lucrative to be abandoned, and thus arose the tithing of ecclesiastical benefices for the pope or other sovereigns. Enc.Lond.

SALARIIUM. Lat. In the civil law. An allowance of provisions. A stipend, wages, or compensation for services. An annual allowance or compensation. Calvin.

SALARY. A reward or recompense for services performed.

In a more limited sense a fixed periodical compensation paid for services rendered; a stated compensation, amounting to so much by the year, month, or other fixed period, to be paid to public officers and persons in some private employments, for the performance of official duties or the rendering of services of a particular kind, more or less definitely described, involving professional knowledge or skill, or at least employment above the grade of menial or mechanical labor. State v. Speed, 183 Mo. 186, 81 S.W. 1260. A fixed, annual, periodical amount payable for services and depending upon the time of employment and not the amount of services rendered. In re Information to Discipline Certain Attorneys of Sanitary Dist. of Chicago, 351 Ill. 206, 184 N.E. 332, 359. It is synonymous with "wages," except that "salary" is sometimes understood to relate to compensation for official or other services, as distinguished from "wages," which is the compensation for labor. Walsh v. City of Bridgeport, 88 Conn. 528, 91 A. 969, 972, Ann.Cas.1917B, 318. See, also, Fee.

For "Executive Salaries," see that title.

SALE. A contract between two parties, called, respectively, the "seller" (or vendor) and the "buyer," (or purchaser,) by which the former, in consideration of the payment or promise of payment of a certain price in money, transfers to the latter the title and the possession of property. Pard. Droit Commer. § 6; 2 Kent, Comm. 363; Poth. Cont. Sale, § 1; Butler v. Thomson, 92 U.S. 414, 23 L.Ed. 684. In re Frank's Estate, 277 N.Y. S. 573, 154 Misc. 472.

A contract whereby property is transferred from one person to another for a consideration of value, implying the passing of the general and absolute title, as distinguished from a special interest falling short of complete ownership. Arnold v. North American Chemical Co., 232 Mass. 196, 122 N.E. 283, 284; Faulkner v. Town of South Boston, 141 Va. 517, 127 S.E. 380, 381.

An agreement by which one gives a thing for a price in current money, and the other gives the price in order to have the thing itself. Three circumstances concur to the perfection of the contract, to-wit, the thing sold, the price, and the consent. Civ.Code La. art. 2439.

To constitute a "sale," there must be parties standing to each other in the relation of buyer and seller, their minds must assent to the same proposition, and a consideration must pass. Commissioner of Internal Revenue v. Freilhofer, C.C.A.3, 102 F.2d 787, 789, 790, 125 A.L.R. 761.

SALE

"Sale" consists of two separate and distinct elements: First, contract of sale which is completed when offer is made and accepted and, second, delivery of property which may precede, be accompanied by, or follow, payment of price as may have been agreed on between parties. *Inland Refining Co. v. Langworthy*, 112 Okl. 280, 240 P. 627, 629.

An essential element of a "sale" is the money price which must either be fixed by agreement or capable of being ascertained therefrom. *Puryear-Meyer Grocer Co. v. Cardwell Bank*, Mo.App., 4 S.W.2d 489, 490.

"Sale," as applied to relation between landowner and real estate broker working to secure purchaser of land, means procuring purchaser able, ready and willing to buy on terms fixed by seller. *T. W. Sandford & Co. v. Waring*, 201 Ky. 169, 256 S.W. 9, 10.

Synonyms

The contract of "sale" is distinguished from "barter" (which applies only to goods) and "exchange," (which is used of both land and goods,) in that both the latter terms denote a commutation of property for property; *i. e.*, the price or consideration is always paid in money if the transaction is a sale, but, if it is a barter or exchange, it is paid in specific property susceptible of valuation. *Westfall v. Ellis*, 141 Minn. 377, 170 N.W. 339, 341; *J. I. Case Threshing Mach. Co. v. Loomis*, 31 N.D. 27, 153 N.W. 479, 481. "Sale" differs from "gift" in that the latter transaction involves no return or recompense for the thing transferred. But an onerous gift sometimes approaches the nature of a sale, at least where the charge it imposes is a payment of money. "Sale" is also to be discriminated from "bailment;" and the difference is to be found in the fact that the contract of bailment always contemplates the return to the bailor of the specific article delivered, either in its original form or in a modified or altered form, or the return of an article which, though not identical, is of the same class, and is equivalent. But sale never involves the return of the article itself, but only a consideration in money. This contract differs also from "accord and satisfaction;" because in the latter the object of transferring the property is to compromise and settle a claim, while the object of a sale is the price given.

The cardinal difference between the relation of seller and buyer and that of principal and factor is that in a "sale" title passes to the buyer, while in a "consignment" by principal to factor title remains in principal, and only possession passes to factor. *McGaw v. Hanway*, 120 Md. 197, 87 A. 666, 667, Ann.Cas.1915A, 601, and a "sale" is distinguished from a mortgage, in that the former is a transfer of the absolute property in the goods for a price, whereas a mortgage is at most a conditional sale of property as security for the payment of a debt or performance of some other obligation, subject to the condition that on performance title shall revert in the mortgagor. *Waldrep v. Exchange State Bank of Keifer*, 81 Okl. 162, 197 P. 509, 511, 14 A.L.R. 747.

An abandonment must be made without any desire that any other person shall acquire the thing abandoned, since if it is made for a consideration it is a "sale" or "barter," and if made without consideration, but with an intention that some other person shall become the possessor, it

is a "gift." *Del Giorgio v. Powers*, 81 P.2d 1006, 1014, 27 Cal.App.2d 668.

General

Absolute and conditional sales. An absolute sale is one where the property in chattels passes to the buyer upon the completion of the bargain. *Truax v. Parvis*, 7 Houst. (Del.) 330, 32 A. 227. A conditional sale is one in which the transfer of title is made to depend on the performance of a condition, usually the payment of the price; it is a purchase for a price paid or to be paid, to become absolute on a particular event, or a purchase accompanied by an agreement to resell upon particular terms. *Poindexter v. McCannon*, 16 N.C. 373, 18 Am.Dec. 591; *Crimp v. McCormick Const. Co.*, Ill., 18 C.C.A. 595, 72 F. 366.

Conditional sales are distinguishable from mortgages in that a mortgage assumes the continued existence of a debt and is given as security therefor. *Turner v. Kerr*, 44 Mo. 429; *Crane v. Bonnell*, 2 N.J.Eq. 264; *Weathersly v. Weathersly*, 40 Miss. 462, 90 Am.Dec. 344; *Lamborn v. Denison State Bank*, 115 Kan. 415, 223 P. 293, 294.

Bill of sale. See Bill.

Cash sale. A transaction whereby payment is to be in full on receipt of the goods. *Bernzweig v. Hyman Levin Co.*, Sup., 172 N.Y.S. 437, 438. A sale where title is not to pass until the price is paid, or where title has passed, but possession is not to be delivered until payment is made. *E. L. Welch Co. v. Lahart Elevator Co.*, 122 Minn. 432, 142 N.W. 828, 830.

Exclusive sale. With respect to a broker. An agreement by the owner that he will not sell the property during the life of the contract to any purchaser not procured by the broker in question. *Harris v. McPherson*, 97 Conn. 164, 115 A. 723, 724, 24 A.L.R. 1530, but see contra *Roberts v. Harrington*, 168 Wis. 217, 169 N.W. 603, 10 A.L.R. 810.

Executed and executory sales. An executed sale is one which is final and complete in all its particulars and details, nothing remaining to be done by either party to effect an absolute transfer of the subject-matter of the sale. *Fogel v. Brubaker*, 15 A. 692, 122 Pa. 7; *Martin v. John Clay & Co.*, Mo.App., 167 S.W.2d 407, 411. An executory sale is one which has been definitely agreed on as to terms and conditions, but which has not yet been carried into full effect in respect to some of its terms or details, as where it remains to determine the price, quantity, or identity of the thing sold, or to pay installments of purchase-money, or to effect a delivery. *McFadden v. Henderson*, 29 So. 640, 128 Ala. 221; *Fogel v. Brubaker*, 15 A. 692, 122 Pa. 7; *Smith v. Barron County Sup'rs*, 44 Wis. 691.

Execution sale. See Execution Sale.

Fair sale. See Fair Sale.

Forced sale. A sale made without the consent or concurrence of the owner of the property, but by virtue of judicial process, such as a writ of execution or an order under a decree of foreclosure.

Fraudulent sale. One made for the purpose of defrauding the creditors of the owner of the property, by covering up or removing from their reach and converting into cash property which would be subject to the satisfaction of their claims.

Judicial sale. One made under the process of a court having competent authority to order it, by an officer duly appointed and commissioned to sell, as distinguished from a sale by an owner in virtue of his right of property. *Union Trading Co. v. Drach*, 58 Colo. 550, 146 P. 767, 770. *Chapman v. Guaranty State Bank*, Tex.Com.App., 267 S.W. 690, 693.

Memorandum sale. That form of conditional sale in which the goods are placed in the possession of the vendee subject to his approval, the title remaining in the seller until they are either accepted or rejected by the vendee.

Private sale. One negotiated and concluded privately between buyer and seller, and not made by advertisement and public outcry or auction. *Barcello v. Hapgood*, 118 N.C. 712, 24 S.E. 124.

Public sale. A sale made in pursuance of a notice, by auction or public outcry. *Union & Mercantile Trust Co. v. Harnwell*, 158 Ark. 295, 250 S.W. 321, 323.

Sale and return. A species of contract by which the seller (usually a manufacturer or wholesaler) delivers a quantity of goods to the buyer, on the understanding that, if the latter should desire to retain or use or resell any portion of such goods, he will consider such part as having been sold to him, and will pay their price, and the balance he will return to the seller, or hold them, as bailee, subject to his order. *Sturm v. Boker*, 14 S.Ct. 99, 150 U.S. 312, 37 L.Ed. 1093; *Haskins v. Dern*, 19 Utah, 89, 56 P. 953; *Hickman v. Shimp*, 109 Pa. 16; *G. A. Soden & Co. v. T. J. Wilkinson & Son*, 100 So. 182, 184, 135 Miss. 665.

Under "contract of sale and return" title vests immediately in buyer, who has privilege of rescinding sale, and until privilege is exercised title remains in him. *Rio Grande Oil Co. v. Miller Rubber Co. of New York*, 31 Ariz. 84, 250 P. 564.

Sale by sample. A sales contract in which it is the understanding of both parties that the goods exhibited constitute the standard with which the goods not exhibited correspond and to which deliveries should conform. *M. C. Kiser Co. v. Bran-an*, 31 Ga.App. 241, 120 S.E. 427, 429.

Sale in gross. A sale by the tract, without regard to quantity; it is in that sense a contract of hazard. *Miller v. Moore*, 45 Cal.App. 283, 187 P. 763, 764; *Cox v. Collins*, 205 Ala. 491, 88 So. 440, 441.

Sale-note. A memorandum of the subject and terms of a sale, given by a broker or factor to the seller, who bailed him the goods for that purpose, and to the buyer, who dealt with him. Also called "bought and sold notes."

Sale on approval. A species of conditional sale, which is to become absolute only in case the buy-

er, on trial, approves or is satisfied with the article sold. The approval, however, need not be express; it may be inferred from his keeping the goods beyond a reasonable time. *Benj.Sales*, § 911; *Warren v. Russell*, 143 Ark. 516, 220 S.W. 831.

Sale on credit. A sale of property accompanied by delivery of possession, but where payment of the price is deferred to a future day. In *re Heinze's Estate*, 224 N.Y. 1, 120 N.E. 63, 64.

Sale per aversionem. In the civil law, a sale where the goods are taken in bulk, or not by weight or measure, and for a single price, or where a piece of land is sold for a gross sum, to be paid for the whole premises, and not at a fixed price by the acre or foot. *State v. Buck*, 46 La. Ann. 656, 15 So. 531.

Sale with all faults. On what is called a "sale with all faults," unless the seller fraudulently and inconsistently represents the article sold to be faultless, or contrives to conceal any fault from the purchaser, the latter must take the article for better or worse. 3 Camp. 154; *Brown*.

Sale with right of redemption. A sale in which vendor reserves right to take back property by returning price paid. *Glover v. Abney*, 160 La. 175, 106 So. 735, 739.

Sheriff's sale. A sale of property, conducted by a sheriff, or sheriff's deputy, in virtue of his authority as an officer holding process. *Anderson*, L. Dict.; *Batchelder v. Carter*, 2 Vt. 172, 19 Am. Dec. 707.

Tax-sale. A sale of land for unpaid taxes; a sale of property, by authority of law, for the collection of a tax assessed upon it, or upon its owner, which remains unpaid.

Voluntary sale. One made freely, without constraint, by the owner of the thing sold. 1 Bouv. Inst. no. 974.

SALESMAN. One whose occupation is to sell, as goods, merchandise, land, securities, transportation, etc., either in a store or within a given territory; specifically, a commercial traveler. In *re Herbert Candy Co.*, D.C.Pa., 43 F.Supp. 588, 590.

SALET. In old English law. A headpiece; a steel cap or morion. *Cowell*.

SALFORD HUNDRED COURT OF RECORD. An inferior and local court of record having jurisdiction in personal actions where the debt or damage sought to be recovered does not exceed £50, if the cause of action arise within the hundred of Salford. St. 31 & 32 Vict. c. 130; 2 Exch.Div. 346.

SALIC LAW. A body of law framed by the Salian Franks, a Teutonic race who settled in Gaul about the beginning of the fifth century.

It is the most ancient of the barbarian Codes. It is said to have been compiled about the year 420. It embraced the laws and customs of the Salian Franks. It is of great historical value, in connection with the origins of feudalism and similar subjects. Its most celebrated provision

SALIC

was one which excluded women from the inheritance of landed estates, by an extension of which law females were always excluded from succession to the crown of France. Hence this provision, by itself, is often referred to as the "Salic Law."

In French jurisprudence. The name is frequently applied to that fundamental law of France which excluded females from succession to the crown. Supposed to have been derived from the sixty-second title of the Salic Law, "De Alode." Brande.

SALINE LAND. Land having salt deposits. To fourteen states congress has granted all the salt springs within them: to twelve, a limited grant of them was made. Eighteen states have received no such grant. *Montello Salt Co. v. Utah*, 31 S. Ct. 706, 221 U.S. 452, 55 L.Ed. 810, Ann.Cas.1912D, 633.

SALMANNUS. A sale-man, found in the Salic Law in the fifth century, who was a third person called in to complete the transfer of property. 12 Harv.L.Rev. 445, Law in Science, etc., by O. W. Holmes, Jr.

SALOON. A place of refreshment. *Hinton v. State*, 137 Tex.Cr.R. 352, 129 S.W.2d 670, 673. An apartment for a specified public use. *Clinton v. Grusendorf*, 80 Iowa 117, 45 N.W. 408. In common parlance, a place where intoxicating liquors are sold and consumed. *Gibbs v. Arras Bros.*, 222 N.Y. 332, 118 N.E. 857, 858, L.R.A.1918F, 826, Ann. Cas.1918D, 1141.

SALOON-KEEPER. This expression has a definite meaning, namely, a retailer of cigars, liquors, etc. *Cahill v. Campbell*, 105 Mass. 40.

SALT DUTY IN LONDON. A custom in the city of London called "granage," formerly payable to the lord mayor, etc., for salt brought to the port of London, being the twentieth part. Wharton.

SALT SILVER. One penny paid at the feast day of St. Martin, by the tenants of some manors, as a commutation for the service of carrying their lord's salt from market to his larder. *Paroch. Antiq.* 496.

SALUS. Lat. Health; prosperity; safety.

SALUS POPULI SUPREMA LEX. The welfare of the people is the supreme law. *Bac. Max. reg.* 12; *Broom, Max.* 1-10; *Montesq. Esprit des Lois*, lib. 26, c. 23; 13 *Coke*, 139; *Lingo Lumber Co. v. Hayes*, Tex.Civ.App., 64 S.W.2d 835, 839.

SALUS REIPUBLICÆ SUPREMA LEX. The welfare of the state is the supreme law. *Inhabitants of Springfield v. Connecticut River R. Co.*, 4 *Cush.* (Mass.) 71.

SALUS UBI MULTI CONSILIARII. 4 *Inst.* 1. Where there are many counselors, there is safety.

SALUTE. A gold coin stamped by Henry V. in France, after his conquests there, whereon the arms of England and France were stamped quarterly. *Cowell.*

In the army and navy an honor paid to a distinguished personage, when troops or squadrons meet, when officers are buried, or to celebrate an event or show respect to a flag and on many other ceremonial occasions. *Cent. Dict.*

SALVA GARDIA. L. Lat. Safeguard. *Reg. Orig.* 26.

SALVAGE. In maritime law. A compensation allowed to persons by whose assistance a ship or its cargo has been saved, in whole or in part, from impending danger, or recovered from actual loss, in cases of shipwreck, derelict, or recapture. 3 *Kent, Comm.* 245; *Cope v. Vallette Dry-Dock Co.*, 7 S.Ct. 336, 119 U.S. 625, 30 L.Ed. 501; *J. M. Guffey Petroleum Co. v. Borison*, C.C.A.Tex., 211 F. 594, 601.

Elements necessary to valid "salvage" are marine peril, with service voluntarily rendered, when not required as existing duty, or from a special contract, and success in whole or in part, and that service rendered contributed to such success. *Robert R. Sizer & Co. v. Chiarello Bros.*, D. C.N.Y., 32 F.2d 333, 335.

In the older books of the law, (and sometimes in modern writings,) the term is also used to denote the goods or property saved.

Equitable Salvage

By analogy, the term "salvage" is sometimes also used in cases which have nothing to do with maritime perils, but in which property has been preserved from loss by the last of several advances by different persons. In such a case, the person making the last advance is frequently entitled to priority over the others, on the ground that, without his advance, the property would have been lost altogether. This right, which is sometimes called that of "equitable salvage," and is in the nature of a lien, is chiefly of importance with reference to payments made to prevent leases or policies of insurance from being forfeited, or to prevent mines and similar undertakings from being stopped or injured. 1 *Fish.Mortg.* 149; 3 *Ch. Div.* 411; L.R. 14 *Eq.* 4; 7 *Ch.Div.* 825.

Salvage Charges

This term includes all the expenses and costs incurred in the work of saving and preserving the property which was in danger. The salvage charges ultimately fall upon the insurers.

Salvage Loss

That kind of loss which it is presumed would, but for certain services rendered and exertions made, have become a total loss. In the language of marine underwriters, this term means the difference between the amount of salvage, after deducting the charges, and the original value of the property insured. *Koons v. La Fonciere Compagnie*, D.C.Cal., 71 F. 981.

Salvage Service

A service voluntarily rendered to a vessel in need of assistance, and is designed to relieve her from distress or danger, either present or to be

reasonably apprehended and for which a salvage reward is allowed by the maritime law. The Emanuel Stavroudis, D.C.Md., 23 F.2d 214, 216.

It is distinguished from "towage service," in that the latter is rendered for the mere purpose of expediting a vessel's voyage, without reference to any circumstances of danger, though the service in each case may be rendered in the same way. The Emanuel Stavroudis, D.C.Md., 23 F.2d 214, 216.

SALVIAN INTERDICT. See Interdictum Salvianum.

SALVO. Lat. Saving; excepting; without prejudice to. *Salvo me et hæredibus meis*, except me and my heirs. *Salvo jure cujuslibet*, without prejudice to the rights of any one.

SALVOR. A person who, without any particular relation to a ship in distress, proffers useful service, and gives it as a volunteer adventurer, without any pre-existing covenant that connected him with the duty of employing himself for the preservation of that ship. The Clara, 23 Wall. 16, 23 L.Ed. 150; The Dumper, C.C.A.N.Y., 129 F. 99, 63 C.C.A. 600; Central Stockyard Co. v. Mears, 85 N.Y.S. 795, 89 App.Div. 452.

SALVUS PLEGIUS. L. Lat. A safe pledge; called, also, "*certus plegius*," a sure pledge. Bract. fol. 160b.

SAME. The word "same" does not always mean "identical," not different or other. It frequently means of the kind or species, not the specific thing. Crapo v. Brown, 40 Iowa 487, 493. When preceded by the definite article, meaning the one just referred to. In re Conner's Estate, 318 Pa. 150, 178 A. 15, 17.

SAME INVENTION. Within reissue statute, whatever invention was described in original letters patent, and appears therein to have been intended to be secured thereby. 35 U.S.C.A. § 64; Morgan v. Drake, Cust. & Pat.App., 36 F.2d 511, 512. It is not to be determined by the claims of the original patent but from the description and such other evidence as the commissioner may deem relevant. Detrola Radio & Television Corporation v. Hazeltine Corporation, C.C.A.Mich., 117 F.2d 238, 241.

SAME OFFENSE. As used in Constitution, providing that no person shall be twice put in jeopardy for the same offense, does not signify the same offense *eo nomine*, but the same criminal act, transaction, or omission. State v. Shaver, 197 Iowa 1028, 198 N.W. 329, 336.

SAMPLE. A specimen; a small quantity of any commodity, presented for inspection or examination as evidence of the quality of the whole; as a sample of cloth or of wheat.

SAMPLE, SALE BY. A sale at which only a sample of the goods sold is exhibited to the buyer. See "Sale."

SANATORIUM. A health retreat, or institution for the treatment of disease or care of invalids. People v. Gold, Sp.Sess., 6 N.Y.S.2d 264, 268.

SANÆ MENTIS. Lat. In old English law. Of sound mind. Fleta, lib. 3, c. 7, § 1.

SANCTIO. Lat. In the civil law. That part of a law by which a penalty was ordained against those who should violate it. Inst. 2, 1, 10.

SANCTION, v. To assent, concur, confirm, or ratify. U. S. v. Tillinghast, D.C.R.I., 55 F.2d 279, 283.

SANCTION, n. In the original sense of the word, a penalty or punishment provided as a means of enforcing obedience to a law. In jurisprudence, a law is said to have a sanction when there is a state which will intervene if it is disobeyed or disregarded. Therefore international law has no legal sanction. Sweet.

In a more general sense, a conditional evil annexed to a law to produce obedience to that law; and, in a still wider sense, an authorization of anything. Occasionally, "sanction" is used (*e. g.*, in Roman law) to denote a statute, the part (penal clause) being used to denote the whole. Brown.

The vindicatory part of a law, or that part which ordains or denounces a penalty for its violation. 1 Bl.Comm. 56.

SANCTUARY. In old English law. A consecrated place which had certain privileges annexed to it, and to which offenders were accustomed to resort for refuge, because they could not be arrested there, nor the laws be executed.

SANDBAG. A tube of strong, flexible material filled with sand, by which a heavy blow may be struck which leaves little or no mark on the skin. Cent. Dict. It is included in the general term *sap* (*q. v.*).

SAND-GAVEL. In old English law. A payment due to the lord of the manor of Rodley, in the county of Gloucester, for liberty granted to the tenants to dig sand for their common use. Cowell.

SANE. Of natural and normal mental condition; healthy in mind.

One who knows the difference between right and wrong, and appreciates the consequences of his acts. State v. Miguez, 194 La. 1081, 195 So. 545, 547. Stout v. State, 142 Tex.Civ.R. 537, 155 S.W.2d 374, 377.

SANE MEMORY. Sound mind, memory, and understanding. This is one of the essential elements in the capacity of contracting; and the absence of it in lunatics and idiots, and its immaturity in infants, is the cause of their respective incapacities or partial incapacities to bind themselves. The like circumstance is their ground of exemption in cases of crime. Brown.

SANG, or SANC. In old French. Blood.

SANGUINE, or MURREY. An heraldic term for "blood-color," called, in the arms of princes, "dragon's tail," and, in those of lords, "sardonyx." It is a tincture of very infrequent occurrence,

SANGUINEM

and not recognized by some writers. In engraving, it is denoted by numerous lines in saltire. Wharton.

SANGUINEM EMERE. Lat. In feudal law. A redemption by villeins, of their blood or tenure, in order to become freemen.

SANGUINIS CONJUNCTIO BENEVOLENTIA DEVINCIT HOMINES ET CARITATE. A tie of blood overcomes men through benevolence and family affection. *Steere v. Steere*, 5 Johns.Ch. (N.Y.) 1, 13, 9 Am.Dec. 256.

SANGUIS. Lat. In the civil and old English law. Blood; consanguinity.

The right or power which the chief lord of the fee had to judge and determine cases where blood was shed. *Mon. Aug. t. i.* 1021.

SANIPRACTIC. A method of drugless healing. *Martin v. Department of Social Security*, 12 Wash. 2d 329, 121 P.2d 394, 395.

SANIPRACTORS. Drugless healers. *State v. Lydon*, 170 Wash. 354, 16 P.2d 848, 851.

SANIS. A kind of punishment among the Greeks; inflicted by binding the malefactor fast to a piece of wood. *Enc. Lond.*

SANITARIUM. Health station or retreat; boarding-house, or other place where patients are kept and where medical and surgical treatment is given. *City of Atlanta v. Blackman Health Resort*, 153 Ga. 499, 113 S.E. 545, 548.

SANITARY. That which pertains to health, with especial reference to cleanliness and freedom from infective and deleterious influences. *Mayor and City Council of Baltimore v. Bloecher & Schaff*, 149 Md. 648, 132 A. 160, 162.

SANITARY AUTHORITIES. In English law. Bodies having jurisdiction over their respective districts in regard to sewerage, drainage, scavenging, the supply of water, the prevention of nuisances and offensive trades, etc., all of which come under the head of "sanitary matters" in the special sense of the word. Sanitary authorities also have jurisdiction in matters coming under the head of "local government." *Sweet*.

SANITATION. Devising and applying of measures for preserving and promoting public health; removal or neutralization of elements injurious to health; practical application of sanitary science. *Smith v. State*, 160 Ga. 857, 129 S.E. 542, 544.

SANITY. Sound understanding; the normal condition of the human mind; the reverse of insanity, (*q. v.*). *Rust v. Reid*, 124 Va. 1, 97 S.E. 324, 331.

The accepted test of "sanity" in criminal cases is whether defendant could distinguish between right and wrong. *People v. Dawa*, 15 Cal.2d 393, 101 P.2d 498, 499.

SANS CEO QUE. L. Fr. Without this. See *Absque Hoc*.

SANS FRAIS. Fr. Without expense. See *Retour Sans Protêt*.

SANS IMPEACHMENT DE WAST. L. Fr. Without impeachment of waste. *Litt.* § 152. See *Absque Impetitione Vasti*.

SANS JOUR. Fr. Without day; *sine die*.

SANS NOMBRE. Fr. A term used in relation to the right of putting animals on a common. The term "common *sans nombre*" does not mean that the beasts are to be innumerable, but only indefinite; not certain. *Willes*, 227.

SANS RECOURS. Fr. Without recourse. See *Indorsement*.

SAP. A general term which, as applied to weapons, includes a "blackjack," "slung shot," "billy," "sandbag," or "brass knuckles" (see those terms). *People v. Mulherin*, 35 P.2d 174, 175, 176, 140 Cal. App. 212.

SAPIENS INCIPIT A FINE, ET QUOD PRIMUM EST IN INTENTIONE, ULTIMUM EST IN EXECUTIONE. A wise man begins with the last, and what is first in intention is last in execution. 10 *Coke*, 25.

SAPIENS OMNIA AGIT CUM CONSILIO. A wise man does everything advisedly. 4 *Inst.* 4.

SAPIENTIA LEGIS NUMMARIO PRETIO NON EST ÆSTIMANDA. The wisdom of the law cannot be valued by money. *Jenk. Cent.* 168.

SAPIENTIS JUDICIS EST COGITARE TANTUM SIBI ESSE PERMISSUM, QUANTUM COMMIS-SUM ET CREDITUM. It is the part of a wise judge to think that a thing is permitted to him, only so far as it is committed and intrusted to him. 4 *Inst.* 163. That is, he should keep his jurisdiction within the limits of his commission.

SARCULATURA. L. Lat. In old records. Weeding corn. A tenant's service of weeding for the lord. *Cowell*.

SART. In old English law. A piece of woodland, turned into arable. *Cowell*.

SARUM. In old records. The city of Salisbury in England. *Spelman*.

SASINE. In Scotch law. The symbolical delivery of land, answering to the livery of seisin of the old English law. 4 *Kent, Comm.* 459.

SASSE. In old English law. A kind of wear with flood-gates, most commonly in cut rivers, for the shutting up and letting out of water, as occasion required, for the more ready passing of boats and barges to and fro; a lock; a turnpike; a sluice. *Cowell*.

SASSONS. The corruption of Saxons. A name of contempt formerly given to the English, while they affected to be called "Angles;" they are still so called by the Welsh.

SATIS LIQUET. See *Liquet*.

SATISDARE. Lat. In the civil law. To guarantee the obligation of a principal.

SATISDATIO. Lat. In the civil law. Security given by a party to an action, as by a defendant, to pay what might be adjudged against him. Inst. 4, 11; 3 Bl.Comm. 291.

SATISFACTION. Act of satisfying; the state of being satisfied. *Seago v. New York Cent. R. Co.*, 349 Mo. 1249, 164 S.W.2d 336, 341. The discharge of an obligation by paying a party what is due to him, (as on a mortgage, lien, or contract,) or what is awarded to him, by the judgment of a court or otherwise. Thus, a judgment is satisfied by the payment of the amount due to the party who has recovered such judgment, or by his levying the amount. *Bryant v. Fairfield*, 51 Me. 152; *Armour Bros. Banking Co. v. Addington*, 37 S.W. 100, 1 Ind.T. 304. The execution or carrying into effect of an accord. *Barber v. Mallon*, Mo.App., 168 S.W.2d 177, 179; *R. J. Bearings Corporation v. Warr*, 192 Okl. 133, 134 P.2d 355, 357.

Practice

An entry made on the record, by which a party in whose favor a judgment was rendered declares that he has been satisfied and paid.

Equity

The doctrine of satisfaction in equity is somewhat analogous to performance in equity, but differs from it in this respect: that satisfaction is always something given either in whole or in part as a substitute or equivalent for something else, and not (as in performance) something that may be construed as the identical thing covenanted to be done. *Brown*.

SATISFACTION, CONTRACTS TO. A class of contracts in which one party agrees to perform his promise to the satisfaction of the other. A contract for construction work "to the entire satisfaction of the owners" imports that the construction be to the satisfaction of a reasonable man and not to the personal satisfaction of owners. *Waite v. C. E. Shoemaker & Co.*, 50 Mont. 264, 146 P. 736, 742.

SATISFACTION PIECE. In practice. A memorandum in writing, entitled in a cause, stating that satisfaction is acknowledged between the parties, plaintiff and defendant. Upon this being duly acknowledged and filed in the office where the record of the judgment is, the judgment becomes satisfied, and the defendant discharged from it. 1 Archb.Pr. 722.

SATISFACTION SHOULD BE MADE TO THAT FUND WHICH HAS SUSTAINED THE LOSS. 4 Bouv. Inst. no. 3731.

SATISFACTORY. Where a contract provides that it is to be performed in a manner "satisfactory" to one of the parties, the provision must be construed as meaning that the performance must be such that the party, as a reasonable person, should be satisfied with it. *Hoff v. L. Gould & Co.*, 198 Ill. App. 499, 501.

SATISFACTORY EVIDENCE. Such evidence as is sufficient to produce a belief that the thing is true; credible evidence; such evidence as, in respect to its amount or weight, is adequate or sufficient to justify the court or jury in adopting the conclusion in support of which it is adduced. *Walker v. Collins*, C.C.A.Kan., 59 F. 74, 8 C.C.A. 1; *U. S. v. Lee Huen*, D.C.N.Y., 118 F 457.

"Satisfactory evidence," which is sometimes called "sufficient evidence," means that amount of proof which ordinarily satisfies an unprejudiced mind beyond a reasonable doubt. *Thayer v. Boyle*, 30 Me. 475, 481 (citing 1 Greenl. Ev. § 2); *State v. Moss*, 95 Or. 616, 188 P. 702, 704. See, also, Sufficient Evidence.

SATISFIED TERM. A term of years in land is thus called when the purpose for which it was created has been satisfied or executed before the expiration of the set period.

SATISFIED TERMS ACT. The statute 8 & 9 Vict. c. 112, passed to abolish satisfied outstanding terms of years in land. By this act, terms which shall henceforth become attendant upon the inheritance, either by express *declaration* or construction of law, are to cease and determine. This, in effect, abolishes outstanding terms. 1 Steph.Comm. 380-382; *Williams*, Real Prop. pt. 4, c. 1.

SATISFY. To answer or discharge, as a claim, debt, legal demand or the like. *Swaner v. Union Mortg. Co.*, 99 Utah 298, 105 P.2d 342, 345. To comply actually and fully with a demand; to extinguish, by payment or performance.

To convince, as to satisfy a jury. *Lawrence v. Goodwill*, 44 Cal.App. 440, 186 P. 781, 785.

SATIUS EST PETERE FONTES QUAM SEC-TARI RIVULOS. Lofft, 606. It is better to seek the source than to follow the streamlets.

SATURDAY'S STOP. In old English law. A space of time from even-song on Saturday till sun-rising on Monday, in which it was not lawful to take salmon in Scotland and the northern parts of England. *Cowell*.

SAUNKEFIN. L. Fr. End of blood; failure of the direct line in successions. *Spelman*; *Cowell*.

SAUVAGINE. L. Fr. Wild animals.

SAUVEMENT. L. Fr. Safely. *Sauvement gardes*, safely kept. *Britt. c. 87*.

SAVE. To except, reserve, or exempt; as where a statute "saves" vested rights. To toll, or suspend the running or operation of; as to "save" the statute of limitations.

SAVER DEFAULT. L. Fr. In old English practice. To excuse a default. *Termes de la Ley*.

SAVING. Preservation from danger or loss; economy in outlay; prevention of waste; something laid up or kept from becoming expended or lost; a reservation. *Oklahoma Tax Commission v. Sisters of the Sorrowful Mother*, 186 Okl. 339, 97 P.2d 888, 892.

SAVING CLAUSE

SAVING CLAUSE. In a statute an exception of a special thing out of the general things mentioned in the statute. Ordinarily a restriction in a repealing act, which is intended to save rights, pending proceedings, penalties, etc., from the annihilation which would result from an unrestricted repeal. *State v. St. Louis*, 174 Mo. 125, 73 S.W. 623, 61 L.R.A. 593; *Bass v. Albright*, Tex.Civ.App., 59 S.W.2d 891, 894.

SAVING THE STATUTE OF LIMITATIONS. A creditor is said to "save the statute of limitations" when he saves or preserves his debt from being barred by the operation of the statute. Thus, in the case of a simple contract debt, if a creditor commence an action for its recovery within six years from the time when the cause of action accrued, he will be in time to save the statute. *Brown*.

SAVINGS BANK. See *Bank*.

SAVINGS BANK TRUST. See *Trust*.

SAVOUR. To partake the nature of; to bear affinity to.

SAVOY. One of the old privileged places, or sanctuaries. 4 *Steph.Comm.* 227n.

SAW LOG. A log of convenient length and otherwise suitable for being manufactured into lumber. *Ladnier v. Ingram Day Lumber Co.*, 135 Miss. 632, 100 So. 369, 370.

SAXON LAGE. The laws of the West Saxons. *Cowell*.

SAY ABOUT. This phrase, like "more or less," is frequently introduced into conveyances or contracts of sale, to indicate that the quantity of the subject-matter is uncertain, and is only estimated, and to guard the vendor against the implication of having warranted the quantity.

SAYER. In Hindu law. Variable imposts distinct from land, rents, or revenues; consisting of customs, tolls, licenses, duties on goods; also taxes on houses, shops, bazaars, etc. *Wharton*.

SC. An abbreviation for "scilicet," that is to say.

SCAB. A working man who works for lower wages than or under conditions contrary to those prescribed by a trade union; also one who takes the place of a workman on a strike. *U. S. v. Taliaferro*, D.C.Va., 290 F. 214, 218.

SCABINI. In old European law. The judges or assessors of the judges in the court held by the count. Assistants or associates of the count; officers under the count. The permanent selected judges of the Franks. Judges among the Germans, Franks, and Lombards, who were held in peculiar esteem. *Spelman*.

SCACCARIUM. A chequered cloth resembling a chess-board which covered the table in the exchequer, and on which, when certain of the king's accounts were made up, the sums were marked and

scored with counters. Hence the court of exchequer, or *curia scaccarii*, derived its name. 3 *Bl. Comm.* 44.

SCALAM. At the scale; the old way of paying money into the exchequer. *Cowell*.

SCALE. In early American law. To adjust, graduate, or value according to a scale. *Walden v. Payne*, 2 Wash. (Va.) 5, 6.

SCALE TOLERANCE. Nominal variation between different scales in respect of the mass or "weight" of the same goods. *Smith v. Louisville & N. R. Co.*, 202 Iowa, 292, 209 N.W. 465, 466.

SCALER. An expert employed to determine the number of board feet and the percentage of unsound timber in logs. *Connecticut Valley Lumber Co. v. Stone*, C.C.A.Vt., 212 F. 713, 715.

SCALING LAWS. A term used to signify statutes establishing the process of adjusting the difference in value between depreciated paper money and specie. Such statutes were rendered necessary by the depreciation of paper money necessarily following the establishment of American independence. And, more recently, to discharge those debts which were made payable in Confederate money. The statutes are now obsolete.

SCALPINGS. See *Wheat Scalpings*.

SCAMNUM CADUCUM. In old records, the cuck-in-stool, (*q. v.*). *Cowell*.

SCANDAL. Defamatory reports or rumors; aspersion or slanderous talk, uttered recklessly or maliciously.

Pleading

With reference to necessity of keeping court records free from scandal, an unnecessary statement which bears cruelly upon an individual's moral character, or statement of anything contrary to good manners, or unbecoming court's dignity to hear or which charges some person with a crime not necessary to be shown in the cause. *Nadeau v. Texas Co.*, 104 Mont. 558, 69 P.2d 593, 595, 111 A.L.R. 874; *Huffman v. State*, 183 Ind. 698, 109 N.E. 401, 402.

SCANDALOUS MATTER. In pleading. Scandal, which title see.

SCANDALUM MAGNATUM. In English law. Scandal or slander of great men or nobles. Words spoken in derogation of a peer, a judge, or other great officer of the realm, for which an action lies, though it is now rarely resorted to. 3 *Bl. Comm.* 123; 3 *Steph.Comm.* 473. This offense has not existed in America since the formation of the United States. *State v. Shepherd*, 177 Mo. 205, 76 S.W. 79, 99 *Am.St.Rep.* 624.

SCAPELLARE. In old European law. To chop; to chip or haggle. *Spelman*.

SCAPHA. Lat. In Roman law. A boat; a lighter. A ship's boat.

SCAVAGE, SCHEVAGE, SCHEWAGE, or SHEWAGE. A kind of toll or custom, exacted by mayors, sheriffs, etc., of merchant strangers, for wares showed or offered for sale within their liberties. Prohibited by 19 Hen. VII. c. 7. Cowell.

SCAVIDUS. The officer who collected the scavage money. Cowell.

SCEATTA. A Saxon coin of less denomination than a shilling. Spelman.

SCEPPA SALIS. An ancient measure of salt, the quantity of which is now not known. Wharton.

SCHAR-PENNY, SHCARN-PENNY, or SCHORN-PENNY. A small duty or compensation. Cowell.

SCHEDULE. A sheet of paper or parchment annexed to a statute, deed, answer in equity, deposition, or other instrument, exhibiting in detail the matters mentioned or referred to in the principal document.

A list or inventory; the paper containing an inventory.

Constitutional Law

A statement annexed to a constitution newly adopted by a state, in which are described at length the particulars in which it differs from the former constitution, or which contains provisions for the adjustment of matters affected by the change from the old to the new constitution.

Practice

When an indictment is returned from an inferior court in obedience to a writ of *certiorari*, the statement of the previous proceedings sent with it. 1 Saund. 309a, n. 2.

SCHEME. A design or plan formed to accomplish some purpose—a system. Snider v. Leath-erwood, Tex.Civ.App., 49 S.W.2d 1107, 1110.

In English law. A document containing provisions for regulating the management or distribution of property, or for making an arrangement between persons having conflicting rights. Thus, in the practice of the chancery division, where the execution of a charitable trust in the manner directed by the founder is difficult or impracticable, or requires supervision, a scheme for the management of the charity will be settled by the court. Tud. Char. Trusts, 257; Hunt, Eq. 248; Daniell, Ch.Pr. 1765.

SCHETES. Usury. Cowell.

SCHIREMAN. In Saxon law. An officer having the civil government of a *shire*, or county; an earl. 1 Bl.Comm. 398.

SCHIRRENS-GELD. In Saxon law. A tax paid to sheriffs for keeping the shire or county court. Cowell.

SCHISM. In ecclesiastical law. A division or separation in a church or denomination of Christians, occasioned by a diversity of faith, creed, or religious opinions. Lindstrom v. Tell, 131 Minn. 203, 154 N.W. 969, 971.

SCHISM-BILL. In English law. The name of an act passed in the reign of Queen Anne, which restrained Protestant dissenters from educating their own children, and forbade all tutors and schoolmasters to be present at any conventicle or dissenting place of worship. The queen died on the day when this act was to have taken effect, (August 1, 1714,) and it was repealed in the fifth year of Geo. I. Wharton.

SCHOOL. An institution or place for instruction or education. Bastendorf v. Arndt, 290 Mich. 423, 287 N.W. 579, 580, 124 A.L.R. 445. An institution of learning of a lower grade, below a college or a university. A place of primary instruction. The term generally refers to the common or public schools, maintained at the expense of the public. Alexander v. Phillips, 31 Ariz. 503, 254 P. 1056, 1058, 52 A.L.R. 244.

Common Schools

Schools maintained at the public expense and administered by a bureau of the state, district, or municipal government, for the gratuitous education of the children of all citizens without distinction. Board of Education of City of Sapulpa v. Corey, 63 Okl. 178, 163 P. 949, 953; State v. O'Dell, 187 Ind. 84, 118 N.E. 529, 530.

Consolidated School District

A common school district where two or more existing schools have consolidated into one single district. Trustees of Walton School v. Board of Sup'rs of Covington County, 115 Miss. 117, 75 So. 833, 834; Rice v. Gong Lum, 139 Miss. 760, 104 So. 105, 110.

District School

A common or public school for the education at public expense of the children residing within a given district; a public school maintained by a "school district." See *infra*.

Grade School

A school in which the pupils are classified according to progress and taught by different teachers so that a rural school under one teacher is not included within the exception, although various pupils in various stages of progress are classified. Board of County Com'rs of Laramie County v. State, 24 Wyo. 364, 158 P. 801, 804.

High School

A school in which higher branches of learning are taught than in the common schools. Thurman-Watts v. Board of Education of City of Coffeyville, 115 Kan. 328, 222 P. 123, 125. A school in which such instruction is given as will prepare the students to enter a college or university. Whitlock v. State, 30 Neb. 815, 47 N.W. 284.

Normal School

A training school for teachers; one in which instruction is given in the theory and practice of teaching; particularly, in the system of schools generally established throughout the United

SCHOOL

States, a school for the training and instruction of those who are already teachers in the public schools or those who desire and expect to become such. Board of Regents v. Painter, 102 Mo. 464, 14 S.W. 938, 10 L.R.A. 493

Private School

One maintained by private individuals or corporations, not at public expense, and open only to pupils selected and admitted by the proprietors or governors, or to pupils of a certain class or possessing certain qualifications, (racial, religious, or otherwise,) and generally supported, in part at least, by tuition fees or charges Quigley v. State, 5 Ohio Cir.Ct.R. 638.

Public Schools

Schools established under the laws of the state (and usually regulated in matters of detail by the local authorities), in the various districts, counties, or towns, maintained at the public expense by taxation, and open with or without charge to the children of all the residents of the town or other district. St. Joseph's Church v. Assessors of Taxes, 12 R.I. 19, 34 Am.Rep. 597. Litchman v. Shannon, 90 Wash. 186, 155 P. 783, 784. Schools belonging to the public and established and conducted under public authority; not schools owned and conducted by private parties, though they may be open to the public generally and though tuition may be free. Gerke v. Purcell, 25 Ohio St. 229.

School Board

A board of municipal officers charged with the administration of the affairs of the public schools. They are commonly organized under the general laws of the state, and fall within the class of *quasi* corporations, sometimes coterminous with a county or borough, but not necessarily so. The members of the school board are sometimes termed "school directors," or the official style may be "the board of school directors." The circuit of their territorial jurisdiction is called a "school district," and each school district is usually a separate taxing district for school purposes.

School Directors

See School Board.

School District

A public and quasi municipal corporation, organized by legislative authority or direction, comprising a defined territory, for the erection, maintenance, government, and support of the public schools within its territory in accordance with and in subordination to the general school laws of the state, invested, for these purposes only, with powers of local self-government and generally of local taxation, and administered by a board of officers, usually elected by the voters of the district, who are variously styled "school directors," or "trustees," "commissioners," or "supervisors" of schools. Hamilton v. San Diego County, 108 Cal. 273, 41 P. 305; Duff v. School Dist. of Perry Tp., 281 Pa. 87, 126 A. 202.

School Lands

Public lands of a state set apart by the state (or by congress in a territory) to create, by the proceeds of their sale, a fund for the establishment and maintenance of public schools.

School-Master

One employed in teaching a school.

SCHOOL PURPOSES. This term in constitutional provision limiting rates of taxation covers ordinary expenses of maintaining and operating schools. Peter v. Kaufmann, 327 Mo. 915, 38 S.W. 2d 1062, 1067.

SCHOUT. In Dutch law. An officer of a court whose functions somewhat resemble those of a sheriff.

SCI. FA. An abbreviation for "*scire facias*," (*q. v.*).

SCIENDUM. Lat. In English law. The name given to a clause inserted in the record by which it is made known that the justice here in court, in this same term, delivered a writ thereupon to the deputy-sheriff of the county aforesaid, to be executed in due form of law. Lee, Dict. "Record."

SCIENDUM EST. Lat. It is to be known; be it remarked. In the books of the civil law, this phrase is often found at the beginning of a chapter or paragraph, by way of introduction to some explanation, or directing attention to some particular rule.

SCIENTER. Lat. Knowingly. The term is used in pleading to signify an allegation (or that part of the declaration or indictment which contains it) setting out the defendant's previous knowledge of the cause which led to the injury complained of, or rather his previous knowledge of a state of facts which it was his duty to guard against, and his omission to do which has led to the injury complained of. The insertion of such an allegation is called "laying the action (or indictment) with a *scienter*." And the term is frequently used to signify the defendant's guilty knowledge. People v. Gould, 237 Mich. 156, 211 N.W. 346, 348. Horton v. Tyree, 104 W.Va. 238, 139 S.E. 737, 738.

SCIENTI ET VOLENTI NON FIT INJURIA. Bract. fol. 20. An injury is not done to one who knows and wills it.

SCIENTIA SCIORUM EST MIXTA IGNORANTIA. 8 Coke, 159. The knowledge of smatterers is diluted ignorance.

SCIENTIA UTRIMQUE PAR PARES CONTRAHENTES FACIT. Equal knowledge on both sides makes contracting parties equal. 3 Burrows, 1905. An insured need not mention what the underwriter knows, or what he ought to know. Broom, Max. 772.

SCILICET. Lat. To-wit; that is to say. A word used in pleadings and other instruments, as introductory to a more particular statement of matters previously mentioned in general terms. Hob. 171, 172.

SCINTILLA. Lat. A spark; a remaining particle; the least particle.

SCINTILLA JURIS. In real property law. A spark of right or interest. By this figurative expression was denoted the small particle of interest which, by a fiction of law, was supposed to remain in a feoffee to uses, sufficient to support contingent uses afterwards coming into existence, and thereby enable the statute of uses (27 Hen. VIII. c. 10) to execute them. 2 Washb. Real Prop. 125; 4 Kent, Comm. 238.

SCINTILLA OF EVIDENCE. A spark of evidence. *Cunningham v. Union Pac. Ry. Co.*, 4 Utah, 206, 7 P. 795, 797. A metaphorical expression to describe a very insignificant or trifling item or particle of evidence; used in the statement of the common-law rule that if there is any evidence at all in a case, even a mere *scintilla*, tending to support a material issue, the case cannot be taken from the jury, but must be left to their decision. *Offutt v. World's Columbian Exposition*, 175 Ill. 472, 51 N.E. 651.

Any material evidence that, if true, would tend to establish issue in mind of reasonable juror. *Thackston v. Shelton*, 178 S.C. 240, 182 S.E. 436; *Lancaster v. South Carolina Power Co.*, 181 S.C. 244, 186 S.E. 911, 913. Something of substance and relevant consequence and not vague, uncertain, or irrelevant matter not carrying quality of proof or having fitness to induce conviction. *City of Houston v. Scanlan*, 120 Tex. 264, 37 S.W.2d 718. *Wigginton's Adm'r v. Louisville Ry. Co.*, 256 Ky. 287, 75 S.W.2d 1046, 1051, courts differ as to what constitutes a "scintilla," and some courts do not accept the rule. *Sobolovitz v. Lubric Oil Co.*, 107 Ohio St. 204, 140 N.E. 634, 635.

It is the duty of trial court to instruct a verdict, though there is slight testimony, if its probative force is so weak that it only raises suspicion of existence of facts sought to be established, since such testimony falls short of being "evidence". *Texas Pacific Coal & Oil Co. v. Wells*, Tex. Civ.App., 151 S.W.2d 927, 929.

Suggestions, if any, from evidence did not amount to "evidence". *Cooksey v. McGuire*, Tex.Civ.App., 146 S.W.2d 480, 483.

SCIRE DEBES CUM QUO CONTRAHIS. You ought to know with whom you deal. 11 Mees. & W. 405, 632; 13 Mees. & W. 171.

SCIRE ET SCIRE DEBERE ÆQUIPARANTUR IN JURE. To know a thing, and to be bound to know it, are regarded in law as equivalent. *Tray*. Leg. Max. 551.

SCIRE FACIAS. Lat. In practice. A judicial writ, founded upon some matter of record, such as a judgment or recognizance and requiring the person against whom it is brought to show cause why the party bringing it should not have advantage of such record, or (in the case of a *scire facias* to repeal letters patent) why the record should not be annulled and vacated. 2 Archb.Pr. K.B. 86; Pub. St. Mass. p. 1295. The name is used to designate both the writ and the whole proceeding. *City of St. Louis v. Miller*, 235 Mo. App. 987, 145 S.W.2d 504, 505.

The most common application of this writ is as a process to revive a judgment, after the lapse of a certain time, or on a change of parties, or otherwise to have execution of the judgment, in which cases it is merely a continuation of the original action. It is used more rarely as a mode of proceeding against special bail on their recognizance, and as a means of repealing letters patent, in which cases it is an original proceeding. 2 Archb. Pr. K. B. 86. *American Ry. Express Co. v. F. S. Royster Guano Co.*, 141 Va. 602, 126 S.E. 678, 679.

SCIRE FACIAS AD AUDIENDUM ERRORES. The name of a writ which is sued out after the plaintiff in error has assigned his errors. *Fitzh. Nat.Brev.* 20.

SCIRE FACIAS AD DISPROBANDUM DEBITUM. The name of a writ in use in Pennsylvania, which lies by a defendant in foreign attachment against the plaintiff, in order to enable him, within a year and a day next ensuing the time of payment to the plaintiff in the attachment, to disprove or avoid the debt recovered against him. *Bouvier*.

SCIRE FACIAS AD REHABENDAM TERRAM. Lies to enable a judgment debtor to recover back his lands taken under an *elegit* when the judgment creditor has satisfied or been paid the amount of his judgment. *Chit.* 692; *Fost.* on *Sci.Fa.* 58.

SCIRE FACIAS FOR THE CROWN. In English law. The summary proceeding by extent is only resorted to when a crown debtor is insolvent, or there is good ground for supposing that the debt may be lost by delay. In ordinary cases where a debt or duty appears by record to be owing to the crown, the process for the crown is a writ of *sci. fa. quare executionem non*; but should the defendant become insolvent pending this writ, the crown may abandon the proceeding and resort to an extent. *Wharton*.

SCIRE FACIAS QUARE RESTITUTIONEM NON. This writ lies where execution on a judgment has been levied, but the money has not been paid over to the plaintiff, and the judgment is afterwards reversed in error or on appeal; in such a case a *scire facias* is necessary before a writ of restitution can issue. *Chit.* 582; *Fost.* on *Sci. Fa.* 64.

SCIRE FACIAS SUR MORTGAGE. A writ issued upon the default of a mortgagor to make payments or observe conditions, requiring him to show cause why the mortgage should not be foreclosed, and the mortgaged property taken and sold in execution.

SCIRE FACIAS SUR MUNICIPAL CLAIM. A writ of *scire facias*, authorized to be issued in Pennsylvania, as a means of enforcing payment of a municipal claim (*q. v.*) out of the real estate upon which such claim is a lien.

SCIRE FECL. Lat. In practice. The name given to the sheriff's return to a writ of *scire facias*

SCIRE

that he has caused notice to be given to the party or parties against whom the writ was issued. 2 Archb. Pr. K. B. 98, 99.

SCIRE FIERI INQUIRY. In English law. The name of a writ formerly used to recover the amount of a judgment from an executor.

SCIRE LEGES NON HOC EST VERBA EARUM TENERE, SED VIM AC POTESTATEM. To know the laws is not to observe their mere words, but their force and power; [that is, the essential meaning in which their efficacy resides.] Dig. 1, 3, 17; 1 Kent, Comm. 462.

SCIRE PROPRIE EST REM RATIONE ET PER CAUSAM COGNOSCERE. To know properly is to know a thing in its reason, and by its cause. We are truly said to know anything, where we know the true cause thereof. Co.Litt. 183b.

SCIREWYTE. In old English law. A tax or prestation paid to the sheriff for holding the assizes or county courts. Cowell.

SCISSIO. Lat. In old English law. A cutting. *Scissio auricularum*, cropping of the ears. An old punishment. Fleta, lib. 1, c. 38, § 10.

SCITE, or SITE. The sitting or standing on any place; the seat or situation of a capital message, or the ground whereon it stands: Jacob.

SCOLD. A troublesome and angry woman, who, by brawling and wrangling among her neighbors, breaks the public peace, increases discord, and becomes a public nuisance to the neighborhood. 4 Steph.Comm. 276.

Common Scold

One who, by the practice of frequent scolding, disturbs the neighborhood. Bish. Crim. Law, § 147. A quarrelsome, brawling, vituperative person. Baker v. State, 53 N.J.Law, 45, 20 A. 858.

SCOPE.

Of Authority

Includes not only actual authorization conferred upon agent by his principal, but also that which has apparently or impliedly been delegated to agent. Angerosa v. White Co., 290 N.Y.S. 204, 208, 248 App.Div. 425.

Of a Patent

The boundaries or limits of the invention protected by the patent, which are not matters of metes and bounds and can never be defined in the definite sense employed in thinking of physical things, but must be determined by methods based upon established principles of patent law. Smith v. Mid-Continent Inv. Co., C.C.A.Mo., 106 F.2d 622, 624.

SCORN, v. To hold in extreme contempt, to reject as unworthy of regard; to despise, to condemn, to disdain. U. S. v. Strong, D.C.Wash., 263 F. 789, 796.

SCOT. In old English law. A tax, or tribute; one's *share* of a contribution.

SCOT AND LOT. In English law. The name of a customary contribution, laid upon all subjects according to their ability. Brown.

SCOT AND LOT VOTERS. In English law. Voters in certain boroughs entitled to the franchise in virtue of their paying this contribution. 2 Steph.Comm. 360.

SCOTAL. In old English law. An extortionate practice by officers of the forest who kept ale-houses, and compelled the people to drink at their houses for fear of their displeasure. Prohibited by the charter of the forest, c. 7. Wharton.

See *Charta de foresta*.

SCOTCH MARRIAGES. See Gretna Green.

SCOTCH PEERS. Peers of the kingdom of Scotland; of these sixteen are elected to parliament by the rest and represent the whole body. They are elected for one parliament only.

SCOTS. In English law. Assessments by commissioners of sewers.

SCOTTARE. To pay scot, tax, or customary dues. Cowell.

SCOUNDREL. An opprobrious epithet, implying rascality, villainy, or a want of honor or integrity. In slander, this word is not actionable *per se*. 2 Bouv.Inst. 2250.

SCRAMBLING POSSESSION. See Possession.

SCRATCHING THE TICKET. Where partisan voters support and vote for one or more of nominees of opposite political party. Swindall v. State Election Board, 168 Okl. 97, 32 P.2d 691, 696.

SCRAWL. Scroll, which title see.

SCREWBALL. Either a peculiar or eccentric person like crackbrain, crackpot, crank, nut, or a stupid or insane person like batty, bug-house, dippy, etc., but it does not connote opprobrium or reprehensibility. Kennedy v. Crouch, Md., 62 A.2d 582, 587.

SCRIBA. Lat. A scribe; a secretary. *Scriba regis*, a king's secretary; a chancellor. Spelman.

SCRIBERE EST AGERE. To write is to act. Treasonable words set down in writing amount to overt acts of treason. 2 Rolle, 89; 4 Bl.Comm. 80; Broom, Max. 312, 967.

SCRIP. Certificates of ownership, either absolute or conditional, of shares in a public company, corporate profits, etc. An acknowledgment by the projectors of a company or the issuers of a loan that the person named therein (or more commonly the holder for the time being of the certificate) is entitled to a certain specified number of shares, debentures, bonds, etc. It is usually given in exchange for the letter of allotment, and in its turn is given up for the shares, debentures, or bonds which it represents. Scrip certificate. Lindl. Partn. 127; Sweet.

The term has also been applied in the United States to warrants or other like orders drawn on a municipal treas-

ury (City of Alma v. Guaranty Sav. Bank, C.C.A.8, 60 F. 207, 8 C.C.A. 564.) to certificates showing the holder to be entitled to a certain portion or allotment of public or state lands, *Walt v. State Land Office Com'r*, 87 Mich. 353, 49 N.W. 600, and to the fractional paper currency issued by the United States during the period of the Civil War.

SCRIP DIVIDEND. See Dividend.

SCRIPT. Where instruments are executed in part and counterpart, the original or principal is so called.

English Probate Practice

A will, codicil, draft of will or codicil, or written instructions for the same. If the will is destroyed, a copy or any paper embodying its contents becomes a script, even though not made under the direction of the testator. *Browne, Prob. Pr.* 280.

SCRIPTÆ OBLIGATIONES SCRIPTIS TOLLUNTUR, ET NUDI CONSENSUS OBLIGATIO CONTRARIO CONSENSU DISSOLVITUR. Written obligations are superseded by writings, and an obligation of naked assent is dissolved by assent to the contrary.

SCRIPTORIUM. In old records. A place in monasteries, where writing was done. *Spelman.*

SCRIPTUM. Lat. A writing; something written. *Fleta*, 1. 2, c. 60, § 25.

SCRIPTUM INDENTATUM. A writing indented; an indenture or deed.

SCRIPTUM OBLIGATORIUM. A writing obligatory. The technical name of a bond in old pleadings. Any writing under seal.

SCRIVENER. A writer; scribe; conveyancer. One whose occupation is to draw contracts, write deeds and mortgages, and prepare other species of written instruments.

Also an agent to whom property is intrusted by others for the purpose of lending it out at an interest payable to his principal, and for a commission or bonus for himself, whereby he gains his livelihood.

Money Scrivener

A money broker. The name was also formerly applied in England to a person (generally an attorney or solicitor) whose business was to find investments for the money of his clients, and see to perfecting the securities, and who was often intrusted with the custody of the securities and the collection of the interest and principal. *Williams v. Walker*, 2 Sandf.Ch. (N.Y.) 325.

SCROLL. A mark intended to supply the place of a seal, made with a pen or other instrument of writing. *Mitch. R. E. and Conv.* 454, 455.

A paper or parchment containing some writing, and rolled up so as to conceal it.

SCROOP'S INN. An obsolete law society, also called "Serjeants' Place," opposite to St. Andrew's Church, Holborn, London.

SCRUET-ROLL. In old practice. A species of roll or record, on which the bail on *habeas corpus* was entered.

SCRUTATOR. Lat. In old English law. A searcher or bailiff of a river; a water-bailiff, whose business was to look to the king's rights, as to his wrecks, his flotsam, jetsam, water-strays, royal fishes. *Hale, de Jure Mar. par. 1, c. 5.*

SCURRILOUS. The low and indecent language of the meaner sort of people, low indecency or abuse; mean; foul; vile, synonymous with vulgar; foul or foul-mouthed. *U. S. v. Strong, D.C. Wash.*, 263 F. 796; *U. S. v. Ault, D.C. Wash.*, 263 F. 800, 810.

SCUSSUS. In old European law. Shaken or beaten out; threshed, as grain. *Spelman.*

SCUTAGE. In feudal law. A tax or contribution raised by those that held lands by knight's service, towards furnishing the king's army, at the rate of one, two or three marks for every knight's fee.

A pecuniary composition or commutation made by a tenant by knight-service in lieu of actual service. 2 Bl.Comm. 74.

A pecuniary aid or tribute originally reserved by particular lords, instead or in lieu of personal service, varying in amount according to the expenditure which the lord had to incur in his personal attendance upon the king in his wars. *Wright, Ten.* 121-134.

SCUTAGIO HABENDO. A writ that anciently lay against tenants by knight's service to serve in the wars, or send sufficient persons, or pay a certain sum. *Fitzh. Nat. Brev.* 83.

SCUTE. A French coin of gold, coined A.D. 1427, of the value of 3s. 4d.

SCUTELLA. A scuttle; anything of a flat or broad shape like a shield. *Cowell.*

SCUTELLA ELEEMOSYNARIA. An alms-basket.

SCUTIFER. In old records. Esquire; the same as "armiger." *Spelman.*

SCUTUM ARMORUM. A shield or coat of arms. *Cowell.*

SCYRA. In old English law. Shire; county; the inhabitants of a county.

SCYREGEMOTE. In Saxon law. The meeting or court of the shire. This was the most important court in the Saxon polity, having jurisdiction of both ecclesiastical and secular causes. Its meetings were held twice in the year. Its Latin name was "*curia comitatis.*"

SE DEFENDENDO. Lat. In defending himself; in self-defense. Homicide committed *se defendendo* is excusable.

SEA. The ocean; the great mass of water which surrounds the land. *Snowdon v. Guion*, 50 N.Y. Super.Ct. 143. In marine insurance "sea" includes

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not only the high seas but the bays, inlets, and rivers as high up as the tide ebbs and flows. *Mannheim Ins. Co. v. Charles Clarke & Co., Tex. Civ.App., 157 S.W. 291, 293.*

Beyond Sea

In England, this phrase means beyond the limits of the British Isles; in America, outside the limits of the United States or of the particular state, as the case may be.

High Seas

The ocean; public waters. According to the English doctrine, the high sea begins at the distance of three miles from the coast of any country; according to the American view, at low-water mark, except in the case of small harbors and roadsteads inclosed within the *fauces terræ*. *U. S. v. Grush, 26 F.Cas. 50; U. S. v. Rodgers, 14 S.Ct. 109, 150 U.S. 249, 37 L.Ed. 1071.* The open ocean outside of the *fauces terræ*, as distinguished from arms of the sea; the waters of the ocean without the boundary of any county. Any waters on the sea-coast which are without the boundaries of low-water mark.

Main Sea

The open, uninclosed ocean; or that portion of the sea which is without the *fauces terræ* on the sea-coast, in contradistinction to that which is surrounded or inclosed between narrow headlands or promontories. *U. S. v. Grush, 26 F.Cas. 48; U. S. v. Rodgers, 14 S.Ct. 109, 150 U.S. 249, 37 L.Ed. 1071.*

Sea-Batteries

Assaults by masters in the merchant service upon seamen at sea.

Sea-Bed

All that portion of land under the sea that lies beyond the sea-shore.

Sea-Brief

Sea-Letter, which title see.

Sea-Greens

In the Scotch law. Grounds overflowed by the sea in spring tides. *Bell.*

Sea-Laws

Laws relating to the sea, as the laws of Oleron, etc.

Sea-Letter

A species of manifest, containing a description of the ship's cargo, with the port from which it comes and the port of destination. This is one of the documents necessary to be carried by all neutral vessels, in the merchant service, in time of war, as an evidence of their nationality. 4 *Kent, Comm. 157; Slegt v. Hartshorne, 2 Johns. (N.Y.) 540.*

The last sea letter was issued at the Port of New York in 1806, and the use of sea letters was discontinued by proclamation of President Madison in 1815. 46 *U.S.C.A. §§ 61, 62, note.* The words "sea letter," however, are

still carried in those sections of the Code, but in 1948 were eliminated from the criminal code as obsolete. 18 *U.S.C.A. § 507, note.*

Sea-Reeve

An officer in maritime towns and places who took care of the maritime rights of the lord of the manor, and watched the shore, and collected wrecks for the lord. *Tomlins.*

Sea-Rovers

Pirates and robbers at sea.

Sea-Shore

The margin of the sea in its usual and ordinary state. When the tide is out, low-water mark is the margin of the sea; and, when the sea is full, the margin is high-water mark. The sea-shore is therefore all the ground between the ordinary high-water mark and low-water mark. It cannot be considered as including any ground always covered by the sea, for then it would have no definite limit on the sea-board. Neither can it include any part of the upland, for the same reason. *Commonwealth of Massachusetts v. State of New York, 46 S.Ct. 357, 362, 271 U.S. 65, 70 L.Ed. 838; That space of land over which the waters of the sea are spread in the highest water during the winter season. Civ.Code La. art. 442.*

Seaworthy, Seaworthiness

See those titles.

SEAL. An impression upon wax, wafer, or some other tenacious substance capable of being impressed. *Solon v. Williamsburgh Sav. Bank, 114 N.Y. 132, 21 N.E. 168.*

A particular sign, made to attest in the most formal manner, the execution of an instrument.

Merlin defines a seal to be a plate of metal with a flat surface, on which is engraved the arms of a prince or nation, or private individual, or other device, with which an impression may be made on wax or other substance on paper or parchment in order to authenticate them. The impression thus made is also called a "seal." *Répert. mot "Sceau."*

"Seals" serve as an authentication of an instrument and also as the badge of a specialty. *Caruthers v. Peninsular Life Ins. Co., 150 Fla. 467, 7 So.2d 841, 842.*

Common Seal

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

Corporate Seal

The official or common seal of an incorporated company or association.

Great Seal

In English law. A seal by virtue of which a great part of the royal authority is exercised. The office of the lord chancellor, or lord keeper, is created by the delivery of the great seal into his custody. There is one great seal for all public acts of state which concern the United Kingdom. *Mozley & Whiteley.* In American law, the United

States and also each of the states has and uses a seal, always carefully described by law, and sometimes officially called the "great" seal, though in some instances known simply as "the seal of the United States," or "the seal of the state."

Private Seal

The seal (however made) of a private person or corporation, as distinguished from a seal employed by a state or government or any of its bureaus or departments.

Privy Seal

In English law. A seal used in making out grants or letters patent, preparatory to their passing under the great seal. 2 Bl.Comm. 347.

Public Seal

A seal belonging to and used by one of the bureaus or departments of government, for authenticating or attesting documents, process, or records. An impression made of some device, by means of a piece of metal or other hard substance, kept and used by public authority. Kirksey v. Bates, 7 Port. (Ala.) 534, 31 Am.Dec. 722.

Quarter Seal

In Scotch law. A seal kept by the director of the chancery; in shape and impression the fourth part of the great seal, and called in statutes the "testimonial" of the great seal. Bell.

Seal Days

In English practice. Motion days in the court of chancery, so called because every motion had to be stamped with the seal, which did not lie in court in the ordinary sittings out of term. Whar-ton.

Seal Office

In English practice. An office for the sealing of judicial writs.

Seal-Paper

In English law. A document issued by the lord chancellor, previously to the commencement of the sittings, detailing the business to be done for each day in his court, and in the courts of the lords justices and vice-chancellors. The master of the rolls in like manner issued a seal-paper in respect of the business to be heard before him. Smith, Ch.Pr. 9.

SEALED. Authenticated by a seal; executed by the affixing of a seal. Also fastened up in any manner so as to be closed against inspection of the contents.

SEALED AND DELIVERED. These words, followed by the signatures of the witnesses, constitute the usual formula for the attestation of conveyances.

SEALED INSTRUMENT. An instrument of writing to which the party to be bound has affixed not only his name, but also his seal, or (in those jurisdictions where it is allowed) a scroll.

Leonor v. Ingenio Porvenir C. por A., Sup., 34 N.Y.S.2d 705, 709. And instrument must contain recital to effect that it is given under seal. Marshall v. Walker, 50 Ga.App. 551, 178 S.E. 760.

SEALED VERDICT. When the jury have agreed upon a verdict, if the court is not in session at the time, they are permitted (usually) to put their written finding in a sealed envelope, and then separate. This verdict they return when the court again convenes. The verdict thus returned has the same effect, and must be treated in the same manner, as if returned in open court before any separation of the jury had taken place. Sutliff v. Gilbert, 8 Ohio, 408; Young v. Seymour, 4 Neb. 89. But see Spielter v. North German Lloyd S. S. Co., 249 N.Y.S. 353, 365, 232 App.Div. 104, holding that it is mere agreement reached by jurors, and does not become final until it is read into record and jurors discharged.

SEALING. In matters of succession, the placing, by the proper officer, of seals on the effects of a succession for the purpose of preserving them, and for the interest of third persons. The seals are affixed by order of the judge having jurisdiction. Civ.Code La. art. 1075.

SEALING UP. Where a party to an action has been ordered to produce a document part of which is either irrelevant to the matters in question or is privileged from production, he may, by leave of the court, seal up that part, if he makes an affidavit stating that it is irrelevant or privileged. Daniell, Ch. Pr. 1681. The sealing up is generally done by fastening pieces of paper over the part with gum or wafers. Sweet.

SEALS. In Louisiana. Seals are placed upon the effects of a deceased person, in certain cases, by a public officer, as a method of taking official custody of the succession. See Sealing.

SEAMEN. Sailors; mariners; persons whose business is navigating ships, or who are connected with the ship as such and in some capacity assist in its conduct, maintenance or service. Commonly exclusive of the officers of a ship. The Hurricane, D.C.Pa., 2 F.2d 70, 72; City of Los Angeles v. United Dredging Co., C.C.A.Cal., 14 F.2d 364, 366; The Lillian, D.C.Me., 16 F.2d 146, 148. One whose occupation is to navigate vessels upon the sea including all those on board whose labor contributes to the accomplishment of the main object in which the vessel is engaged. Osland v. Star Fish & Oyster Co., C.C.A.Ala., 107 F.2d 113, 114. One whose duties are maritime in character and are rendered on a vessel in navigable waters. Helena Glendale Ferry Co. v. Walling, C.C.A.Ark. 132 F.2d 616, 619, 620.

A vessel must be in motion or capable of motion and regarded legally as in motion in order that those employed in its use may be regarded as "seamen". Spinner v. Waterways Fuel & Dock Co., 70 Ohio App. 121, 41 N.E. 2d 144, 145, 146.

SEANCE. In French law. A session; as of some public body.

SEARCH

SEARCH.

Criminal Law

An examination of a man's house or other buildings or premises, or of his person, with a view to the discovery of contraband or illicit or stolen property, or some evidence of guilt to be used in the prosecution of a criminal action for some crime or offense with which he is charged. *Elliott v. State*, 173 Tenn. 203, 116 S.W.2d 1009, 1011. A prying into hidden places for that which is concealed and it is not a search to observe that which is open to view. *People v. Exum*, 382 Ill. 204, 47 N.E.2d 56, 59.

International Law

The right of search is the right on the part of ships of war to visit and search merchant vessels during war, in order to ascertain whether the ship or cargo is liable to seizure. Resistance to visitation and search by a neutral vessel makes the vessel and cargo liable to confiscation. Numerous treaties regulate the manner in which the right of search must be exercised. *Man. Int. Law*, 433; *Sweet*.

Practice

An examination of the official books and dockets, made in the process of investigating a title to land, for the purpose of discovering if there are any mortgages, judgments, tax-liens, or other incumbrances upon it.

General

Unlawful search. Within constitutional immunity from unreasonable searches and seizures, an examination or inspection without authority of law of premises or person with view to discovery of stolen, contraband, or illicit property, or for some evidence of guilt to be used in prosecution of criminal action. *Const.U.S. Amend. 4*. *Bush v. State*, 64 Okl.Cr. 161, 77 P.2d 1184, 1187.

Unreasonable search and seizure. At common law, a search which is unreasonably oppressive in its general invasion of the liberty of the citizen. *McClannan v. Chaplain*, 136 Va. 1, 116 S.E. 495, 498. An examination or inspection, without authority of law, of one's premises or person with a view to the discovery of stolen contraband or illicit property or for some evidence of guilt to be used in prosecution for crime. *Graham v. State*, 31 Okl.Cr. 125, 237 P. 462, 464. One which is not lawful. *United States v. Snyder*, D.C.W.Va., 278 F. 650, 658; *Hays v. State*, 38 Okl.Cr. 331, 261 P. 232, 234.

SEARCH-WARRANT. An order in writing, issued by a justice or other magistrate, in the name of the state, directed to a sheriff, constable, or other officer, commanding him to search a specified house, shop, or other premises, for personal property alleged to have been stolen, or for unlawful goods, and to bring the same, when found, before the magistrate, and usually also the body of the person occupying the premises, to be dealt with according to law. *People v. Lavendowsky*, 329 Ill. 223, 160 N.E. 582, 585.

SEARCHER. In English law. An officer of the customs, whose duty it is to examine and search all ships outward bound, to ascertain whether they have any prohibited or uncustomed goods on board. *Wharton*. *Jacob*.

SEASHORE. That portion of land adjacent to the sea which is alternately covered and left dry by the ordinary flux and reflux of the tides. *Wood v. Maitland*, 8 N.Y.S.2d 146, 151, 169 Misc. 484. See, also, *Sea*.

SEASONAL EMPLOYMENT. As used in compensation laws, as basis for determining amount of compensation, refers to occupations which can be carried on only at certain seasons or fairly definite portions of the year, and does not include such occupations as may be carried on throughout entire year. *Hiestand v. Ristau*, 135 Neb. 881, 284 N.W. 756, 760. *Pryor v. Brickley*, Del., 5 A.2d 242, 244, 1 Terry 5.

SEATED LAND. Land that is occupied, cultivated, improved, reclaimed, farmed, or used as a place of residence. Residence without cultivation, or cultivation without residence, or both together, impart to land the character of being seated. The term is used, as opposed to "unseated land," in Pennsylvania tax laws. *Earley v. Euwer*, 102 Pa. 340; *Coal Co. v. Fales*, 55 Pa. 98.

SEAWAN. The name used by the Algonquin Indians for the shell beads (or wampum) which passed among the Indians as money. *Webster*.

SEAWORTHINESS. In marine insurance. A warranty of seaworthiness means that the vessel is competent to resist the ordinary attacks of wind and weather, and is competently equipped and manned for the voyage, with a sufficient crew, and with sufficient means to sustain them, and with a captain of general good character and nautical skill. 3 *Kent*, *Comm.* 287.

A warranty of seaworthiness extends not only to the condition of the structure of the ship itself, but requires that it be properly laden, and provided with a competent master, a sufficient number of competent officers and seamen, and the requisite appurtenances and equipments, such as ballast, cables and anchors, cordage and sails, food, water, fuel, and lights, and other necessary or proper stores and implements for the voyage. See, also, *Seaworthy*.

"Seaworthiness" involves no more than reasonable fitness for purpose of a voyage. In re *Gravel Products Corporation*, C.C.A.N.Y., 24 F.2d 702, 703.

SEAWORTHY. This adjective, applied to a vessel, signifies that she is properly constructed, prepared, manned, equipped, and provided, for the voyage intended. See *Seaworthiness*.

The term "seaworthy" is somewhat equivocal. In its more literal sense, it signifies capable of navigating the sea; but, more exactly, it implies a condition to be and remain in safety, in the condition she is in, whether at sea, in port, or on a railway, stripped and under repairs. If, when the policy attaches, she is in a suitable place, and capable, when repaired and equipped, of navigating the sea, she is seaworthy. But where a vessel is warranted seaworthy for a specified voyage, the place and usual length being given, something more is implied than mere

physical strength and capacity; she must be suitably officered and manned, supplied with provisions and water, and furnished with charts and instruments, and, especially in time of war, with documents necessary to her security against hostile capture. The term "seaworthy," as used in the law and practice of insurance, does not mean, as the term would seem to imply, capable of going to sea or of being navigated on the sea; it imports something very different, and much more, viz., that she is sound, staunch, and strong, in all respects, and equipped, furnished, and provided with officers and men, provisions and documents, for a certain service. In a policy for a definite voyage, the term "seaworthy" means "sufficient for such a vessel and voyage." Newport News Shipbuilding & Dry Dock Co. v. Watson, C.C.A.Va., 19 F.2d 832, 833; The Newport, C.C.A.Cal., 7 F.2d 452, 453.

SEBASTOMANIA. See Insanity.

SECK. A want of remedy by distress. Litt. § 218. See Rent. Want of present fruit or profit, as in the case of the reversion without rent or other service, except fealty. Co.Litt. 151b, n. 5.

SECOND. This term, as used in law, may denote either sequence in point of time or inferiority or postponement in respect to rank, lien, order, or privilege.

As to second "Cousin," "Deliverance," "Distress," "Mortgage," and "Surcharge," see those titles. As to "Secondhand Evidence," see Evidence. As to "Second of Exchange," see First.

SECOND LIEN. One which takes rank immediately after a first lien on the same property and is next entitled to satisfaction out of the proceeds.

SECONDARY, n. In English practice. An officer of the courts of king's bench and common pleas; so called because he was *second* or next to the chief officer. In the king's bench he was called "Master of the King's Bench Office," and was a deputy of the prothonotary or chief clerk. 1 Archb. Pr. K. B. 11, 12. By St. 7 Wm. IV. and 1 Vict. c. 30, the office of secondary was abolished.

An officer who is next to the chief officer. Also an officer of the corporation of London, before whom inquiries to assess damages are held, as before sheriffs in counties. Wharton.

SECONDARY, adj. Of a subsequent, subordinate, or inferior kind or class; generally opposed to "primary."

As to secondary "Conveyances," "Easement," "Franchise," "Meaning," "Use," and "Vein," see those titles.

SECONDARY BOYCOTT. Any combination if its purpose and effect are to coerce customers or patrons, or suppliers through fear of loss or bodily harm, to withhold or withdraw their business relations from employer who is under attack. Wright v. Teamsters' Union Local No. 690, 33 Wash. 905, 207 P.2d 662, 665.

SECONDARY EVIDENCE. That which is inferior to primary. Thus, a copy of an instrument, or oral evidence of its contents, is secondary evidence of the instrument and contents. It is that species of evidence which becomes admissible, as being the next best, when the primary

or best evidence of the fact in question is lost or inaccessible; as when a witness details orally the contents of an instrument which is lost or destroyed. Williams v. Davis, 56 Tex. 253; Baum v. George, 65 Ala. 259; Roberts v. Dixon, 50 Kan. 436, 31 P. 1083.

SECONDARY LIABILITY. A liability which does not attach until or except upon the fulfillment of certain conditions; as that of a surety, or that of an accommodation indorser.

SECOND-HAND EVIDENCE. Evidence which has passed through one or more media before reaching the witness; hearsay evidence.

SECONDS. In criminal law. Those persons who assist, direct, and support others engaged in fighting a duel.

SECRET. Concealed; hidden; not made public; particularly, in law, kept from the knowledge or notice of persons liable to be affected by the act, transaction, deed, or other thing spoken of.

Webster defines "secret" as "to deposit in a place of hiding, to hide, to conceal"; and defines the adjective "secret" as "hidden, concealed"; and the noun as "something studiously concealed, a thing kept from general knowledge, what is not revealed." The Century Dictionary defines the verb "secret" as "to make or keep secret, hide, conceal, remove from observation, or the knowledge of others"; and defines the adjective "secret" as "set or kept apart, hidden, concealed"; and the noun as "something studiously hidden or concealed, a thing kept from general knowledge, what is not or should not be revealed." Something known only to one or a few and kept from others. Ferrell v. State, 68 Tex.Cr.R. 487, 152 S.W. 901, 903; Kaumagraph Co. v. Stampagraph Co., 235 N.Y. 1, 138 N.E. 485, 487; Rubner v. Gursky, Sup., 21 N.Y.S.2d 558, 561.

As to secret "Committee," "Equity," "Partnership," and "Trust," see those titles.

SECRET LIEN. A lien reserved by the vendor of chattels, who has delivered them to the vendee, to secure the payment of the price, which is concealed from all third persons.

SECRET SERVICE. A branch of government service concerned with the detection of counterfeiting and other offenses, civil or political, committed or threatened by persons who operate in secrecy. It is under the charge of the treasury department. Its rules and regulations, promulgated by the department, are laws within R. S. U. S. § 753 (28 U.S.C.A. § 2241), authorizing the issuance by a federal court of the writ of *habeas corpus* in case of a prisoner in custody for an act done in pursuance of a law of the United States; U. S. ex rel. Flynn v. Fuellhart, C.C.Pa., 106 F. 911.

SECRETARY. An official scribe, amanuensis, or writer, or person employed to write letters, dispatches, orders, public or private papers, records, and the like. Mauritz v. Schwind, Tex.Civ.App., 101 S.W.2d 1085, 1090.

Of a corporation or association, an officer charged with the direction and management of that part of the business of the company which is concerned with keeping the records, the official correspondence, with giving and receiving notices, countersigning documents, etc.

SECRETARY

Also a name given to several of the heads of executive departments in the government of the United States; as the "Secretary of War," "Secretary of the Interior," etc. It is also the style of some of the members of the English cabinet; as the "Secretary of State for Foreign Affairs." There are also secretaries of embassies and legations.

SECRETARY OF DECREES AND INJUNCTIONS. An officer of the English court of chancery. The office was abolished by St. 15 & 16 Vict. c. 87, § 23.

SECRETARY OF EMBASSY. A diplomatic officer appointed as secretary or assistant to an ambassador or minister plenipotentiary.

SECRETARY OF LEGATION. An officer employed to attend a foreign mission and to perform certain duties as clerk.

SECRETARY OF STATE. In American law. Title of the chief of the executive bureau of the United States called the "Department of State." He is a member of the cabinet, and is charged with the general administration of the international and diplomatic affairs of the government. In many of the state governments there is an executive officer bearing the same title and exercising important functions. In English law. The secretaries of state are cabinet ministers attending the sovereign for the receipt and dispatch of letters, grants, petitions, and many of the most important affairs of the kingdom, both foreign and domestic. There are five principal secretaries,—one for the home department, another for foreign affairs, a third for the colonies, a fourth for war, and a fifth for India. Wharton.

SECRETE. To conceal or hide away. Particularly, to put property out of the reach of creditors, either by corporally hiding it, or putting the title in another's name, or otherwise hindering creditors from levying on it or attaching it. *Guile v. McNanny*, 14 Minn. 522 (Gil. 391) 100 Am.Dec. 244; *Sturz v. Fischer*, 36 N.Y.S. 894, 15 Misc. 410.

SECRETS OF STATE. The production in court of documents containing secrets of state will not be compelled if it would be injurious to the public interest and if the officer in custody of them claims the privilege. *Beatson v. Skene*, 5 H. & N. 838, per Pollock, C. B. This is said to include confidential communications made by servants of the Crown to each other. 21 Q. B. D. 512. The question of their production is to be decided by the head of the department having custody of them and not by the court. 5 H. & N. 838; [1900] 1 Ch. 347; 13 Low. Can. 33 (where the cases were fully considered). *Appeal of Hartranft*, 85 Pa. 433, 27 Am.Rep. 667 (in which Agnew, C. J., vigorously dissented), where a ruling in the trial of Aaron Burr was cited as a precedent. That it is for the judge to pass on the question, see Wigm. Evid. § 2376. In 21 Q. B. D. 515, Field, J., said that if he were sitting, he should consider himself entitled to examine the documents privately, and ascertain the real motive of the refusal to produce.

SECT. As applied to religious bodies. A party or body of persons who unite in holding certain special doctrines or opinions concerning religion, which distinguish them from others holding the same general religious belief. *Gerhardt v. Heid*, 66 N.D. 444, 267 N.W. 127.

SECTA. In old English law. Suit; attendance at court; the plaintiff's suit or following, *i. e.*, the witnesses whom he was required, in the ancient practice, to bring with him and produce in court, for the purpose of confirming his claim, before the defendant was put to the necessity of answering the declaration. 3 Bl. Comm. 295, 344; Bract. fol. 214a. A survival from this proceeding is seen in the formula still used at the end of declarations, "and therefore he brings his suit," (*et inde producit sectam.*) This word, in its secondary meaning, signifies suit in the courts; lawsuit.

SECTA AD CURIAM. A writ that lay against him who refused to perform his suit either to the county court or the court-baron. Cowell.

SECTA AD FURNUM. In old English law. Suit due to a man's public oven or bake-house. 3 Bl. Comm. 235.

SECTA AD JUSTICIAM FACIENDAM. In old English law. A service which a man is bound to perform by his fee.

SECTA AD MOLENDINUM. A writ which lay for the owner of a mill against the inhabitants of a place where such mill is situated, for not doing suit to the plaintiff's mill; that is, for not having their corn ground at it. Brown.

SECTA AD TORRALE. In old English law. Suit due to a man's kiln or malthouse. 3 Bl. Comm. 235.

SECTA CURIÆ. In old English law. Suit of court; attendance at court. The service, incumbent upon feudal tenants, of attending the lord at his court, both to form a jury when required, and also to answer for their own actions when complained of.

SECTA EST PUGNA CIVILIS; SICUT ACTORES ARMANTUR ACTIONIBUS, ET, QUASI, GLADIIS ACCINGUNTUR, ITA REI MUNIUNTUR EXCEPTIONIBUS, ET DEFENDUNTUR, QUASI, CLYPEIS. Hob. 20. A suit is a civil warfare; for as the plaintiffs are armed with actions, and, as it were, girded with swords, so the defendants are fortified with pleas, and are defended, as it were, by shields.

SECTA FACIENDA PER ILLAM QUÆ HABET ENICIAM PARTEM. A writ to compel the heir, who has the elder's part of the co-heirs, to perform suit and services for all the coparceners. Reg. Orig. 177.

SECTA QUÆ SCRIPTO NITITUR A SCRIPTO VARIARI NON DEBET. Jenk. Cent. 65. A suit which is based upon a writing ought not to vary from the writing.

SECTA REGALIS. A suit so called by which all persons were bound twice in the year to attend in the sheriff's tourn, in order that they might be informed of things relating to the public peace. It was so called because the sheriff's tourn was the king's leet, and it was held in order that the people might be bound by oath to bear true allegiance to the king. Cowell.

SECTA UNICA TANTUM FACIENDA PRO PLURIBUS HÆREDITATIBUS. A writ for an heir who was distrained by the lord to do more suits than one, that he should be allowed to do one suit only in respect of the land of divers heirs descended to him. Cowell.

SECTARIAN. Denominational; devoted to, peculiar to, pertaining to, or promotive of, the interest of a sect, or sects; in a broader sense, used to describe the activities of the followers of one faith as related to those of adherents of another. The term is most comprehensive in scope. Gerhard v. Heid, 66 N.D. 444, 267 N.W. 127, 130.

See, also, Sect.

SECTATORES. Suitors of court who, among the Saxons, gave their judgment or verdict in civil suits upon the matter of fact and law. 1 Reeve, Eng. Law, 22.

SECTION. In text-books, codes, statutes, and other juridical writings, the smallest distinct and numbered subdivisions are commonly called "sections," sometimes "articles," and occasionally "paragraphs." Ex parte Pea River Power Co., 207 Ala. 6, 91 So. 920.

SECTION OF LAND. In American land law. A division or parcel of land, on the government survey, comprising one square mile or 640 acres. Each "township" (six miles square) is divided by straight lines into thirty-six sections, and these are again divided into half-sections and quarter-sections. South Florida Farms Co. v. Goodno, 84 Fla. 532, 94 So. 672, 675.

The general and proper acceptation of the terms "section," "half," and "quarter section," as well as their construction by the general land department, denotes the land in the sectional and subdivisional lines, and not the exact quantity which a perfect admeasurement of an unobstructed surface would declare. Brown v. Hardin, 21 Ark. 327.

SECTIS NON FACIENDIS. A writ which lay for a dowress, or one in wardship, to be free from suit of court. Cowell.

SECTORES. Lat. In Roman law. Purchasers at auction, or public sales.

SECULAR. Not spiritual; not ecclesiastical; relating to affairs of the present world. State v. Smith, 19 Okl.Cr. 184, 198 P. 879, 881.

SECULAR BUSINESS. As used in Sunday laws, this term includes all forms of activity in the business affairs of life, the prosecution of a trade or employment, and commercial dealings, such as the making of promissory notes, lending money, and the like. Lovejoy v. Whipple, 18 Vt. 383, 46 Am.Dec. 157.

SECULAR CLERGY. In ecclesiastical law, the parochial clergy, who perform their ministry *in seculo* (in the world), and who are thus distinguished from the monastic or "regular" clergy. Steph. Comm. 681, note.

SECUNDUM. Lat. In the civil and common law. According to. Occurring in many phrases of familiar use, as follows:

SECUNDUM ÆQUUM ET BONUM. According to what is just and right.

SECUNDUM ALLEGATA ET PROBATA. According to what is alleged and proved; according to the allegations and proofs. 15 East, 81; Cloutman v. Tunison, 1 Sumn. 375, F.Cas.No.2,907.

SECUNDUM ARTEM. According to the art, trade, business, or science.

SECUNDUM BONOS MORES. According to good usages; according to established custom; regularly; orderly.

SECUNDUM CONSUETUDINEM MANERII. According to the custom of the manor.

SECUNDUM FORMAM CHARTÆ. According to the form of the charter, (deed.)

SECUNDUM FORMAM DONI. According to the form of the gift or grant. See Formedon.

SECUNDUM FORMAM STATUTI. According to the form of the statute.

SECUNDUM LEGEM COMMUNEM. According to the common law.

SECUNDUM NATURAM EST COMMODA CUIUSQUE REI EUM SEQUI, QUEM SEQUUNTUR INCOMMODA. It is according to nature that the advantages of anything should attach to him to whom the disadvantages attach. Dig. 50, 17, 10.

SECUNDUM NORMAM LEGIS. According to the rule of law; by the intendment and rule of law.

SECUNDUM REGULAM. According to the rule; by rule.

SECUNDUM SUBJECTAM MATERIAM. According to the subject-matter. 1 Bl. Comm. 229. All agreements must be construed *secundum subjectam materiam* if the matter will bear it. 2 Mod. 80, arg.

SECURE. To give security; to assure of payment, performance, or indemnity; to guaranty or make certain the payment of a debt or discharge of an obligation. Ex parte Reynolds, 52 Ark. 330, 12 S.W. 570.

One "secures" his creditor by giving him a lien, mortgage, pledge, or other security, to be used in case the debtor fails to make payment.

Also, not exposed to danger; safe; so strong, stable or firm as to insure safety. Wenzel & Henoch Const. Co. v. Industrial Commission, 202 Wis. 595, 233 N.W. 777, 779.

SECURED

SECURED CREDITOR. A creditor who holds some special pecuniary assurance of payment of his debt, such as a mortgage or lien. In re New York Title and Mortgage Co., 160 Misc. 67, 289 N.Y.S. 771, 785, 160 Misc. 67.

SECURITAS. In old English law. Security; surety.

In the civil law. An acquittance or release. Spelman; Calvin.

SECURITATEM INVENIENDI. An ancient writ, lying for the sovereign, against any of his subjects, to stay them from going out of the kingdom to foreign parts; the ground whereof is that every man is bound to serve and defend the commonwealth as the crown shall think fit. Fitzh. Nat. Brev. 115.

SECURITATIS PACIS. In old English law. Security of the peace. A writ that lay for one who was threatened with death or bodily harm by another, against him who so threatened. Reg. Orig. 88.

SECURITIES. Evidences of debts or of property. State v. Allen, 216 N.C. 621, 5 S.E.2d 844, 845, 847. Evidences of obligations to pay money or of rights to participate in earnings and distribution of corporate, trust, and other property. Oklahoma-Texas Trust v. Securities and Exchange Commission, C.C.A.10, 100 F.2d 888, 890.

SECURITY. Protection; assurance; indemnification. The term is usually applied to an obligation, pledge, mortgage, deposit, lien, etc., given by a debtor in order to make sure the payment or performance of his debt, by furnishing the creditor with a resource to be used in case of failure in the principal obligation. The name is also sometimes given to one who becomes surety or guarantor for another. Bissinger & Co. v. Massachusetts Bonding & Ins. Co., 83 Or. 288, 163 P. 592, 593.

Collateral Security

See Collateral.

Counter Security

See Counter.

Marshaling Securities

See Marshaling.

Personal Security

(1) A person's legal and uninterrupted enjoyment of his life, his limbs, his body, his health, and his reputation. 1 Bl. Comm. 129. Sanderson v. Hunt, 76 S.W. 179, 25 Ky.L.Rep. 626. (2) Evidences of debt which bind the person of the debtor, not real property. Merrill v. National Bank, 19 S. Ct. 360, 173 U.S. 131, 43 L.Ed. 640.

Public Securities

Bonds, notes, certificates of indebtedness, and other negotiable or transferable instruments evidencing the public debt of a state or government.

Real Security

The security of mortgages or other liens or incumbrances upon land. See Merrill v. National Bank, 19 S.Ct. 360, 173 U.S. 131, 43 L.Ed. 640.

Security for Costs

See Costs.

Security for Good Behavior

A bond or recognizance which the magistrate exacts from a defendant brought before him on a charge of disorderly conduct or threatening violence, conditioned upon his being of good behavior, or keeping the peace, for a prescribed period, towards all people in general and the complainant in particular.

Treasury Securities

See that title.

SECURITY COUNCIL. The executive body of the United Nations, charged with the duty of preventing or stopping wars by diplomatic, economic or military action. It is composed of five permanent members and six additional members elected at stated intervals.

SECURITY DEPOSIT. Money deposited by tenant with landlord as security for full and faithful performance by tenant of terms of lease. Bowles v. Westbrook Defense Homes, D.C.Conn., 61 F. Supp. 172, 173.

SECURIUS EXPEDIUNTUR NEGOTIA COMMISSE PLURIBUS, ET PLUS VIDENT OCULI QUAM OCLUS. 4 Coke, 46a. Matters intrusted to several are more securely dispatched, and eyes see more than eye, [*i. e.*, "two heads are better than one."]

SECUS. Lat. Otherwise; to the contrary. This word is used in the books to indicate the converse of a foregoing proposition, or the rule applicable to a different state of facts, or an exception to a rule before stated.

SED NON ALLOCATUR. Lat. But it is not allowed. A phrase used in the old reports, to signify that the court disagreed with the arguments of counsel.

SED PER CURIAM. Lat. But by the court. This phrase is used in the reports to introduce a statement made by the court, on the argument, at variance with the propositions advanced by counsel, or the opinion of the whole court, where that is different from the opinion of a single judge immediately before quoted.

SED QUÆRE. Lat. But inquire; examine this further. A remark indicating, briefly, that the particular statement or rule laid down is doubted or challenged in respect to its correctness.

SED VIDE. Lat. But see. This remark, followed by a citation, directs the reader's attention to an authority or a statement which conflicts with or contradicts the statement or principle laid down.

SEDATO ANIMO. Lat. With settled purpose. 5 Mod. 291.

SEDE PLENA. Lat. The see being filled. A phrase used when a bishop's see is not vacant.

SEDENTE CURIA. Lat. The court sitting; during the sitting of the court.

SEDERUNT, ACTS OF. In Scotch law. Certain ancient ordinances of the court of session, conferring upon the courts power to establish general rules of practice. Bell.

SEDES. Lat. A see; the dignity of a bishop. 3 Steph. Comm. 65.

SEdge FLAT. A tract of land below high-water mark. Church v. Meeker, 34 Conn. 421.

SEDITION. An insurrectionary movement tending towards treason, but wanting an overt act; attempts made by meetings or speeches, or by publications, to disturb the tranquillity of the state. Arizona Pub. Co. v. Harris, 181 P. 373, 375, 20 Ariz. 446.

The distinction between "sedition" and "treason" consists in this: that though the ultimate object of sedition is a violation of the public peace, or at least such a course of measures as evidently engenders it, yet it does not aim at direct and open violence against the laws or the subversion of the constitution. *Allis.Crim.Law*, 580.

In Scotch law. The raising commotions or disturbances in the state. It is a revolt against legitimate authority. *Ersk. Inst.* 4, 4, 14.

In English law. The offense of publishing, verbally or otherwise, any words or document with the intention of exciting disaffection, hatred, or contempt against the sovereign, or the government and constitution of the kingdom, or either house of parliament, or the administration of justice, or of exciting his majesty's subjects to attempt, otherwise than by lawful means, the alteration of any matter in church or state, or of exciting feelings of ill will and hostility between different classes of his majesty's subjects. *Sweet. State v. Shepherd*, 177 Mo. 205, 76 S.W. 79, 99 Am. St.Rep. 624.

SEDITIONOUS LIBEL. In English law. A written or printed document containing seditious matter or published with a seditious intention, the latter term being defined as "an intention to bring into hatred or contempt, or to excite disaffection against, the king or the government and constitution as by law established, or either house of parliament, or the administration of justice, or to excite British subjects to attempt otherwise than by lawful means the alteration of any matter in church or state by law established, or to promote feelings of ill will and hostility between different classes." *Dacey, Const.* (4th Ed.) 231, 232. See *Black, Const. Law* (3d Ed.) p. 654.

SEDUCE. To induce to surrender chastity. *State v. Howard*, 264 Mo. 386, 175 S.W. 58, 59. To lead away or astray. *Mosley v. Lynn*, 172 Ga. 193, 157 S.E. 450, 452. See, also, Seduction.

SEDUCING TO LEAVE SERVICE. An injury for which a master may have an action on the case.

SEDUCTION. The act of seducing. Act of man enticing woman to have unlawful intercourse with him by means of persuasion, solicitation, promises, bribes, or other means without employment of force. *Van De Velde v. Colle*, 8 N.J.Misc. 782, 152 A. 645, 646.

At common law seduction is recognized merely as creating a civil liability, and actions for seduction are based solely upon relation of master and servant and no one but those entitled to services can maintain action. Under statutory provisions in many states the woman is now permitted to recover for her own seduction.

In many states seduction has been made a criminal offense. Previous chaste character of the woman at time of seduction is essential under some statutes.

SEE. The circuit of a bishop's jurisdiction; or his office or dignity, as being bishop of a given diocese.

SEEN. This word, when written by the drawee on a bill of exchange, amounts to an acceptance by the law merchant. *Barnet v. Smith*, 30 N.H. 256, 64 Am.Dec. 290; *Peterson v. Hubbard*, 28 Mich. 197.

SEIGNIOR, in its general signification, means "lord," but in law it is particularly applied to the lord of a fee or of a manor; and the fee, dominions, or manor of a seignior is thence termed a "seignior," *i. e.*, a lordship. He who is a lord, but of no manor, and therefore unable to keep a court, is termed a "seignior in gross." *Kitch. 206; Cowell.*

Seignior or *Seigneur.* Among the feudists, this name signified lord of the fee. *Fitzh.N.B.* 23. *Seigneur* is still used in French Canada. The most extended signification of this word includes not only a lord or peer of parliament, but is applied to the owner or proprietor of a thing, hence the owner of a hawk, and the master of a fishing vessel, is called a *seigneur*. 37 *Edw. III*, c. 19; *Barrington, Stat.* 258.

SEIGNIORAGE. A royalty or prerogative of the sovereign, whereby an allowance of gold and silver, brought in the mass to be exchanged for coin, is claimed. *Cowell. Mintage*; the charge for coining bullion into money at the mint.

SEIGNIORESS. A female superior.

SEIGNIORY. In English law. A lordship; a manor. The rights of a lord, as such, in lands. *Kavanaugh v. Cohoes Power & Light Corporation*, 187 N.Y.S. 216, 231, 114 Misc.Rep. 590.

SEISED IN DEMESNE AS OF FEE. This is the strict technical expression used to describe the ownership in "an estate in fee-simple in possession in a corporeal hereditament." The word "seised" is used to express the "seisin" or owner's possession of a freehold property; the phrase "in demesne," or "in his demesne," (*in dominico suo*) signifies that he is seised as owner of the land itself, and not merely of the seignior or services; and the concluding words, "as of fee," import that he is seised of an estate of inheritance in fee-simple. Where the subject is incorporeal, or the

SEISI

estate expectant on a precedent freehold, the words "in his demesne" are omitted. (Co. Litt. 17a; Fleta, l. 5, c. 5, § 18; Bract. l. 4, tr. 5, c. 2, § 2.) Brown.

SEISI. In old English law. Seised; possessed.

SEISIN. The completion of the feudal investiture, by which the tenant was admitted into the feud, and performed the rights of homage and fealty. Stearns, Real Act. 2. Possession with an intent on the part of him who holds it to claim a freehold interest. *Deshong v. Dëshong*, 186 Pa. 227, 40 A. 402, 65 Am.St.Rep. 855. Right to immediate possession according to the nature of the estate. *Williams v. Swango*, 365 Ill. 549, 7 N.E.2d 306, 309.

Upon the introduction of the feudal law into England, the word "seisin" was applied only to the possession of an estate of freehold, in contradistinction to that precarious kind of possession by which tenants in villeinage held their lands, which was considered to be the possession of those in whom the freehold continued. The word still retains its original signification, being applied exclusively to the possession of land of a freehold tenure, it being inaccurate to use the word as expressive of the possession of leaseholds or terms of years, or even of copyholds. Brown.

Under our law, the word "seisin" has no accurately defined technical meaning. At common law, it imported a feudal investiture of title by actual possession. With us it has the force of possession under some legal title or right to hold. This possession, so far as possession alone is involved, may be shown by parol; but, if it is intended to show possession under a legal title, then the title must be shown by proper conveyance for that purpose. *Ford v. Garner*, 49 Ala. 603.

Every person in whom a seisin is required by any of the provisions of this chapter shall be deemed to have been seised, if he may have had any right, title, or interest in the inheritance. G.S.N.C. §§ 29-1, rule 12.

Actual Seisin

Possession of the freehold by the *pedis positio* of one's self or one's tenant or agent, or by construction of law, as in the case of a state grant or a conveyance under the statutes of uses, or (probably) of grant or devise where there is no actual adverse possession; it means actual possession as distinguished from constructive possession or possession in law. *Carr v. Anderson*, 6 App.Div. 6, 39 N.Y.S. 746.

Constructive Seisin

Seisin in law where there is no seisin in fact; as where the state issues a patent to a person who never takes any sort of possession of the lands granted, he has constructive seisin of all the land in his grant, though another person is at the time in actual possession. *Garrett v. Ramsey*, 26 W.Va. 351.

Covenant of Seisin

See Covenant.

Equitable Seisin

A seisin which is analogous to legal seisin; that is, seisin of an equitable estate in land. Thus a mortgagor is said to have equitable seisin of the land by receipt of the rents. Sweet.

Livery of Seisin

Delivery of possession; called, by the feudists, "investiture."

Primer Seisin

In English law. The right which the king had, when any of his tenants died seised of a knight's fee, to receive of the heir, provided he were of full age, one whole year's profits of the lands, if they were in immediate possession; and half a year's profits, if the lands were in reversion, expectant on an estate for life. 2 Bl. Comm. 66.

Quasi Seisin

A term applied to the possession which a copyholder has of the land to which he has been admitted. The freehold in copyhold lands being in the lord, the copyholder cannot have seisin of them in the proper sense of the word, but he has a customary or *quasi* seisin analogous to that of a freeholder. *Williams, Seis.* 126; Sweet.

Seisin in Deed

Actual possession of the freehold; the same as actual seisin or seisin in fact. *Roetzel v. Beal*, 196 Ark. 5, 116 S.W.2d 591, 593.

Seisin in Fact

Possession with intent on the part of him who holds it to claim a freehold interest; the same as actual seisin. *Seim v. O'Grady*, 42 W.Va. 77, 24 S.E. 994; *Savage v. Savage*, 19 Or. 112, 23 P. 890, 20 Am.St.Rep. 795.

Seisin in Law

A right of immediate possession according to the nature of the estate. *Martin v. Trail*, 142 Mo. 85, 43 S.W. 655; *Savage v. Savage*, 19 Or. 112, 23 P. 890, 20 Am.St.Rep. 795. As the old doctrine of corporeal investiture is no longer in force, the delivery of a deed gives seisin in law. *Watkins v. Nugen*, 118 Ga. 372, 45 S.E. 262.

Seisin Ox

In Scotch law. A perquisite formerly due to the sheriff when he gave possession to an heir holding crown lands. It was long since converted into a payment in money, proportioned to the value of the estate. Bell.

SEISINA. L. Lat. Seisin.

SEISINA FACIT STIPITEM. Seisin makes the stock. 2 Bl. Comm. 209; Broom, Max. 525, 528.

SEISINA HABENDA. A writ for delivery of the lord, of lands and tenements, after the sovereign, in right of his prerogative, had had the year, day, and waste on a felony committed, etc. Reg. Orig. 165.

SEIZE. To put in possession, invest with fee simple, be seized of or in, be legal possessor of, or be holder in fee simple. *Hanley v. Stewart*, 155 Pa. Super. 535, 39 A.2d 323, 326.

SEIZIN. See Seisin.

SEIZING OF HERIOTS. Taking the best beast, etc., where an heriot is due, on the death of the tenant. 2 Bl. Comm. 422.

SEIZURE. To take possession of forcibly, to grasp, to snatch, or to put in possession. *Hardie v. State*, 140 Tex.Cr.R. 368, 144 S.W.2d 571, 575.

Law of Copyholds

Seizure is where the lord of copyhold lands takes possession of them in default of a tenant. It is either seizure *quousque* or absolute seizure.

Practice

The act performed by an officer of the law, under the authority and exigence of a writ, in taking into the custody of the law the property, real or personal, of a person against whom the judgment of a competent court has passed, condemning him to pay a certain sum of money, in order that such property may be sold, by authority and due course of law, to satisfy the judgment. Or the act of taking possession of goods in consequence of a violation of public law. *Carey v. Insurance Co.*, 54 N.W. 18, 84 Wis. 80, 20 L.R.A. 267, 36 Am.St. Rep. 907.

Seizure, even though hostile, is not necessarily capture, though such is its usual and probable result. The ultimate act or adjudication of the state, by which the seizure has been made, assigns the proper and conclusive quality and denomination to the original proceeding. A condemnation asserts a capture *ab initio*; an award of restitution pronounces upon the act as having been not a valid act of capture, but an act of temporary seizure only. *Appleton v. Crowninshield*, 3 Mass. 443.

SEIZURE QUOUSQUE. Where the heir on the death of his ancestor postpones claiming admittance from the lord, the lord may, after a reasonable time, and after due proclamation at three successive courts, seize the tenement into his hands *quousque*, i. e. until an heir appears and claims admittance; *Jenks*, Mod. Land L. 208.

SELDA. A shop, shed, or stall in a market; a wood of shallows or willows; also a sawpit. *Co. Litt.* 4.

SELECT. To take by preference from among others; to pick out; to cull. *Clarke v. Commonwealth*, 159 Va. 908, 166 S.E. 541, 543.

SELECT COUNCIL. The name given, in some states, to the upper house or branch of the council of a city.

SELECTI JUDICES. Lat. In Roman law. Judges who were selected very much like our juries. They were returned by the prætor, drawn by lot, subject to be challenged, and sworn. 3 Bl. Comm. 366.

SELECTMEN. The name of certain municipal officers, in the New England states, elected by the towns to transact their general public business, and possessing certain executive powers. *Felch v. Weare*, 69 N.H. 617, 45 A. 591.

SELF-DEALING. Basically relates to transactions wherein a trustee, acting for himself and also as "trustee," a relation which demands strict fidelity to others, seeks to consummate a deal wherein self-interest is opposed to duty. *Cestui que* trust has in such case the election to affirm

or disaffirm, unless countervailing equities have intervened. *First Nat. Bank v. Basham*, 238 Ala. 500, 191 So. 873, 876, 877, 878, 125 A.L.R. 656; *In re Binder's Estate*, 137 Ohio St. 26, 27 N.E.2d 939, 947, 129 A.L.R. 130.

SELF-DEFENSE. The protection of one's person or property against some injury attempted by another. The right of such protection. An excuse for the use of force in resisting an attack on the person, and especially for killing an assailant. *Whart. Crim. Law*, §§ 1019, 1026. The right of a man to repel force by force even to the taking of life in defense of his person, property or habitation, or of a member of his family, against any one who manifests, intends, attempts or endeavors by violence or surprise, to commit a forcible felony. *State v. Patterson*, 45 Vt. 308, 12 Am.Rep. 200; *Logue v. Com.*, 38 Pa. 265, 80 Am. Dec. 481. Essential elements of "self-defense" are that defendant does not provoke difficulty and that there must be impending peril without convenient or reasonable mode of escape. *Hayes v. State*, 225 Ala. 253, 142 So. 675, 677. The law of "self-defense" justifies an act done in the reasonable belief of immediate danger, and, if an injury was done by defendant in justifiable self-defense, he can never be punished criminally nor held responsible for damages in a civil action. *Baltimore Transit Co. v. Faulkner*, 179 Md. 598, 20 A.2d 485, 487.

Accused is not justified in pursuing and killing attacker when danger of death or serious bodily injury has passed. *People v. Keys*, 62 Cal.App.2d 903, 145 P.2d 589, 596.

SELF-EXECUTING CONSTITUTIONAL PROVISION. Immediately effective without the necessity of ancillary legislation. *Cleary v. Kincaid*, 23 Idaho, 789, 131 P. 1117, 1118; *Stange v. City of Cleveland*, 94 Ohio St. 377, 114 N.E. 261, 262.

Constitutional provision is "self-executing" if it supplies sufficient rule by which right given may be enjoyed or duty imposed enforced; constitutional provision is not "self-executing" when it merely indicates principles without laying down rules giving them force of law. *Zachary v. City of Wagoner*, 146 Okl. 268, 292 P. 345, 348; *State v. Perreault*, 34 N.M. 438, 283 P. 902, 903.

SELF-EXECUTING JUDGMENTS. Those requiring no affirmative action of the court or action under process issued by the court to execute them. *Ætna Casualty & Surety Co. of Hartford, Conn. v. Board of Sup'rs of Warren County*, 160 Va. 11, 168 S.E. 617, 629.

SELF-MURDER, SELF-DESTRUCTION, or SELF-SLAUGHTER. See *Felo de Se*; *Suicide*.

SELION OF LAND. In old English law. A ridge of ground rising between two furrows, containing no certain quantity, but sometimes more and sometimes less. *Termes de la Ley*.

SELL. To dispose of by sale (*q. v.*).

SELLER. One who sells anything; the party who transfers property in the contract of sale. The correlative is "buyer," or "purchaser." Though these terms are not inapplicable to the persons concerned in a transfer of real estate, it is more customary to use "vendor" and "purchaser," or "vendee" in that case.

SELLETTE

SELLETTE (Fr.). A kind of wooden seat set up in criminal courts in France, on which they placed the accused to undergo his last interrogatory when the conclusions of the counsel for the prosecution went against him with regard to capital punishment or at least penal corporal punishment. It implied moral degradation and was therefore limited to persons accused of crimes entailing corporal punishment. *Ord. Cr. de 1670, Titre IV, art. 21*. Abolished by Edict of May 1, 1788. Called a "stool of repentance."

SELLING PUBLIC OFFICES. Buying or selling any office in the gift of the crown, or making any negotiation relating thereto, was deemed a misdemeanor under stats. 5 & 6 Edw. VI. c. 16, and 49 Geo. III. c. 126, 2 Steph. Com., 11th ed. 631.

SELLING STOCKS SHORT. Selling stocks customer does not possess, customer borrowing the number of shares he has sold from some third person to deliver to his vendee expecting to be able to buy the stocks later at a lower figure and return them to the person from whom he borrowed them. *Henderson v. Usher*, 125 Fla. 709, 170 So. 846, 851.

SEMAYNE'S CASE. This case decided, in 1604, that "every man's house [meaning his dwelling-house only] is his castle," and that an officer executing civil process may not break open outer doors in general, but only inner doors, but that (after request made) he may break open even outer doors to find goods of another wrongfully in the house. *Brown*. It is reported in 5 Coke, 91.

SEMBLE. L. Fr. It seems; it would appear. This expression is often used in the reports to preface a statement by the court upon a point of law which is not directly decided, when such statement is intended as an intimation of what the decision would be if the point were necessary to be passed upon. It is also used to introduce a suggestion by the reporter, or his understanding of the point decided when it is not free from obscurity.

SEMEL CIVIS SEMPER CIVIS. Once a citizen always a citizen. *Tray*. Lat. Max. 555.

SEMEL MALUS SEMPER PRÆSUMITUR ESSE MALUS IN EODEM GENERE. Whoever is once bad is presumed to be so always in the same kind of affairs. *Cro. Car.* 317.

SEMESTRIA. Lat. In the civil law. The collected decisions of the emperors in their councils.

SEMI-MATRIMONIUM. Lat. In Roman law. Half-marriage. Concubinage was so called. *Tayl. Civil Law*, 273.

SEMI-PLENA PROBATIO. Lat. In the civil law. Half-full proof; half-proof. 3 Bl. Comm. 370. See Half-Proof.

SEMINARIUM. Lat. In the civil law. A nursery of trees. *Dig.* 7, 1, 9, 6.

SEMINARY. A place of training, an institution of education, a school, academy, college, or university in which young persons are instructed in the several branches of learning which may qual-

ify them for their future employment, and the origin of the word seems to imply a place where the seeds of education are sown and implanted. *State v. Northwestern College of Speech Arts*, 193 Minn. 123, 258 N.W. 1.

The word is said to have acquired no fixed and definite legal meaning. *Maddox v. Adair*, Tex. Civ. App., 66 S.W. 811; *Warde v. Manchester*, 56 N.H. 509, 22 Am. Rep. 504.

SEMINAUFRAGIUM. Lat. In maritime law. Half-shipwreck, as where goods are cast overboard in a storm; also where a ship has been so much damaged that her repair costs more than her worth. *Wharton*.

SEMITA. In old English law. A path. *Fleta*, l. 2, c. 52, § 20.

SEMPER. Lat. Always. A word which introduces several Latin maxims, of which some are also used without this prefix.

SEMPER IN DUBIIS BENIGNIORA PRÆFERENDA SUNT. In doubtful cases, the more favorable constructions are always to be preferred. *Dig.* 50, 17, 56.

SEMPER IN DUBIIS ID AGENDUM EST, UT QUAM TUTISSIMO LOCO RES SIT BONA FIDE CONTRACTA, NISI QUUM APERTE CONTRA LEGES SCRIPTUM EST. In doubtful cases, such a course should always be taken that a thing contracted *bona fide* should be in the safest condition, unless when it has been openly made against law. *Dig.* 34, 5, 21.

SEMPER IN OBSCURIS, QUOD MINIMUM EST SEQUIMUR. In obscure constructions we always apply that which is the least obscure. *Dig.* 50, 17, 9; *Broom*, Max. 687*n*.

SEMPER IN STIPULATIONIBUS, ET IN CETERIS CONTRACTIBUS, ID SEQUIMUR QUOD ACTUM EST. In stipulations and in other contracts we follow that which was done, [we are governed by the actual state of the facts.] *Dig.* 50, 17, 34.

SEMPER ITA FIAT RELATIO UT VALEAT DISPOSITIO. Reference [of a disposition in a will] should always be so made that the disposition may have effect. 6 Coke, 76*b*.

SEMPER NECESSITAS PROBANDI INCUMBIT EI QUI AGIT. The claimant is always bound to prove, [the burden of proof lies on the actor.]

SEMPER PARATUS. Lat. Always ready. The name of a plea by which the defendant alleges that he has always been ready to perform what is demanded of him. 3 Bl. Comm. 303.

SEMPER PRÆSUMITUR PRO LEGITIMATIONE PUERORUM. The presumption always is in favor of the legitimacy of children. 5 Coke, 98*b*; *Co. Litt.* 126*a*.

SEMPER PRÆSUMITUR PRO MATRIMONIO. The presumption is always in favor of the validity of a marriage.

SEMPER PRÆSUMITUR PRO NEGANTE. The presumption is always in favor of the one who denies. 10 Clark & F. 534; 3 El. & Bl. 723.

SEMPER PRÆSUMITUR PRO SENTENTIA. The presumption always is in favor of a sentence. 3 Bulst. 42; Branch, Princ.

SEMPER QUI NON PROHIBET PRO SE INTERVENIRE, MANDARE CREDITUR. He who does not prohibit the intervention of another in his behalf is supposed to authorize it. 2 Kent, Comm. 616; Dig. 14, 6, 16; Dig. 46, 3, 12, 4.

SEMPER SEXUS MASCULINUS ETIAM FEMININUM SEXUM CONTINET. The masculine sex always includes the feminine. Dig. 32, 62.

SEMPER SPECIALIA GENERALIBUS INSUNT. Specials are always included in generals. Dig. 50, 17, 147.

SEN. This is said to be an ancient word, which signified "justice." Co. Litt. 61a.

SENAGE. Money paid for synodals.

SENATE.

American Law. The name of the upper chamber, or less numerous branch, of the congress of the United States. Also the style of a similar body in the legislatures of several of the states.

Roman Law. The great administrative council of the Roman commonwealth.

SENATOR.

American Law. One who is a member of a senate, either of the United States or of a state.

Old English law. A member of the royal council; a king's councillor.

Roman law. A member of the *senatus*.

SENATORES SUNT PARTES CORPORIS REGIS. Senators are part of the body of the king. Staundef. 72, E.; 4 Inst. 53, in marg.

SENATORS OF THE COLLEGE OF JUSTICE. The judges of the court of session in Scotland are called "Senators of the College of Justice."

SENATUS. Lat. In Roman law. The senate; the great national council of the Roman people.

The place where the senate met. Calvin.

SENATUS CONSULTUM. In Roman law. A decision or decree of the Roman senate, having the force of law, made without the concurrence of the people. These enactments began to take the place of laws enacted by popular vote, when the commons had grown so great in number that they could no longer be assembled for legislative purposes. Mackeld. Rom. Law, § 33; Hunter Rom. Law, xlvii; Inst. 1, 2, 5.

SENATUS CONSULTUM MARCIANUM. A decree of the senate, in relation to the celebration of the Bacchanalian mysteries, enacted in the consulate of Q. Marcius and S. Postumus.

SENATUS CONSULTUM ORFICIANUM. An enactment of the senate (Orficius being one of the consuls and Marcus Antoninus emperor) or admitting both sons and daughters to the succession of a mother dying intestate. Inst. 3, 4, pr.

SENATUS CONSULTUM PEGASIANUM. The The Pegasian decree of the senate. A decree enacted in the consulship of Pegasus and Pudio, in the reign of Vespasian, by which an heir, who was requested to restore an inheritance, was allowed to retain one-fourth of it for himself. Inst. 2, 23, 5.

SENATUS CONSULTUM TREBELLIANUM. A decree of the senate (named from Trebellius, in whose consulate it was enacted) by which it was provided that, if an inheritance was restored under a trust, all actions which, by the civil law, might be brought by or against the heir should be given to and against him to whom the inheritance was restored. Inst. 2, 23, 4; Dig. 36, 1.

SENATUS CONSULTUM ULTIMÆ NECESSITATIS. A decree of the senate of the last necessity. The name given to the decree which usually preceded the nomination of a dictator. 1 Bl. Comm. 136.

SENATUS CONSULTUM VELLEIANUM. The Velleian decree of the senate. A decree enacted in the consulship of Velleius, by which married women were prohibited from making contracts. Story, Conf. Laws, § 425.

SENATUS DECRETA. Lat. In the civil law. Decisions of the senate. Private acts concerning particular persons merely.

SENDA. In Spanish law. A path; the right of a path. The right of foot or horse path. White, New Recop. b. 2, tit. 6, § 1.

SENECTUS. Lat. Old age. In the Roman law, the period of *senectus*, which relieved one from the charge of public office, was officially reckoned as beginning with the completion of the seventieth year. Mackeld. Rom. Law, § 138.

SENECALLUS. In old English law. A seneschal; a steward; the steward of a manor. Fleta, l. 2, c. 72.

SENECHAL. In old European law. A title of office and dignity, derived from the middle ages, answering to that of steward or high steward in England. Seneschals were originally the lieutenants of the dukes and other great feudatories of the kingdom, and sometimes had the dispensing of justice and high military commands.

SENECHALLO ET MARESHALLO QUOD NON TENEAT PLACITA DE LIBERO TENEMENTO. A writ addressed to the steward and marshal of England, inhibiting them to take cognizance of an action in their court that concerns freehold. Reg. Orig. 185. Abolished.

SENEUCIA. In old records. Widowhood. Cowell.

SENILE DEMENTIA. That peculiar decay of the mental faculties which occurs in extreme old age, and in many cases much earlier, whereby the person is reduced to second childhood, and becomes sometimes wholly incompetent to enter into any binding contract, or even to execute a will. It is the recurrence of second childhood by mere decay. *Byrne v. Fulkerson*, 254 Mo. 97, 162 S.W. 171, 178; *Guarantee Trust & Safe Deposit Co. v. Waller*, 240 Pa. 575, 88 A. 13, 15. See *Insanity*.

SENILITY. Quality of being senile, an infirmity of old age, trouble proceeding from old age. *Kalusch v. Kavli*, 185 Minn. 3, 240 N.W. 108, 110. Feebleness of body and mind incident to old age; and an incapacity to contract arising from the impairment of the intellectual faculties by old age. *Equitable Life Assur. Soc. of U. S. v. Garrett*, 26 Ala.App. 395, 160 So. 776, 777.

SENIOR. The elder. An addition to the name of the elder of two persons in the same family having the same name.

SENIOR COUNSEL. Of two or more counsel retained on the same side of a cause, he is the "senior" who is the elder, or more important in rank or estimation, or who is charged with the more difficult or important parts of the management of the case.

SENIOR JUDGE. Of several judges composing a court, the one who holds the oldest commission, or who has served the longest time under his present commission.

SENIORES. In old English law. Seniors; ancients; elders. A term applied to the great men of the realm. *Spelman*.

SENIORITY. Represents in the highest degree the right to work, and by seniority the oldest man in point of service, ability and fitness for the job being sufficient, is given choice of jobs, is first promoted within range of jobs subject to seniority, and is the last laid off, proceeding so on down the line to the youngest in point of service. *Dooley v. Lehigh Valley R. Co. of Pennsylvania*, 130 N.J. Eq. 75, 21 A.2d 334, 338, 339.

SENIORIO. In Spanish law. Dominion or property.

SENSUS. Lat. Sense, meaning, signification. *Malo sensu*, in an evil or derogatory sense. *Mitiori sensu*, in a milder, less severe, or less stringent sense. *Sensu honesto*, in an honest sense; to interpret words *sensu honesto* is to take them so as not to impute impropriety to the persons concerned.

SENSUS VERBORUM EST ANIMA LEGIS. 5 Coke, 2. The meaning of the words is the spirit of the law.

SENSUS VERBORUM EST DUPLEX,—MITIS ET ASPER; ET VERBA SEMPER ACCIPIENDA SUNT IN MITIORI SENSU. 4 Coke, 13. The meaning of words is twofold,—mild and harsh; and words are always to be received in their milder sense.

SENSUS VERBORUM EX CAUSA DICENDI ACCIPIENDUS EST; ET SERMONES SEMPER ACCIPIENDI SUNT SECUNDUM SUBJECTAM MATERIAM. The sense of words is to be taken from the occasion of speaking them; and discourses are always to be interpreted according to the subject-matter. 4 Coke, 13b. See 2 Kent, Comm. 555.

SENTENCE. The judgment formally pronounced by the court or judge upon the defendant after his conviction in a criminal prosecution, awarding the punishment to be inflicted. Judgment formally declaring to accused legal consequences of guilt which he has confessed or of which he has been convicted. The word is properly confined to this meaning. In *civil* cases, the terms "judgment," "decision," "award," "finding," etc., are used. *Archer v. Snook*, D.C.Ga., 10 F.2d 567, 569; *Hart v. Norman*, 92 Misc. 185; 155 N.Y.S 238, 240; *State v. Woodbury*, 133 Kan. 1, 298 P. 794.

Cumulative sentences. Separate sentences (each additional to the others) imposed upon a defendant who has been convicted upon an indictment containing several counts, each of such counts charging a distinct offense, or who is under conviction at the same time for several distinct offenses; one of such sentences being made to begin at the expiration of another. *Carter v. McClaughry*, 22 S.Ct. 181, 183 U.S. 365, 46 L.Ed. 236.

Ecclesiastical sentence. In ecclesiastical procedure, analogous to "judgment" (*q. v.*) in an ordinary action. A definite sentence is one which puts an end to the suit, and regards the principal matter in question. An interlocutory sentence determines only some incidental matter in the proceedings. *Phillim. Ecc. Law*, 1260.

Excessive sentence. See Excessive Sentence.

Final sentence. One which puts an end to a case. Distinguished from interlocutory.

Indeterminate sentence. A form of sentence to imprisonment upon conviction of crime, now authorized by statute in several states, which, instead of fixing rigidly the duration of the imprisonment, declares that it shall be for a period "not less than" so many years "nor more than" so many years, or not less than the minimum period prescribed by statute as the punishment for the particular offense nor more than the maximum period, the exact length of the term being afterwards fixed, within the limits assigned by the court or the statute, by an executive authority, (the governor, board of pardons, etc.,) on consideration of the previous record of the convict, his behavior while in prison or while out on parole, the apparent prospect of reformation and other such considerations.

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.

Sentence of death recorded. In English practice. The recording of a sentence of death, not

actually pronounced, on the understanding that it will not be executed. Such a record has the same effect as if the judgment had been pronounced and the offender reprieved by the court. *Mozley & Whitley*. The practice is now disused.

Simple sentence. (In rhetoric.) See Simple.

Suspension of sentence. This term may mean either a withholding or postponing the sentencing of a prisoner after the conviction, or a postponing of the execution of the sentence after it has been pronounced. In the latter case, it may, for reasons addressing themselves to the discretion of the court, be indefinite as to time, or during the good behavior of the prisoner. See *People v. Webster*, 14 Misc. 617, 36 N.Y.S. 745; *In re Buchanan*, 146 N.Y. 264, 40 N.E. 883.

SENTENCES TO RUN CONCURRENTLY. Merely means that accused is given privilege of serving each day a portion of each sentence. *Nishimoto v. Nagle*, C.C.A.Cal., 44 F.2d 304, 305.

SENTENTIA. Lat. In the civil law. (1) Sense; import; as distinguished from mere words (2) The deliberate expression of one's will or intention. (3) The sentence of a judge or court.

SENTENTIA A NON JUDICE LATA NEMINI DEBET NOCERE. A sentence pronounced by one who is not a judge should not harm any one. *Fleta*, l. 6, c. 6, § 7.

SENTENTIA CONTRA MATRIMONIUM NUMQUAM TRANSIT IN REM JUDICATAM. 7 Coke, 43. A sentence against marriage never becomes a matter finally adjudged, *i. e.*, *res judicata*.

SENTENTIA FACIT JUS, ET LEGIS INTERPRETATIO LEGIS VIM OBTINET. *Ellesm. Post. N.* 55. Judgment creates right, and the interpretation of the law has the force of law.

SENTENTIA FACIT JUS, ET RES JUDICATA PRO VERITATE ACCIPITUR. *Ellesm. Post. N.* 55. Judgment creates right, and what is adjudicated is taken for truth.

SENTENTIA INTERLOCUTORIA REVOCARI POTEST, DEFINITIVA NON POTEST. *Bac. Max.* 20. An interlocutory judgment may be recalled, but not a final.

SENTENTIA NON FERTUR DE REBUS NON LIQUIDIS. Sentence is not given upon matters that are not clear. *Jenk. Cent.* p. 7, case 9.

SEPARABLE. Capable of being separated, disjoined, or divided. *In re Babcock*, 27 C.C.P.A. 1097, 110 F.2d 665, 667.

SEPARABLE CONTROVERSY. As to removal of causes from state courts to federal courts, this phrase means a separate and distinct cause of action existing in the suit, on which a separate and distinct suit might properly have been brought and complete relief afforded as to such cause of action; or the case must be one capable of separation into parts, so that, in one of the parts, a controversy will be presented, wholly between cit-

izens of different states, which can be fully determined without the presence of any of the other parties to the suit as it has been begun. *Fraser v. Jennison*, 1 S.Ct. 171, 106 U.S. 191, 27 L. Ed. 131; *Gudger v. Western N. C. R. Co.*, C.C.N. C., 21 F. 81; *Steed v. Henry*, 180 S.W. 508, 509, 120 Ark. 583; *Harrison v. Harrison*, D.C.Miss., 5 F.2d 1001, 1003; *Mace v. Mayfield*, D.C.S.C., 10 F.2d 231, 232. It requires two or more causes of action, one of which is wholly between citizens of different states. *Johnson v. Marsh*, D.C.Neb., 49 F.Supp. 137, 139, 141, 143.

SEPARALITER. Lat. Separately. Used in indictments to indicate that two or more defendants were charged separately, and not jointly, with the commission of the offense in question. *State v. Edwards*, 60 Mo. 490.

SEPARATE, v. To disunite, divide, disconnect, or sever. *Webster*; *Faucett v. Hensley*, 35 Ohio App. 16, 171 N.E. 352, 353.

SEPARATE, adj. Individual; distinct; particular; disconnected. Generally used in law as opposed to "joint," though the more usual antithesis of the latter term is "several." Either of these words implies division, distribution, disconnection, or aloofness. *Merrill v. Pepperdine*, 9 Ind.App. 416, 36 N.E. 921.

As to separate "Acknowledgment" and "Covenant," see those titles.

SEPARATE ACTION. As opposed to a *joint* action, an action brought for himself alone by each of several complainants who are all concerned in the same transaction, but cannot legally join in the suit.

SEPARATE DEMISE IN EJECTMENT. A demise in a declaration in ejectment used to be termed a "separate demise" when made by the lessor separately or individually, as distinguished from a demise made jointly by two or more persons, which was termed a "joint demise." No such demise, either separate or joint, is now necessary in this action. *Brown*.

SEPARATE ESTATE. The individual property of one of two persons who stand in a social or business relation, as distinguished from that which they own jointly or are jointly interested in. Thus, "separate estate," within the meaning of the bankrupt law, is that in which each partner is separately interested at the time of the bankruptcy. The term can only be applied to such property as belonged to one or more of the partners, to the exclusion of the rest. *In re Lowe*, 11 Nat. Bankr. Rep. 221, F.Cas.No.8,564. The separate estate of a married woman is that which belongs to her, and over which her husband has no right in equity. It may consist of lands or chattels. *Williams v. King*, 29 F.Cas. 1,369.

SEPARATE EXAMINATION. The interrogation of a married woman, who appears before an officer for the purpose of acknowledging a deed or other instrument, conducted by such officer in private or out of the hearing of her husband in

SEPARATE

order to ascertain if she acts of her own will and without compulsion or constraint of the husband. Also the examination of a witness in private or apart from, and out of the hearing of, the other witnesses in the same cause.

SEPARATE MAINTENANCE. Allowance granted to a wife for support of herself and children while she is living apart from her husband. Cohn v. Cohn, 4 Wash.2d 322, 103 P.2d 366, 367.

Alimony in its strict sense is confined to an allowance made to a wife who is legally separated or divorced from husband, but in many jurisdictions courts have authority to make an allowance to a wife who is living separate and apart from her husband without being legally separated or divorced, and this allowance is often called "separate maintenance." Dyer v. Dyer, 212 N.C. 620, 194 S.E. 278.

SEPARATE PROPERTY. Property owned by married person in his or her own right during marriage. In re Morgan's Estate, 203 Cal. 569, 265 P. 241, 245. See, also, Separate Estate.

Of a married woman. That which she owns in her own right, which is liable only for her own debts, and which she can incur and dispose of at her own will.

"Separate property" continues to be such as long as it can clearly be traced and identified, and its rents, issues, and profits remain separate property. True v. United States, D.C.Wash., 51 F.Supp. 720, 723, 726.

SEPARATE TRIAL. The separate and individual trial of each of several persons jointly accused of a crime.

SEPARATIM. Lat. In old conveyancing. Severally. A word which made a several covenant. 5 Coke, 23a.

SEPARATION. In matrimonial law. A cessation of cohabitation of husband and wife by mutual agreement, or, in the case of "judicial separation," under the decree of a court. Woodruff v. Woodruff, 215 N.C. 685, 3 S.E.2d 5, 6.

SEPARATION A MENSA ET THORO. A partial dissolution of the marriage relation.

SEPARATION OF PATRIMONY. In Louisiana probate law. The creditors of the succession may demand, in every case and against every creditor of the heir, a separation of the property of the succession from that of the heir. This is what is called the "separation of patrimony." The object of a separation of patrimony is to prevent property out of which a particular class of creditors have a right to be paid from being confounded with other property, and by that means made liable to the debts of another class of creditors. Civ.Code La. art. 1444.

SEPARATION ORDER. In England, where a husband is convicted of an aggravated assault upon his wife, the court or magistrate may order that the wife shall be no longer bound to cohabit with him. Such an order has the same effect as a judicial decree of separation on the ground of cruelty. It may also provide for the payment of a weekly sum by the husband to the wife and for the custody of the children. Sweet.

SEPARATISTS. Seceders from the Church of England. They, like Quakers, solemnly affirm, instead of taking the usual oath, before they give evidence.

SEPE. Lat. In old English law. A hedge or inclosure. The inclosure of a trench or canal. Dig. 43, 21, 4.

SEPTENNIAL ACT. In English law. The statute 1 Geo. I. St. 2, c. 38. The act by which a parliament has continuance for seven years, and no longer, unless sooner dissolved; as it always has, in fact, been since the passing of the act. Wharton.

SEPTUAGESIMA. In ecclesiastical law. The third Sunday before *Quadragesima* Sunday, being about the seventieth day before Easter.

SEPTUM. Lat. In old English law. An inclosure or close. Cowell.

Roman law. An inclosure; an inclosed place where the people voted; otherwise called "*ovile*."

SEPTUNX. Lat. In Roman law. A division of the *as*, containing seven *unciae*, or duodecimal parts; the proportion of seven-twelfths. Tayl. Civil Law, 492.

SEPULCHRE. A grave or tomb. The place of interment of a dead human body. The violation of sepulchres is a misdemeanor at common law.

SEPULTURA. Lat. An offering to the priest for the burial of a dead body.

SEQUAMUR VESTIGIA PATRUM NOSTRORUM. Jenk. Cent. Let us follow the footsteps of our fathers.

SEQUATUR SUB SUO PERICULO. In old English practice. A writ which issued where a sheriff had returned *nihil*, upon a *summons ad warrantizandum*, and after an *alias* and *pluries* had been issued. So called because the tenant lost his lands without any recovery in value, unless upon that writ he brought the vouchee into court. Rosc. Real Act. 268; Cowell.

SEQUELA. L. Lat. In old English law. Suit; process or prosecution. *Sequela causae*, the process of a cause. Cowell.

SEQUELA CURIAE. Suit of court. Cowell.

SEQUELA VILLANORUM. The family retinue and appurtenances to the goods and chattels of villeins, which were at the absolute disposal of the lord. Par. Antiq. 216.

SEQUELS. Small allowances of meal, or manufactured victual, made to the servants at a mill where corn was ground, by tenure, in Scotland. Wharton.

SEQUESTER, v.

Civil Law

To renounce or disclaim, etc. As when a widow came into court and disclaimed having anything to do with her deceased husband's estate, she was

said to sequester. The word more commonly signifies the act of taking in execution under a writ of sequestration. Brown.

To deposit a thing which is the subject of a controversy in the hands of a third person, to hold for the contending parties.

To take a thing which is the subject of a controversy out of the possession of the contending parties, and deposit it in the hands of a third person. Calvin.

English Ecclesiastical Practice

To gather and take care of the fruits and profits of a vacant benefice, for the benefit of the next incumbent.

Equity Practice

To take possession of the property of a defendant, and hold it in the custody of the court, until he purges himself of a contempt.

International Law

To confiscate; to appropriate private property to public use; to seize the property of the private citizens of a hostile power, as when a belligerent nation sequesters debts due from its own subjects to the enemy. 1 Kent, Comm. 62.

SEQUESTER, n. Lat. In the civil law. A person with whom two or more contending parties deposited the subject-matter of the controversy.

SEQUESTRARI FACIAS. In English ecclesiastical practice. A process in the nature of a *levari facias*, commanding the bishop to enter into the rectory and parish church, and to take and sequester the same, and hold them until, of the rents, tithes, and profits thereof, and of the other ecclesiastical goods of a defendant, he have levied the plaintiff's debt. 3 Bl. Comm. 418; 2 Archb. Pr. 1284.

SEQUESTRATIO. Lat. In the civil law. The separating or setting aside of a thing in controversy, from the possession of both parties that contend for it. It is two-fold,—*voluntary*, done by consent of all parties; and *necessary*, when a judge orders it. Brown.

SEQUESTRATION.

Contracts

A species of deposit which two or more persons, engaged in litigation about anything, make of the thing in contest with an indifferent person who binds himself to restore it, when the issue is decided, to the party to whom it is adjudged to belong. Civ. Code La. art. 2973.

Equity Practice

A writ authorizing the taking into the custody of the law of the real and personal estate (or rents, issues, and profits) of a defendant who is in contempt, and holding the same until he shall comply. It is sometimes directed to the sheriff, but more commonly to four commissioners nominated by the complainant. 3 Bl. Comm. 444; Ryan v. Kingsbery, 88 Ga. 361, 14 S.E. 596.

English Ecclesiastical Law

The act of the ordinary in disposing of the goods and chattels of one deceased, whose estate no one will meddle with. Cowell. Or, in other words, the taking possession of the property of a deceased person, where there is no one to claim it.

Also, where a benefice becomes vacant, a sequestration is usually granted by the bishop to the church-wardens, who manage all the profits and expenses of the benefice, plow and sow the glebe, receive tithes, and provide for the necessary cure of souls. Sweet.

International Law

The seizure of the property of an individual, and the appropriation of it to the use of the government.

Louisiana

A mandate of the court, ordering the sheriff, in certain cases, to take in his possession, and to keep, a thing of which another person has the possession, until after the decision of a suit, in order that it be delivered to him who shall be adjudged entitled to have the property or possession of that thing. This is what is properly called a "judicial sequestration." Code Prac. La. art. 269; American Nat. Bank v. Childs, 49 La. Ann. 1359, 22 So. 384.

Mayor's Court

In the mayor's court of London, "an attachment of the property of a person in a warehouse or other place belonging to and abandoned by him. It has the same object as the ordinary attachment, viz., to compel the appearance of the defendant to an action," and, in default, to satisfy the plaintiff's debt by appraisal and execution.

SEQUESTRATOR. One to whom a sequestration is made. One appointed or chosen to perform a sequestration, or execute a writ of sequestration.

SEQUESTRO HABENDO. In English ecclesiastical law. A judicial writ for the discharging a sequestration of the profits of a church benefice, granted by the bishop at the sovereign's command, thereby to compel the parson to appear at the suit of another. Upon his appearance, the parson may have this writ for the release of the sequestration. Reg. Jud. 36.

SEQUI DEBET POTENTIA JUSTITIAM NON PRÆCEDERE. 2 Inst. 454. Power should follow justice, not precede it.

SERF. In the feudal polity, a class of persons whose social condition was servile, and who were bound to labor and onerous duties at the will of their lords. They differed from slaves only in that they were bound to their native soil, instead of being the absolute property of a master.

SERGEANT. In military law. A non-commissioned officer, of whom there are several in each company of infantry, troop of cavalry, etc. The term is also used in the organization of a municipal police force.

SERGEANT

Sergeant at arms. See *Serjeant*.

Sergeant at law. See *Serjeant*.

Town sergeant. In several states, an officer having the powers and duties of a chief constable or head of the police department of a town or village.

SERIATELY. In series, or following one after another. *In re Flint*, 32 C.C.P.A. 1116, 150 F.2d 126, 131.

SERIATIM. Lat. Severally; separately; individually; one by one.

SERIOUS. Important; weighty; momentous, grave, great, as in the phrases "serious bodily harm," "serious personal injury," etc. *Ward v. State*, 70 Tex.Cr.R. 393, 159 S.W. 272, 282; *McKee v. State*, 93 Tex.Cr.R. 217, 246 S.W. 1035, 1036.

SERIOUS AND WILFUL MISCONDUCT. In Workmen's Compensation Law. The intentional doing of something with the knowledge that it is likely to result in a serious injury, or with a wanton and reckless disregard of its probable consequences. *McAdoo v. Industrial Accident Commission*, 40 Cal.App. 570, 181 P. 400, 401.

SERIOUS ILLNESS. In life insurance. An illness that permanently or materially impairs, or is likely to permanently or materially impair, the health of the applicant. Not every illness is serious. An illness may be alarming at the time, or thought to be serious by the one afflicted, and yet not be serious in the sense of that term as used in insurance contracts. An illness that is temporary in its duration, and entirely passes away, and is not attended, nor likely to be attended, by a permanent or material impairment of the health or constitution, is not a serious illness. It is not sufficient that the illness was thought serious at the time it occurred, or that it might have resulted in permanently impairing the health. *Fishbeck v. New York Life Ins. Co.*, 179 Wis. 369, 192 N.W. 170, 175; *American Nat. Ins. Co. v. Hicks*, Tex.Civ. App., 198 S.W. 616, 622.

SERJEANT. The same word etymologically with "sergeant," but the latter spelling is more commonly employed in the designation of military and police officers, (see *Sergeant*,) while the former is preferred when the term is used to describe certain grades of legal practitioners and certain officers of legislative bodies. See *infra*.

Common Serjeant

A judicial officer attached to the corporation of the city of London, who assists the recorder in disposing of the criminal business at the Old Bailey sessions, or central criminal court. *Brown*.

Serjeant at Arms

An executive officer appointed by, and attending on, a legislative body, whose principal duties are to execute its warrants, preserve order, and arrest offenders.

Serjeant at Law

A barrister of the common-law courts of high standing, and of much the same rank as a doctor of law is in the ecclesiastical courts. These serjeants seem to have derived their title from the old knights templar, (among whom there existed a peculiar class under the denomination of "*frères sergens*," or "*fratres servientes*,") and to have continued as a separate fraternity from a very early period in the history of the legal profession. The barristers who first assumed the old monastic title were those who practiced in the court of common pleas, and until a recent period (the 25th of April, 1834, 9 & 10 Vict. c. 54) the serjeants at law always had the exclusive privilege of practice in that court. Every judge of a common-law court, previous to his elevation to the bench, used to be created a serjeant at law; but since the judicature act this is no longer necessary. *Brown*.

Serjeant of the Mace

In English law. An officer who attends the lord mayor of London, and the chief magistrates of other corporate towns. *Holthouse*.

Serjeants' Inn

The inn to which the serjeants at law belonged, near Chancery lane; formerly called "Faryndon Inn."

SERJEANTIA IDEM EST QUOD SERVITIUM. *Co.Litt.* 105. Serjeanty is the same as service.

SERJEANTY. A species of tenure by knight service, which was due to the king only, and was distinguished into grand and petit serjeanty. The tenant holding by *grand* serjeanty was bound, instead of attending the king generally in his wars, to do some honorary service to the king in person, as to carry his banner or sword, or to be his butler, champion, or other officer at his coronation. *Petit* serjeanty differed from grand serjeanty, in that the service rendered to the king was not of a personal nature, but consisted in rendering him annually some small implement of war, as a bow, sword, arrow, lance, or the like. *Cowell*; *Brown*.

SERMENT. In old English law. Oath; an oath.

SERMO INDEX ANIMI. 5 *Coke*, 118. Speech is an index of the mind.

SERMO RELATUS AD PERSONAM INTELLIGI DEBET DE CONDITIOE PERSONÆ. Language which is referred to a person ought to be understood of the condition of the person. 4 *Coke*, 16.

SERMONES SEMPER ACCIPIENDI SUNT SECUNDUM SUBJECTAM MATERIAM, ET CONDITIONEM PERSONARUM. 4 *Coke*, 14. Language is always to be understood according to its subject-matter, and the condition of the persons.

SERPENT-VENOM REACTION. A test for insanity by means of the breaking up of the red corpuscles of the blood of the suspected person

on the injection of the venom of cobras or other serpents; recently employed in judicial proceedings in some European countries and in Japan.

SERRATED. Notched on the edge; cut in notches like the teeth of a saw. This was anciently the method of trimming the top or edge of a deed of indenture. See *Indent*, v.

SERVAGE. In feudal law, where a tenant, besides payment of a certain rent, found one or more workmen for his lord's service. *Tomlins*.

SERVANDA EST CONSUETUDO LOCI UBI CAUSA AGITUR. The custom of the place where the action is brought is to be observed. *Decouche v. Savetier*, 3 Johns. Ch. (N. Y.) 190, 219, 8 Am. Dec. 478.

SERVANT. One employed to perform service in master's affairs, whose physical conduct in performance of the service is controlled or is subject to right to control by the master. *Brenner v. Socony Vacuum Oil Co.*, 236 Mo.App. 524, 158 S.W.2d 171, 174, 175; *Reiling v. Missouri Ins. Co.*, 236 Mo.App. 164, 153 S.W.2d 79. A person in the employ of another and subject to his control as to what work shall be done and the means by which it shall be accomplished. *Pantell v. Shriver Allison Co.*, 61 Ohio App. 119, 22 N.E.2d 497, 499. One who is employed to render personal service to another otherwise than in the pursuit of an independent calling, and who, in such service, remains entirely under control and direction of employer. *Henley v. State*, 59 Ga.App. 595, 2 S.E.2d 139, 142. A person of whatever rank or position in employ and subject to direction or control of another in any department of labor or business. *Saums v. Parfet*, 270 Mich. 165, 258 N.W. 235, 237. For "Family," see that title.

The term is often given special meanings by statutes and like other words is greatly influenced by context in wills and other documents. *Hand v. Cole*, 88 Tenn. 400, 12 S.W. 922, 7 L.R.A. 96; *In re Thompson's Estate*, 126 Misc. Rep. 91, 213 N.Y. S. 426, 429.

SERVE. In Scotch practice. To render a verdict or decision in favor of a person claiming to be an heir; to declare the fact of his heirship judicially. A jury are said to *serve* a claimant *heir*, when they find him to be heir, upon the evidence submitted to them. *Bell*.

As to serving papers, etc., see *Service of Process*.

SERVI. Lat. Slaves.

Old English law. Bondmen; servile tenants. *Cowell*.

Old European law. Persons over whom their masters had absolute dominion.

SERVI REDEMPTIONE. Criminal slaves in the time of Henry I. 1 *Kemble*, Sax. 197, (1849).

SERVICE. Has a variety of meanings, dependent upon the context or the sense in which used. *Central Power & Light Co. v. State*, Tex.Civ.App., 165 S.W.2d 920, 925. For "Family," see that title.

Contracts

The being employed to serve another; duty or labor to be rendered by one person to another, the former being bound to submit his will to the direction and control of the latter. *Cameron v. State Theater Co.*, 256 Mass. 466, 152 N.E. 880, 881; *Ludwig v. Pacific Fire Ins. Co. of New York*, 204 N.Y.S. 465; 466, 123 Misc. 189. The act of serving; the labor performed or the duties required. *State ex rel. King v. Board of Trustees of Firemen's Pension Fund of Kansas City*, 192 Mo.App. 583, 184 S.W. 929, 930. Occupation, condition, or status of a servant, etc. Performance of labor for benefit of another, or at another's command; attendance of an inferior, hired helper, slave, etc. *Claxton v. Johnson County*, 194 Ga. 43, 20 S.E.2d 606, 610.

"Service" and "employment" generally imply that the employer, or person to whom the service is due, both selects and compensates the employee, or person rendering the service. *Ledvinka v. Home Ins. Co. of New York*, 139 Md. 434, 115 A. 596, 597, 19 A.L.R. 167.

The term is used also for employment in one of the offices, departments, or agencies of the government; as in the phrases "civil service," "public service," "military service," etc. *Chicago, B. & Q. R. Co. v. School Dist. No. 1 in Yuma County*, 63 Colo. 159, 165 P. 260, 263; *Miller v. Illinois Bankers' Life Ass'n*, 138 Ark. 442, 212 S.W. 310, 311, 7 A.L.R. 378.

Domestic Relations

The "services" of a wife, for the loss of which, occasioned by an injury to the wife, the husband may recover in an action against the tort-feasor, include whatever of aid, assistance, comfort, and society the wife would be expected to render to or bestow upon her husband in the circumstances in which they were situated. *Thompson v. Aultman & Taylor Mach. Co.*, 96 Kan. 259, 150 P. 587, and in all the relations of domestic life, *Little Rock Gas & Fuel Co. v. Coppedge*, 116 Ark. 334, 172 S.W. 885, 889.

Feudal Law

The consideration which the feudal tenants were bound to render to the lord in recompense for the lands they held of him. The services, in respect of their quality, were either free or base services, and, in respect of their quantity and the time of exacting them, were either certain or uncertain. 2 *Bl. Comm.* 60.

Practice

The exhibition or delivery of a writ, notice, injunction, etc., by an authorized person, to a person who is thereby officially notified of some action or proceeding in which he is concerned, and is thereby advised or warned of some action or step which he is commanded to take or to forbear. *U. S. v. McMahon*, 17 S.Ct. 28, 164 U.S. 81, 41 L.Ed. 357; *In re Tengwall Co.*, C.C.A.Ill., 201 F. 82, 84; *Martin v. Hawkins*, Tex.Civ.App., 238 S.W. 991.

General

Civil service. See that title.

Constructive service of process. Any form of service other than actual personal service; notifi-

SERVICE

cation of an action or of some proceeding therein, given to a person affected by sending it to him in the mails or causing it to be published in a newspaper.

Personal service. Of a writ or notice is made by delivering it to the person named, in person, *Georgia Casualty Co. v. McClure*, Tex.Civ.App., 239 S.W. 644, 647; or handing him a copy and informing him of the nature and terms of the original. Leaving a copy at his place of abode is not personal service. *Moyer v. Cook*, 12 Wis. 336. But where a person named in a summons is of unsound mind, service upon the guardian of such person may be deemed "personal service." *Partison v. Grand Trust & Savings Co.*, 195 Ind. 313, 144 N.E. 26, 29. Some courts hold to the view that the mailing of a notice is not personal service. *State ex rel. Schuhart*, 296 Mo. 156, 246 S.W. 196, 200, but others, interpreting the term as it is found in statutes, take a contrary view, *United States ex rel. Proctor Mfg. Co. v. Illinois Surety Co.*, C.C.A.N.Y., 228 F. 304, 305; *Hood v. Texas Employers' Ins. Ass'n*, Tex.Civ.App., 260 S.W. 243, 245 (registered mail); *Kramm v. Stockton Electric R. Co.*, 22 Cal.App. 737, 136 P. 523, 527 (express).

Public utilities. The furnishing of water, heat, light and power, etc. by them. *Claxton v. Johnson County*, 194 Ga. 43, 20 S.E.2d 606, 610.

Salvage service. See *Salvage*.

Secular service. Worldly employment or service, as contrasted with spiritual or ecclesiastical.

Service by publication. Service of a summons or other process upon an absent or nonresident defendant, by publishing the same as an advertisement in a designated newspaper, with such other efforts to give him actual notice as the particular statute may prescribe.

Service of an heir. An old form of Scotch law, fixing the right and character of an heir to the estate of his ancestor. Bell.

Service of process. The service of writs, summonses, rules, etc., signifies the delivering to or leaving them with the party to whom or with whom they ought to be delivered or left; and, when they are so delivered, they are then said to have been served. Usually a copy only is served and the original is shown. Brown.

Special service. In Scotch law. That form of service by which the heir is served to the ancestor who was feudally vested in the lands. Bell.

Substituted service. Any form of service of process other than personal service, such as service by mail or by publication in a newspaper; service of a writ or notice on some person other than the one directly concerned, for example, his attorney of record, who has authority to represent him or to accept service for him.

SERVICE ESTABLISHMENT. Within Fair Labor Standards Act of 1938. An establishment

which has ordinary characteristics of retail establishments except that services instead of goods are sold. An establishment the principal activity of which is to furnish service to the consuming public, and includes barber shops, beauty parlors, shoe shining parlors, clothes pressing clubs, laundries and automobile repair shops. *Fleming v. A. B. Kirschbaum Co.*, C.C.A.Pa., 124 F.2d 567, 572.

SERVICES FONCIERS. Fr. In French law. Easements of English law. Brown.

SERVIDUMBRE. In Spanish law. A servitude. The right and use which one man has in the buildings and estates of another, to use them for the benefit of his own. *Las Partidas*, 3, 31, 1.

SERVIENS AD CLAVAM. Serjeant at mace. 2 Mod. 58.

SERVIENS AD LEGEM. In old English practice. Serjeant at law.

SERVIENS DOMINI REGIS. In old English law. King's serjeant; a public officer, who acted sometimes as the sheriff's deputy, and had also judicial powers. *Bract. fols. 145b, 150b, 330, 358.*

SERVIENS NARRATOR. A serjeant-at-law, *q. v.*

SERVIENT. Serving; subject to a service or servitude. A *servient* estate is one which is burdened with a servitude. *Burdine v. Sewell*, 92 Fla. 375, 109 So. 648, 652; *Saratoga State Waters Corporation v. Pratt*, 227 N.Y. 429, 125 N.E. 834, 838.

SERVIENT TENEMENT. An estate in respect of which a service is owing, as the *dominant tenement* is that to which the service is due. *Northwestern Improvement Co. v. Lowry*, 104 Mont. 289, 66 P.2d 792, 795, 110 A.L.R. 605.

SERVIENTIBUS. Certain writs touching servants and their masters violating the statutes made against their abuses. Reg. Orig. 189.

SERVILE EST EXPIATIONIS CRIMEN; SOLA INNOCENTIA LIBERA. 2 Inst. 573. The crime of theft is slavish; innocence alone is free.

SERVITIA PERSONALIA SEQUUNTUR PERSONAM. 2 Inst. 374. Personal services follow the person.

SERVITIIS ACQUIETANDIS. A judicial writ for a man distrained for services to one, when he owes and performs them to another, for the acquittal of such services. Reg. Jud. 27.

SERVITIUM. Lat. In feudal and old English law. The duty of obedience and performance which a tenant was bound to render to his lord, by reason of his fee. Spelman.

SERVITIUM, IN LEGE ANGILÆ, REGULARITER ACCIPITUR PRO SERVITIO QUOD PERTENENTES DOMINIS SUIS DEBETUR RATIONE FEODI SUI. Co. Litt. 65. Service, by the law of England, means the service which is due from the tenants to the lords, by reason of their fee.

SERVITIUM FEODALE ET PRÆDIALE. A personal service, but due only by reason of lands which were held in fee. Bract. l. 2, c. 16.

SERVITIUM FORINSECUM. Forinsec, foreign, or extra service; a kind of service that was due to the king, over and above (*foris*) the service due to the lord.

SERVITIUM INTRINSECUM. Intrinsic or ordinary service; the ordinary service due the chief lord, from tenants within the fee. Bract. fols. 36, 36b.

SERVITIUM LIBERUM. A service to be done by feudatory tenants, who were called "*liberi homines*," and distinguished from vassals, as was their service, for they were not bound to any of the base services of plowing the lord's land, etc., but were to find a man and horse, or go with the lord into the army, or to attend the court, etc. Cowell.

See, also, *Liberum Servitium*.

SERVITIUM MILITARE. Knight-service; military service. 2 Bl. Comm. 62.

SERVITIUM REGALE. Royal service, or the rights and prerogatives of manors which belong to the king as lord of the same, and which were generally reckoned to be six, viz.: Power of judicature, in matters of property; power of life and death, in felonies and murder; a right to waifs and strays; assessments; minting of money; and assise of bread, beer, weights, and measures. Cowell.

SERVITIUM SCUTI. Service of the shield; that is, knight-service.

SERVITIUM SOCÆ. Service of the plow; that is, socage.

SERVITOR. A serving-man; particularly applied to students at Oxford, upon the foundation, who are similar to sizars at Cambridge. Wharton.

SERVITORS OF BILLS. In old English practice. Servants or messengers of the marshal of the king's bench, sent out with bills or writs to summon persons to that court. Now more commonly called "tipstaves." Cowell.

SERVITUDE.

The Condition of being Bound to Service

The state of a person who is subjected, voluntarily or otherwise, to another person as his servant. Shilling v. State, 143 Miss. 709, 109 So. 737, 739.

A Charge or Burden

A charge or burden resting upon one estate for the benefit or advantage of another; a species of incorporeal right derived from the civil law (see *Servitus*) and closely corresponding to the "easement" of the common-law, except that "servitude" rather has relation to the burden or the estate burdened, while "easement" refers to the benefit or advantage or the estate to which it accrues. Rowe v. Nally, 81 Md. 367, 32 A. 198; Los

Angeles Terminal Land Co. v. Muir, 136 Cal. 36, 68 P. 308.

The term "servitude," in its original and popular sense, signifies the duty of service, or rather the condition of one who is liable to the performance of services. The word, however, in its legal sense, is applied figuratively to things. When the freedom of ownership in land is fettered or restricted, by reason of some person, other than the owner thereof, having some right therein, the land is said to "serve" such person. The restricted condition of the ownership or the right which forms the subject-matter of the restriction is termed a "servitude," and the land so burdened with another's right is termed a "servient tenement," while the land belonging to the person enjoying the right is called the "dominant tenement." The word "servitude" may be said to have both a positive and a negative signification; in the former sense denoting the restrictive right belonging to the entitled party; in the latter, the restrictive duty entailed upon the proprietor or possessor of the servient land. Brown.

Classification

All servitudes which affect lands may be divided into two kinds,—*personal* and *real*. Personal servitudes are those attached to the person for whose benefit they are established, and terminate with his life. This kind of servitude is of three sorts,—usufruct, use, and habitation. Real servitudes, which are also called "predial" or "landed" servitudes, are those which the owner of an estate enjoys on a neighboring estate for the benefit of his own estate. They are called "predial" or "landed" servitudes because, being established for the benefit of an estate, they are rather due to the estate than to the owner personally. Frost-Johnson Lumber Co. v. Salling's Heirs, 150 La. 756, 91 So. 207, 245; Tide-Water Pipe Co. v. Bell, 280 Pa. 104, 124 A. 351, 354, 40 A.L.R. 1516.

Real servitudes are divided, in the civil law, into *rural* and *urban* servitudes. Rural servitudes are such as are established for the benefit of a landed estate; such, for example, as a right of way over the servient tenement, or of access to a spring, a coal-mine, a sand-pit, or a wood that is upon it. Urban servitudes are such as are established for the benefit of one building over another. (But the buildings need not be in the city, as the name would apparently imply.) They are such as the right of support, or of view, or of drip or sewer, or the like. Mackeld. Rom. Law, § 316, et seq.

Servitudes are also classed as *positive* and *negative*. A positive servitude is one which obliges the owner of the servient estate to permit or suffer something to be done on his property by another. A negative servitude is one which does not bind the servient proprietor to permit something to be done upon his property by another, but merely restrains him from making a certain use of his property which would impair the easement enjoyed by the dominant tenement. Rowe v. Nally, 81 Md. 367, 32 A. 198.

Penal servitude. In English criminal law, a punishment which consists in keeping the offender in confinement and compelling him to labor.

Involuntary servitude. See *Involuntary*.

SERVITUS. Lat. In the civil law. Slavery; bondage; the state of service. An institution of

SERVITUS

the conventional law of nations, by which one person is subjected to the dominion of another, contrary to natural right. Inst. 1, 3, 2.

Also a service or servitude; an easement.

SERVITUS ACTUS. The servitude or right of walking, riding, or driving over another's ground. Inst. 2, 3, pr. A species of right of way.

SERVITUS ALTIUS NON TOLLENDI. The servitude of not building higher. A right attached to a house, by which its proprietor can prevent his neighbor from building his own house higher. Inst. 2, 3, 4.

SERVITUS AQUÆ DUCENDÆ. The servitude of leading water; the right of leading water to one's own premises through another's land. Inst. 2, 3, pr.

SERVITUS AQUÆ EDUCENDÆ. The servitude of leading off water; the right of leading off the water from one's own onto another's ground. Dig. 8, 3, 29.

SERVITUS AQUÆ HAURIENDÆ. The servitude or right of draining water from another's spring or well. Inst. 2, 3, 2.

SERVITUS CLOACÆ MITTENDÆ. The servitude or right of having a sewer through the house or ground of one's neighbor. Dig. 8, 1, 7.

SERVITUS EST CONSTITUTIO JURE GENTIUM QUA QUIS DOMINO ALIENO CONTRA NATURAM SUBJICITUR. Slavery is an institution by the law of nations, by which a man is subjected to the dominion of another, contrary to nature. Inst. 1, 3, 2; Co. Litt. 116.

SERVITUS FUMI IMMITTENDI. The servitude or right of leading off smoke or vapor through the chimney or over the ground of one's neighbor. Dig. 8, 5, 8, 5-7.

SERVITUS ITINERIS. The servitude or privilege of walking, riding, and being carried over another's ground. Inst. 2, 3, pr. A species of right of way.

SERVITUS LUMINUM. The servitude of lights; the right of making or having windows or other openings in a wall belonging to another, or in a common wall, in order to obtain light for one's building. Dig. 8, 2, 4.

SERVITUS NE LUMINIBUS OFFICIATUR. A servitude not to hinder lights; the right of having one's lights or windows unobstructed or darkened by a neighbor's building, etc. Inst. 2, 3, 4.

SERVITUS NE PROSPECTUS OFFENDATUR. A servitude not to obstruct one's prospect, *i. e.*, not to intercept the view from one's house. Dig. 8, 2, 15.

SERVITUS ONERIS FERENDI. The servitude of bearing weight; the right to let one's building rest upon the building, wall, or pillars of one's neighbor. Mackeld. Rom. Law, § 317.

SERVITUS PASCENDI. The servitude of pasturing; the right of pasturing one's cattle on another's ground; otherwise called "*jus pascendi*." Inst. 2, 3, 2.

SERVITUS PECORIS AD AQUAM ADPULSAM. A right of driving one's cattle on a neighbor's land to water.

SERVITUS PRÆDII RUSTICI. The servitude of a rural or country estate; a rural servitude. Inst. 2, 3, pr., and 3.

SERVITUS PRÆDII URBANI. The servitude of an urban or city estate; an urban servitude. Inst. 2, 3, 1.

SERVITUS PRÆDIORUM. A prædial servitude; a service, burden, or charge upon one estate for the benefit of another. Inst. 2, 3, 3.

SERVITUS PROJICIENDI. The servitude of projecting; the right of building a projection from one's house in the open space belonging to one's neighbor. Dig. 8, 2, 2.

SERVITUS PROSPECTUS. A right of prospect. This may be either to give one a free prospect over his neighbor's land or to prevent a neighbor from having a prospect over one's own land. Dig. 8, 2, 15; Domat, 1, 1, 6.

SERVITUS STILLICIDI. The right of drip; the right of having the water drip from the eaves of one's house upon the house or ground of one's neighbor. Inst. 2, 3, 1, 4; Dig. 8, 2, 2.

SERVITUS TIGNI IMMITTENDI. The servitude of letting in a beam; the right of inserting beams in a neighbor's wall. Inst. 2, 3, 1, 4; Dig. 8, 2, 2.

SERVITUS VIÆ. The servitude or right of way; the right of walking, riding, and driving over another's land. Inst. 2, 3, pr.

SERVUS. Lat. In the civil and old English law. A slave; a bondman. Inst. 1, 3, pr.; Bract. fol. 4b.

Servus a manu. (Lat. Literally, a servant *by hand*, or *with the hand*.) A scribe, secretary. Harper's Lat. Dict., citing Suet. Caes. 74 (*i. e.*, the biography of Julius Caesar by Suetonius Tranquillus). This phrase was also written *a manu servus*, and eventually gave rise to the word *amanuensis*, derived from *a manu*, plus *ensis*, and taking the place of *a manu servus*. Cent. Dict. s. v. "amanuensis."

SESS. In English law. A tax, rate, or assessment.

SESSIO. Lat. In old English law. A sitting; a session. *Sessio parliamenti*, the sitting of parliament. Cowell.

SESSION. The sitting of a court, Legislature, council, commission, etc., for the transaction of its proper business. Hence, the period of time, within any one day, during which such body is assembled in form, and engaged in the transaction of business, or, in a more extended sense, the whole space of time from its first assembling to its prorogation or adjournment *sine die*. Ralls v. Wyand, 40 Okl. 323, 138 P. 158, 162.

Session of court is time during term in which court sits for transaction of business, after judge arrives and opens court. *Carpenter v. City of Birmingham*, 221 Ala. 368, 128 So. 899, 900.

Synonyms

Strictly speaking, the word "session," as applied to a court of justice, is not synonymous with the word "term." The "session" of a court is the time during which it actually sits for the transaction of judicial business, and hence terminates each day with the rising of the court. A "term" of court is the period fixed by law, usually embracing many days or weeks, during which it shall be open for the transaction of judicial business and during which it may hold sessions from day to day. But this distinction is not always observed, many authorities using the two words interchangeably. *Muse v. Harris*, 122 Okl. 250, 254 P. 72, 73; *State v. City of Victoria*, 97 Kan. 638, 156 P. 705, 708; *Nation v. Savely*, 127 Okl. 117, 260 P. 32, 35.

General

Court of session. The supreme civil court of Scotland, instituted A. D. 1532, consisting of thirteen (formerly fifteen) judges, viz., the lord president, the lord justice clerk, and eleven ordinary lords.

General sessions. A court of record, in England, held by two or more justices of the peace, for the execution of the authority given them by the commission of the peace and certain statutes. General sessions held at certain times in the four quarters of the year pursuant to St. 2 Hen. V. are properly called "quarter sessions," (*q. v.*) but intermediate general sessions may also be held. *Sweet*.

Great session of Wales. A court which was abolished by St. 1 Wm. IV. c. 70. The proceedings now issue out of the courts at Westminster, and two of the judges of the superior courts hold the circuits in Wales and Cheshire, as in other English counties. *Wharton*.

Joint session. In parliamentary practice, a meeting together and commingling of the two houses of a legislative body, sitting and acting together as one body, instead of separately in their respective houses. *Snow v. Hudson*, 56 Kan. 378, 43 P. 262.

Petty sessions. In English law. A special or petty session is sometimes kept in corporations and counties at large by a few justices, for dispatching smaller business in the neighborhood between the times of the general sessions; as for licensing alehouses, passing the accounts of the parish officers, etc. *Brown*.

Quarter sessions. See that title.

Regular session. An ordinary, general, or stated session, (as of a legislative body,) as distinguished from a special or extra session.

Session laws. The name commonly given to the body of laws enacted by a state Legislature at one of its annual or biennial sessions. So called

to distinguish them from the "compiled laws" or "revised statutes" of the state.

Session of the peace. In English law. A sitting of justices of the peace for the exercise of their powers. There are four kinds,—petty, special, quarter, and general sessions.

Sessional orders. Certain resolutions which are agreed to by both houses at the commencement of every session of the English parliament, and have relation to the business and convenience thereof; but they are not intended to continue in force beyond the session in which they are adopted. They are principally of use as directing the order of business. *Brown*.

Sessions. A sitting of justices in court upon their commission, or by virtue of their appointment, and most commonly for the trial of criminal cases. The title of several courts in England and the United States, chiefly those of criminal jurisdiction. *Burrill*.

Special sessions. In English law. A meeting of two or more justices of the peace held for a special purpose, (such as the licensing of alehouses,) either as required by statute or when specially convoked, which can only be convened after notice to all the other magistrates of the division, to give them an opportunity of attending. *Stone, J. Pr. 52, 55*.

SET. This word appears to be nearly synonymous with "lease." A lease of mines is frequently termed a "mining set." *Brown*.

SET ASIDE. A judgment, decree, award, or any proceedings is to cancel, annul, or revoke them at the instance of a party unjustly or irregularly affected by them. *Brandt v. Brandt*, 40 Or. 477, 67 P. 508.

SET DOWN. A cause for trial or hearing at a given term is to enter its title in the calendar, list, or docket of causes which are to be brought on at that term.

SET OF EXCHANGE. In mercantile law. Foreign bills are usually drawn in duplicate or triplicate, the several parts being called respectively "first of exchange," "second of exchange," etc., and these parts together constitute a "set of exchange." Any one of them being paid, the others become void.

SET OUT. In pleading. To recite or narrate facts or circumstances; to allege or aver; to describe or to incorporate; as, to set out a deed or contract. *First Nat. Bank v. Engelbercht*, 58 Neb. 639, 79 N.W. 556; *Powder Valley State Bank v. Hudelson*, 74 Or. 191, 144 P. 494, 497.

SET UP. To bring forward or allege, as something relied upon or deemed sufficient; to propose or interpose, by way of defense, explanation, or justification; as, to set up the statute of limitations, *i. e.*, offer and rely upon it as a defense to a claim.

SETI. As used in mining laws, lease. *Brown*.

SET-OFF

SET-OFF. A counter demand which defendant holds against plaintiff, arising out of a transaction extrinsic of plaintiff's cause of action. *Delco Light Co. v. John Le Roy Hutchinson Properties*, 128 So. 831, 99 Fla. 410. Counter-demand must be liquidated or capable of liquidation and grow out of a contract or judgment. *Marks v. Spitz*, D.C. Mass., 4 F.R.D. 348, 350. A money demand independent of and unconnected with plaintiff's cause of action. *Otto v. Lincoln Sav. Bank of Brooklyn*, 51 N.Y.S.2d 561, 563, 268 App.Div. 400. Only a counter demand upon which defendant at commencement of action might have maintained independent suit. *Armstrong v. Marr*, 120 Neb. 182, 231 N.W. 758. It generally admits plaintiff's cause of action. *Cook v. Soden*, 12 N.J.Misc. 337, 171 A. 558, 559.

"Set-off", both at law and in equity, is that right which exists between two parties, each of whom under an independent contract owes an ascertained amount to the other, to set off his respective debt by way of mutual deduction, so that in any action brought for the larger debt the residue only, after such deduction, shall be recovered. *John Wills, Inc., v. Citizens Nat. Bank of Netcong*, 125 N.J.L. 546, 16 A.2d 804, 806.

A set-off was unknown to the common law; according to which mutual debts were distinct, and inextinguishable except by actual payment, release or agreement. *Scarano v. Scarano*, 132 N.J.Eq. 362, 28 A.2d 425, 429, 430. A defendant who had a demand against plaintiff was compelled to bring a separate suit or resort to an equity court to have his claim set off. The English statute 2 Geo. II, c. 22, which has been generally adopted in the United States, with some modifications, in cases of mutual debts, however, allowed the defendant to set his debt against the other, either by pleading it in bar, or giving it in evidence, where proper notice had been given of such intention, under the general issue. The statute being made for the benefit of defendant, is not compulsory. The defendant may waive his right, and bring a cross action against plaintiff. *Himes v. Barnitz*, 8 Watts, Pa., 39; 2 Camp. 594; *Hinckly v. Walters*, 9 Watts, Pa., 179; *Branham v. Johnson*, 62 Md. 259.

Independent of statute the right of set-off is of equitable origin and hence power to allow set-offs is inherent in equity courts and courts of equity sometimes allow set-offs where, for some technical reason, it could not be allowed at law under statute. *Colton v. Dovers' Perpetual Building and Loan Ass'n*, 90 Md. 85, 45 A. 23, 26, 46 L.R.A. 388, 78 Am.St.Rep. 431; *Scarano v. Scarano*, 132 N.J.Eq. 362, 28 A.2d 425, 429, 430.

It differs from counterclaim, in that a "counterclaim" arises out of the same transaction described in the complaint, while a "set-off" is independent thereof. *Savings Bank of New London v. Santaniello*, 130 Conn. 206, 33 A.2d 126, 128.

For the distinction between set-off and recoupment, see *Recoupment*.

"Set-off" differs from a "lien," inasmuch as the former belongs exclusively to the remedy, and is merely a right to insist, if the party think proper to do so, when sued by his creditor on a counter-demand, which can only be enforced through the medium of judicial proceedings; while the latter is, in effect, a substitute for a suit. 2 Op.Attys. Gen. 677.

SETTER. In Scotch law. The granter of a tack or lease. 1 Forb. Inst. pt. 2, p. 153.

SETTLE. A word of equivocal meaning; meaning different things in different connections, and the particular sense in which it is used may be explained by the context or the surrounding circumstances. Accordingly, the term may be employed as meaning to agree, to approve, to arrange, to ascertain, to liquidate, to come to or

reach an agreement, to determine, to establish, to fix, to free from uncertainty, to place, or to regulate. *Edwards v. Edwards*, Tex.Civ.App., 52 S.W. 2d 657, 661; *Kocher v. Ricketts*, 71 Ohio App. 8, 47 N.E.2d 657, 659.

Parties are said to *settle* an account when they go over its items and ascertain and agree upon the balance due from one to the other. And, when the party indebted pays such balance, he is also said to settle it. *M. Zimmerman Co. v. Goldberg*, 69 Pa.Super.Ct. 254, 255; *State Bank of Stratford v. Young*, 159 Iowa, 375, 140 N.W. 376, 380.

Settle a bill of exceptions. To approve it. *Kocher v. Ricketts*, 71 Ohio App. 8, 47 N.E.2d 657, 659.

When the bill of exceptions prepared for an appeal is not accepted as correct by the respondent, it is *settled* (i. e., adjusted and finally made conformable to the truth) by being taken before the judge who presided at the trial, and by him put into a form agreeing with his minutes and his recollection. *Green v. Commonwealth*, 181 Ky. 253, 204 S.W. 82, 83.

Settle a document. To make it right in form and in substance. Documents of difficulty or complexity, such as mining leases, settlements by will or deed, partnership agreements, etc., are generally settled by counsel. *Sweet*.

Settle property. To limit it, or the income of it, to several persons in succession, so that the person for the time being in the possession or enjoyment of it has no power to deprive the others of their right of future enjoyment. *Sweet*.

Settle up. A term, colloquial rather than legal, which is applied to the final collection, adjustment, and distribution of the estate of a decedent, a bankrupt, or an insolvent corporation. It includes the processes of collecting the property, paying debts and charges, and turning over the balance to those entitled to receive it.

Settled estate. See *Estate*.

Settled insanity. Habitual insanity. *Community Loan & Investment Corporation v. Bowden*, 64 Ga.App. 175, 12 S.E.2d 421, 423.

Settling day. The day on which transactions for the "account" are made up on the English stock-exchange. In consols they are monthly; in other investments, twice in the month.

Settling interrogatories. The determination by the court of objections to interrogatories and cross-interrogatories prepared to be used in taking a deposition.

Settling issues. In English practice. Arranging or determining the form of the issues in a cause. Where, in any action, it appears to the judge that the statement of claim or defense or reply does not sufficiently disclose the issues of fact between the parties, he may direct the parties to prepare issues; and such issues shall, if the parties differ, be *settled* by the judge. *Judicature Act 1875*, schedule, art. 19.

SETTLEMENT. Act or process of adjusting or determining; an adjusting; an adjustment between persons concerning their dealings or difficulties; an agreement by which parties having

disputed matters between them reach or ascertain what is coming from one to the other; arrangement of difficulties; composure of doubts or differences; determination by agreement; and liquidation. *Sowers v. Robertson*, 144 Kan. 273, 58 P.2d 1105, 1107. Payment or satisfaction. *Ledbetter v. Hall*, 191 Ark. 791, 87 S.W.2d 996, 999. In legal parlance, implies meeting of minds of parties to transaction or controversy. *Ezmirlian v. Otto*, 139 Cal.App. 486, 34 P.2d 774, 778.

See, also, *Settle*.

Contracts

Adjustment or liquidation of mutual accounts; the act by which parties who have been dealing together arrange their accounts and strike a balance. Also full and final payment or discharge of an account. *Bauer v. National Union Fire Ins. Co. of Pittsburgh, Pa.*, 51 N.D. 1, 198 N.W. 546, 550; *Michael v. Donohoe*, 86 W.Va. 34, 102 S.E. 803, 805.

Conveyancing

A disposition of property by deed, usually through the medium of a trustee, by which its enjoyment is limited to several persons in succession, as a wife, children, or other relatives.

Poor Laws

A right acquired by a person, by continued residence for a given length of time in a town or district, to claim aid or relief under the poor-laws in case of his becoming a pauper. *Delaware, L. & W. R. Co. v. Petrowsky, C.C.A.N.Y.*, 250 F. 554, 560, certiorari denied 38 S.Ct. 427, 247 U.S. 508, 62 L. Ed. 1241; *Inhabitants of Trenton v. City of Brewer*, 134 Me. 295, 186 A. 612, 614.

Settlement once acquired is not necessarily lost or defeated by a voluntary absence for the purpose of obtaining work. *State ex rel. Heydenreich v. Lyons*, 374 Ill. 557, 30 N.E.2d 46, 51.

Probate Practice

The settlement of an estate consists in its administration by the executor or administrator carried so far that all debts and legacies have been paid and the individual shares of distributees in the corpus of the estate, or the residuary portion, as the case may be, definitely ascertained and determined, and accounts filed and passed, so that nothing remains but to make final distribution. *Appeal of Mathews*, 72 Conn. 555, 45 A. 170; *Pearce v. Pearce*, 199 Ala. 491, 74 So. 952, 957.

Public Transactions and Accounts

Administrative determination of the amount due. *Illinois Surety Co. v. U. S.*, 36 S.Ct. 321, 323, 240 U.S. 214, 60 L.Ed. 609; *Illinois Surety Co. v. United States, C.C.A.S.C.*, 215 F. 334, 336; *United States, for Use of R. Haas Electric & Mfg. Co., v. Title Guaranty & Surety Co., C.C.A.7*, 254 F. 958, 959; *U. S., to Use of Crellin, v. George F. Pawling & Co., C.C.A.3*, 297 F. 65, 68.

General

Act of settlement. The statute 12 & 13 Wm. III. c. 2, by which the crown of England was limited

to the house of Hanover, and some new provisions were added at the same time for the better securing the religion, laws, and liberties.

Deed of settlement. A deed made for the purpose of settling property, *i. e.*, arranging the mode and extent of the enjoyment thereof. The party who settles property is called the "settlor;" and usually his wife and children or his creditors or his near relations are the beneficiaries taking interests under the settlement. *Brown*.

Equity of settlement. The equitable right of a wife, when her husband sues in equity for the reduction of her equitable estate to his own possession, to have the whole or a portion of such estate settled upon herself and her children. Also a similar right now recognized by the equity courts as directly to be asserted against the husband. Also called the "wife's equity."

Family settlement. See *Family Settlement*.

Final settlement. This term, as applied to the administration of an estate, is usually understood to have reference to the order of court approving the account which closes the business of the estate, and which finally discharges the executor or administrator from the duties of his trust. *Roberts v. Spencer*, 112 Ind. 85, 13 N.E. 129.

Strict settlement. This phrase was formerly used to denote a settlement whereby land was limited to a parent for life, and after his death to his first and other sons or children in tail, with trustees interposed to preserve contingent remainders. 1 Steph. Comm: 332, 333. In England, a settlement to the use of the settlor for life, and after his death to the use that his widow may receive a rent charge (or jointure), subject to these life interests, to trustees for a long term of years in trust to raise by mortgage on the term a sum of money for the portions for his younger children, and subject thereto to the use of his first and other sons successively and the heirs male of their bodies, with the ultimate remainder in default of issue to the settlor in fee simple.

Voluntary settlement. A settlement of property upon a wife or other beneficiary, made gratuitously or without valuable consideration.

SETTLER. A person who, for the purpose of acquiring a pre-emption right, has gone upon the land in question, and is actually resident there. *Hume v. Gracy*, 86 Tex. 671, 27 S.W. 584; *McIntyre v. Sherwood*, 82 Cal. 139, 22 P. 937.

SETTLOR. The grantor or donor in a deed of settlement.

Also one who creates trust. *Ulmer v. Fulton*, 129 Ohio St. 323, 195 N.E. 557, 564, 97 A.L.R. 1170. One who furnishes the consideration for the creation of a trust, though in form the trust is created by another. *Lehman v. Commissioner of Internal Revenue, C.C.A.2*, 109 F.2d 99, 100.

SEVER. To separate, as one from another; to cut off from something; to divide; to part in any way, especially by violence, as by cutting, rend-

SEVERABLE

ing, etc.; as, to sever the head from the body; to cut or break open or apart; to divide into parts; to cut through; to disjoin; as, to sever the arm or leg. *Muse v. Metropolitan Life Ins. Co.*, 193 La. 605, 192 So. 72, 74, 125 A.L.R. 1075. In practice. To insist upon a plea distinct from that of other co-defendants.

SEVERABLE. Admitting of severance or separation, capable of being divided; separable; capable of being severed from other things to which it was joined, and yet maintaining a complete and independent existence. *State ex rel. Dolman v. Dickey*, 288 Mo. 92, 231 S.W. 582, 585; *Lawson v. Muse*, 180 Mo.App. 35, 165 S.W. 396, 397.

SEVERABLE CONTRACT. See *Contract*.

SEVERABLE STATUTE. A statute if after an invalid portion of it has been stricken out, that which remains is self-sustaining and capable of separate enforcement without regard to the stricken portion, in which case that which remains should be sustained. *Rutenberg v. City of Philadelphia*, 329 Pa. 26, 196 A. 73, 79.

SEVERAL. More than two, often used to designate a number greater than one. *First Nat. Trust & Savings Bank of San Diego v. Industrial Accident Commission*, 2 P.2d 347, 351, 213 Cal. 322, 78 A.L.R. 1324. Each particular, or a small number, singly taken. *Nashville, C. & St. L. Ry. v. Marshall County*, 161 Tenn. 236, 30 S.W.2d 268. Separate; individual; independent; severable. In this sense the word is distinguished from "joint." Also exclusive; individual; appropriated. In this sense it is opposed to "common." *Townsend v. Roof*, 210 Mo.App. 293, 237 S.W. 189, 190; *L. L. Satler Lumber Co. v. Exler*, 239 Pa. 135, 86 A. 793, 798.

As to several "Counts," "Covenant," "Demise," "Fishery," "Tail," and "Tenancy," see those titles.

SEVERAL ACTIONS. Where a separate and distinct action is brought against each of two or more persons who are all liable to the plaintiff in respect to the same subject-matter, the actions are said to be "several." If all the persons are joined as defendants in one and the same action, it is called a "joint" action.

SEVERAL INHERITANCE. An inheritance conveyed so as to descend to two persons severally, by moieties, etc.

SEVERAL ISSUES. This occurs where there is more than one issue involved in a case. 3 *Steph. Comm.* 560.

SEVERALLY. Distinctly, separately, apart from others. *State Nat. Bk. v. Reilly*, 124 Ill. 471, 14 N. E. 657. When applied to a number of persons the expression *severally liable* usually implies that each one is liable alone. *Pruyn v. Black*, 21 N.Y. 301.

SEVERALTY. A state of separation. An estate in *severalty* is one that is held by a person in his own right only, without any other person being

joined or connected with him, in point of interest, during his estate therein. 2 *Bl.Comm.* 179.

The term "severalty" is especially applied, in England, to the case of adjoining meadows undivided from each other, but belonging, either permanently or in what are called "shifting severalties," to separate owners, and held in severalty until the crops have been carried, when the whole is thrown open as pasture for the cattle of all the owners, and in some cases for the cattle of other persons as well; each owner is called a "severalty owner," and his rights of pasture are called "severalty rights," as opposed to the rights of persons not owners. *Cooke, Incl.Acts*, 47, 163n.

SEVERALTY, ESTATE IN. An estate which is held by the tenant in his own right only, without any other being joined or connected with him in point of interest during the continuance of his estate. 2 *Bl.Comm.* 179.

SEVERANCE. Act of severing, or state of being severed; partition; separation. *Muse v. Metropolitan Life Ins. Co.*, 193 La. 605, 192 So. 72, 74, 125 A.L.R. 1075.

Pleading

Separation; division. The separation by defendants in their pleas; the adoption, by several defendants, of separate pleas, instead of joining in the same plea. *Steph.Pl.* 257.

Property

The destruction of any one of the unities of a joint tenancy. It is so called because the estate is no longer a joint tenancy, but is severed. Cutting of the crops, such as corn, grass, etc., or the separating of anything from the realty. *Brown*.

SEVERANCE DAMAGE. Any element of value arising out of relation of condemned portion to tract of which it was a part. It is to be included in owner's compensation. *U. S. v. Miller*, 63 S. Ct. 276, 281, 317 U.S. 369, 87 L.Ed. 336, 147 A.L.R. 55.

SEVERE. Sharp, grave, distressing, violent, extreme, torture, rigorous, difficult to be endured. *Traders & General Ins. Co. v. Crouch*, *Tex.Civ. App.*, 113 S.W.2d 650, 652.

SEVERE ILLNESS. Within life policy. An illness as has, or ordinarily does have, a permanent, detrimental effect upon the physical system. *Boos v. Life Ins. Co.*, 64 N.Y. 236; *Pickens v. Security Ben. Ass'n*, 231 P. 1016, 1019, 117 Kan. 475, 40 A.L.R. 654.

SEWAGE. Refuse and foul matter, solid or liquid, carried off by sewer. *Borough of Wilkinsburg v. School Dist. of Borough of Wilkinsburg*, 298 Pa. 193, 148 A. 77, 80.

SEWAGE SYSTEM. A system of sewers for the drainage of foul waters of a community. *Pioneer Real Estate Co. v. City of Portland*, 247 P. 319, 321, 119 Or. 1.

SEWARD, or SEAWARD. One who guards the sea-coast; *custos maris*.

SEWER. A fresh-water trench or little river, encompassed with banks on both sides, to drain off

surplus water into the sea. Cowell. Properly, a trench artificially made for the purpose of carrying water into the sea, (or a river or pond.) Crabb, Real Prop. § 113; Bennett v. New Bedford, 110 Mass. 433.

In its modern and more usual sense, an artificial (usually under-ground or covered) channel used for the drainage of two or more separate buildings. State Board of Health v. Jersey City, 55 N.J.Eq. 116, 35 A. 835; Aldrich v. Paine, 106 Iowa 461, 76 N.W. 812.

"Sewers" differ from "drains" only in that the former are in cities, and generally covered over, while the latter are in rural communities, and open. Pioneer Real Estate Co. v. City of Portland, 119 Or. 1, 247 P. 319, 321. See, also, Barton v. Drainage Dist. No. 30, 174 Ark. 173, 294 S.W. 418, 419.

Commissioners of Sewers

In English law. The court of commissioners of sewers is a temporary tribunal erected by virtue of a commission under the great seal. Its jurisdiction is to overlook the repairs of sea-banks and sea-walls, and the cleansing of public rivers, streams, ditches, and other conduits whereby any waters are carried off, and is confined to such county or particular district as the commission expressly names. Brown.

Public Sewer

One which serves the public and connects with and receives the discharges from district sewers. Schwabe v. Moore, 187 Mo.App. 74, 172 S.W. 1157, 1159.

Sewer Outlet

As used in a statute, that portion of a sewer which serves no other purpose than to connect the sewer system with the point of discharge. Mo-gaard v. Robinson, 48 N.D. 859, 187 N.W. 142, 143.

Trunk Sewer

One which bears the same relation to a system of sewers that the trunk of a tree bears to its branches. Rush v. Grandy, 66 Mont. 222, 213 P. 242, 243.

SEX. The sum of the peculiarities of structure and function that distinguish a male from a female organism; the character of being male or female. Webster, Dict.

SEXAGESIMA SUNDAY. In ecclesiastical law. The second Sunday before Lent, being about the sixtieth day before Easter.

SEXHINDENI. In Saxon law. The middle thanes, valued at 600s.

SEXTANS. Lat. In Roman law. A subdivision of the *as*, containing two *unciae*; the proportion of two-twelfths, or one-sixth. 2 Bl.Comm. 462, note.

SEXTARY. In old records. An ancient measure of liquids, and of dry commodities; a quarter or seam. Spelman.

SEXTERY LANDS. Lands given to a church or religious house for maintenance of a sexton or sacristan. Cowell.

SEXTON. An attendant or care-taker in a church building, usually with care of the attached burying ground.

SEXTUS DECRETALIUM. Lat. The sixth (book) of the decretals; the sext, or sixth decretal. So called because appended, in the body of the canon law, to the five books of the decretals of Gregory IX.; it consists of a collection of supplementary decretals, and was published A. D. 1298. Butl. Hor. Jur. 172; 1 Bl.Comm. 82.

SEXUAL DISEASES. Synonymous with venereal diseases. State v. Hollinshead, 77 Or. 473, 151 P. 710, 711.

SEXUAL INSTINCT, INVERSION AND PER-VERSION OF. See Insanity; Pederasty; Sodomy.

SEXUAL INTERCOURSE. Carnal copulation of male and female, implying actual penetration of the organs of the latter. Williams v. State, 92 Fla. 125, 109 So. 305, 306.

SHACK. In English law. The straying and escaping of cattle out of the lands of their owners into other uninclosed land; an intercommoning of cattle. 2 H.Bl. 416.

It sometimes happens that a number of adjacent fields, though held in severalty, *i. e.*, by separate owners, and cultivated separately, are, after the crop on each parcel has been carried in, thrown open as pasture to the cattle of all the owners. "Arable lands cultivated on this plan are called 'shack fields,' and the right of each owner of a part to feed cattle over the whole during the autumn and winter is known in law as 'common of shack,' a right which is distinct in its nature from common because of vicinage, though sometimes said to be nearly identical with it." Elton, Commons, 30; Sweet.

SHAFT. An opening in the ground or in structures. Franklin v. Webber, 93 Or. 151, 182 P. 819, 820.

SHALL. As used in statutes, contracts, or the like, this word is generally imperative or mandatory. McDunn v. Roundy, 191 Iowa, 976, 181 N. W. 453, 454; Bay State St. Ry. Co. v. City of Woburn, 232 Mass. 201, 122 N.E. 268; U. S. v. Two Hundred and Sixty-Seven Twenty-Dollar Gold Pieces, D.C.Wash., 255 F. 217, 218; Baer v. Gore, 79 W.Va. 50, 90 S.E. 530, 531, L.R.A.1917B, 723.

In common or ordinary parlance, and in its ordinary signification, the term "shall" is a word of command, and one which has always or which must be given a compulsory meaning; as denoting obligation. It has a peremptory meaning, and it is generally imperative or mandatory. It has the invariable significance of excluding the idea of discretion, and has the significance of operating to impose a duty which may be enforced, particularly if public policy is in favor of this meaning, or when addressed to public officials, or where a public interest is involved, or where the public or persons have rights which ought to be exercised or enforced, unless a contrary intent appears. People v. O'Rourke, 124 Cal.App. 752, 13 P.2d 989, 992.

But it may be construed as merely permissive or directory, (as equivalent to "may,") to carry out the legislative intention and in cases where no right or benefit to any one depends on its being

SHALL

taken in the imperative sense, and where no public or private right is impaired by its interpretation in the other sense. *Spaulding & Kimball v. Ætna Chemical Co.*, 98 Vt. 169, 126 A. 588, 589; *Wisdom v. Board of Sup'rs of Polk County*, 236 Iowa 669, 19 N.W.2d 602, 607, 608. Also, as against the government, it is to be construed as "may," unless a contrary intention is manifest. *Cairo & Fulton R. Co. v. Hecht*, 95 U.S. 170, 24 L.Ed. 423.

Although the word usually denotes an obligation, it also implies an element of futurity. *Cunningham v. Long*, 125 Me. 494, 135 A. 198, 200; *Hemsley v. McKim*, 119 Md. 431, 87 A. 506, 511.

SHAM. False;—said of a pleading. *Germofert Mfg. Co. v. Castles*, 97 S.C. 389, 81 S.E. 665, 666; *Segerstrom v. Holland Piano Mfg. Co.*, 160 Minn. 95, 199 N.W. 897, 898. A sham pleading is therefore one good in form, but false in fact. *Bollen v. Woodhams*, 68 Colo. 322, 190 P. 427.

For sham "Answer," "Plea," and "Reply," see those titles.

SHANGHAI. To drug, intoxicate, or render insensible and ship as a sailor,—usually to secure advance money or a premium. *Webster, Dict.*

Under federal law, procuring or inducing, or attempting to do so, by force, or threats, or by representations which one knows or believes to be untrue, or while the person is intoxicated or under the influence of any drug, to go on board of any vessel, or agree to do so, to perform service or labor thereon, such vessel being engaged in interstate or foreign commerce, on the high seas or any navigable water of the United States, or knowingly to detain on board such vessel such person, so procured or induced, or knowingly aiding or abetting such things, is an offense. See 18 U.S.C.A. § 2194.

SHARE, v. To partake; enjoy with others; have a portion of. *Cook v. Worthington*, 116 Ark. 328, 173 S.W. 395, 396; *People v. Sigers*, 217 Mich. 578, 187 N.W. 373, 374.

SHARE, n. A part or definite portion of a thing owned by a number of persons in common and contemplates something owned in common by two or more persons and has reference to that part of the undivided interest which belongs to some one of them. In *re Bond & Mortgage Guarantee Co.*, 157 Misc. 240, 283 N.Y.S. 623, 639.

In the law of corporations and joint-stock companies, a definite portion of the capital of a company.

See, also, Share of Corporate Stock.

SHARE AND SHARE ALIKE. In equal shares or proportions. *Jenne v. Jenne*, 271 Ill. 526, 111 N.E. 540, 543; *Rogers v. Burress*, 199 Ky. 766, 251 S.W. 980, 981. The words commonly indicate per capita division; *Burton v. Cahill*, 192 N.C. 505, 135 S.E. 332, 335; and they may be applied to a division between classes as well as to a division among individuals; *Laisure v. Richards*, 56 Ind. App. 301, 103 N.E. 679, 682; *Tucker v. Nugent*, 117 Me. 10, 102 A. 307, 310.

SHARE CERTIFICATE. An instrument under the seal of the company, certifying that the person therein named is entitled to a certain number or shares; it is *prima facie* evidence of his title

thereto. *Frank Gilbert Paper Co. v. Prankard*, 204 App.Div. 83, 198 N.Y.S. 25, 28; *Furr v. Chapman*, Tex.Com.App., 286 S.W. 171, 172.

SHARE OF CORPORATE STOCK. A proportional part of certain rights in the management and profits of a corporation during its existence, and in the assets upon dissolution, and evidence of the stockholder's ratable share in the distribution of the assets on the winding up of the corporation's business. Department of Treasury of Indiana v. Crowder, 214 Ind. 252, 15 N.E.2d 89, 91; Commissioner of Internal Revenue v. Scatena, C.C.A.9, 85 F. 729, 732.

SHARE-WARRANT TO BEARER. A warrant or certificate under the seal of the company, stating that the bearer of the warrant is entitled to a certain number or amount of fully paid up shares or stock. Coupons for payment of dividends may be annexed to it. Delivery of the share-warrant operates as a transfer of the shares or stock. Sweet.

SHAREHOLDER. Strictly, a person who has agreed to become a member of a corporation or company, and with respect to whom all the required formalities have been gone through; *e. g.*, signing of deed of settlement, registration, or the like. A shareholder by estoppel is a person who has acted and been treated as a shareholder, and consequently has the same liabilities as if he were an ordinary shareholder. *Lindl. Partn.* 130. *Beal v. Essex Sav. Bank*, C.C.A.Mass., 67 F. 816, 15 C. C.A. 128; *State v. Mitchell*, 104 Tenn. 336, 58 S.W. 365.

SHARP. A "sharp" clause in a mortgage or other security (or the whole instrument described as "sharp") is one which empowers the creditor to take prompt and summary action upon default in payment or breach of other conditions.

SHARPING CORN. A customary gift of corn, which, at every Christmas, the farmers in some parts of England give to their smith for sharpening their plow-irons, harrow-tines, etc. Blount.

SHASTER. In Hindu law. The instrument of government or instruction; any book of instructions, particularly containing Divine ordinances. Wharton.

SHAVE. Sometimes used to denote the act of obtaining the property of another by oppression and extortion. Also used in an innocent sense to denote the buying of existing notes and other securities for money, at a discount. Hence to charge a man with using money for shaving is not libelous *per se*. *Trentham v. Moore*, 111 Tenn. 346, 76 S.W. 904.

SHAW. In old English law. A wood. *Co.Litt.* 4b.

SHAWATORES. Soldiers. Cowell.

SHEADING. A riding, tithing, or division in the Isle of Man, where the whole island is divided into six sheadings, in each of which there is a coroner or chief constable appointed by a delivery of a

rod at the Tinewald court or annual convention. King, Isle of Man, 7.

SHEEP. A term which ordinarily includes rams, ewes, and lambs. Panhandle & S. F. Ry. Co. v. Bell, Tex.Civ.App., 189 S.W. 1097, 1101. But in the Stat. 7 & 8 Geo. IV, c. 29, § 25, making it a felony to steal any "ram, ewe, sheep, or lamb," the word "sheep" should be used in indictments only when it is intended to refer to a wether more than a year old. Rex v. Birket, 4 Car. & P. 216.

SHEEP-HEAVES. Small plots of pasture, in England, often in the middle of the waste of a manor, of which the soil may or may not be in the lord, but the pasture is private property, and leased or sold as such. They principally occur in the northern counties, (Cooke, Incl. Acts, 44,) and seem to be corporeal hereditaments, (Elton, Commons, 35,) although they are sometimes classed with rights of common, but erroneously, the right being an exclusive right of pasture. Sweet.

SHEEP-SILVER. A service turned into money, which was paid in respect that anciently the tenants used to wash the lord's sheep. Wharton.

SHEEP-SKIN. A deed; so called from the parchment it was written on.

SHEEP-WALK. Right of. Fold-course (*q. v.*) Elton, Commons, 44.

SHEETING. In a technical sense, a form of pile driving, being the lining of timber to a caisson or cofferdam formed of sheet piles or piles with flanking between them. Mazzarisi v. Ward & Tully, 156 N.Y.S. 964, 170 App.Div. 868.

SHELL SHOCK. Not a distinct type of nervous disorder, but a condition produced on certain organisms by sudden fear; or by highly exciting causes; it is a form of neurosis; it is not settled, general insanity, but a functional nervous disease, and not due to organic changes. People v. Gilberg, 197 Cal. 306, 240 P. 1000, 1002. See, also, Shock.

SHELLEY'S CASE, RULE IN. "When the ancestor, by any gift or conveyance, taketh an estate of freehold, and in the same gift or conveyance an estate is limited, either mediately or immediately, to his heirs in fee or in tail, 'the heirs' are words of limitation of the estate, and not words of purchase." 1 Coke, 104; Winchell v. Winchell, 259 Ill. 471, 102 N.E. 823, 824; Gordon v. Cadwalader, 164 Cal. 509, 130 P. 18, 19; McHatton's Estate v. Peale's Estate, Tex.Civ.App., 248 S.W. 103, 105.

This rule is expressed by Chancellor Kent as follows: "Where a person takes an estate of freehold, legally or equitably, under a deed, will, or other writing, and in the same instrument there is a limitation by way of remainder, either with or without the interposition of another estate, of any interest of the same legal or equitable quality to his heirs, or heirs of his body, as a class of persons to take in succession from generation to generation, the limitation to the heirs entitles the ancestor to the whole estate." In re Thorne's Estate, 344 Pa. 503, 25 A.2d 811, 819.

Intimately connected with the quantity of estate which a tenant may hold in realty is the antique feudal doctrine generally known as the "Rule in Shelley's Case," which is

reported by Lord Coke in 1 Coke, 93b (23 Eliz. in C.B.). This rule was not first laid down or established in that case, but was then simply admitted in argument as a well-founded and settled rule of law, and has always since been quoted as the "Rule in Shelley's Case." Wharton. The rule was adopted as a part of the common law of this country, and in many of the states still prevails. It has been abolished in most of them.

SHELTER. In a statute relating to the provision of food, clothing, and shelter for one's children, a home with proper environments, as well as protection from the weather. Hummel v. State, 73 Ind. App. 12, 126 N.E. 444, 446.

SHEREFFE. The body of the lordship of Cærdiff in South Wales, excluding the members of it. Powel, Hist. Wales, 123.

SHERIFF.

American Law

The chief executive and administrative officer of a county, being chosen by popular election. His principal duties are in aid of the criminal courts and civil courts of record; such as serving process, summoning juries, executing judgments, holding judicial sales and the like. He is also the chief conservator of the peace within his territorial jurisdiction. Harston v. Langston, Tex.Civ. App., 292 S.W. 648, 650. When used in statutes, the term may include a deputy sheriff. Lanier v. Town of Greenville, 174 N.C. 311, 93 S.E. 850, 853.

English Law

The principal officer in every county, who has the transacting of the public business of the county. He is an officer of great antiquity, and was also called the "shire-reeve," "reeve," or "bailiff." He is called in Latin, "*vice-comes*," as being the deputy of the earl or *comes*, to whom anciently the custody of the shire was committed. The duties of the sheriff principally consist in executing writs, precepts, warrants from justices of the peace for the apprehension of offenders, etc. Brown.

Scotch Law

The office of sheriff differs somewhat from the same office under the English law, being, from ancient times, an office of important judicial power, as well as ministerial. The sheriff exercises a jurisdiction of considerable extent, both of civil and criminal character, which is, in a proper sense, judicial, in addition to powers resembling those of an English sheriff. Tomlins; Bell.

General

Deputy sheriff. See Deputy.

High sheriff. One holding the office of sheriff, as distinguished from his deputies or assistants or under sheriffs.

Pocket sheriff. In English law. A sheriff appointed by the sole authority of the crown, without the usual form of nomination by the judges in the exchequer. 1 Bl.Comm. 342; 3 Steph.Comm. 23.

SHERIFF CLERK. The clerk of the sheriff's court in Scotland.

SHERIFF

SHERIFF DEPUTE. In Scotch law. The principal sheriff of a county, who is also a judge.

SHERIFF-GELD. A rent formerly paid by a sheriff, and it is prayed that the sheriff in his account may be discharged thereof. Rot. Parl. 50 Edw. III.

SHERIFF-TOOTH. In English law. A tenure by the service of providing entertainment for the sheriff at his county courts. An ancient tax on land in Derbyshire. A common tax formerly levied for the sheriff's diet. Cowell; Wharton.

SHERIFF'S COURT. The court held before the sheriff's deputy, that is, the undersheriff, and wherein actions are brought for recovery of debts under £20. Writs of inquiry are also brought here to be executed. The sheriff's court for the county of Middlesex is that wherein damages are assessed in proper cases after trial at Westminster. Brown.

SHERIFF'S COURT IN LONDON. A tribunal having cognizance of personal actions under the London (city) Small Debts Act of 1852. See 3 Steph.Comm., 11th ed. 30, n., 301, 449, note (1); 3 Bla.Comm. 80, note (j).

The "Sheriffs Court of the City of London" was the name by which the City of London Court was known prior to the County Courts Act, 1867, 30 & 31 Vict. c. 142, § 35. Its procedure was, theretofore, regulated by Acts and Rules peculiar to itself; but by the above enactment, re-enacted by section 185 of the County Courts Act, 1888, it becomes to all intents and purposes a county court. Wharton.

SHERIFF'S JURY. In practice. A jury composed of no determinate number, but which may be more or less than twelve, summoned by the sheriff for the purposes of an inquisition or inquest of office. 3 Bl.Comm. 258.

SHERIFF'S OFFICERS. Bailiffs, who are either bailiffs of hundreds or bound-bailiffs.

SHERIFF'S SALE. See Sale.

SHERIFF'S TOURN. A court of record in England, formerly held twice every year, within a month after Easter and Michaelmas, before the sheriff, in different parts of the county. It was, indeed, only the *turn* or rotation of the sheriff to keep a court-leet in each respective hundred. This was the great court-leet of the county, as the county court is the court-baron; for out of this, for the ease of the sheriff, was taken the court-leet or view of frank-pledge. 4 Bl.Comm. 273. It was obsolete in Coke's time, but was not abolished till 1887. It had a limited criminal jurisdiction.

SHERIFFALTY, or SHRIEVALTY. The time of a man's being sheriff. Cowell. The term of a sheriff's office. Also, the office itself.

SHERIFFWICK. The jurisdiction of a sheriff. Called, in modern law, "bailiwick." The office of a sheriff.

SHERERIE. A word used by the authorities of the Roman Church, to specify contemptuously

the technical parts of the law, as administered by non-clerical lawyers. Wharton.

SHOWER. In the practice of the English high court, when a view by a jury is ordered, persons are named by the court to show the property to be viewed, and are hence called "shewers." There is usually a shewer on behalf of each party. Archb.Pr. 339, et seq.

SHEWING. In English law. To be quit of attachment in a court, in plaints shewed and not avowed. Obsolete.

SHIFT MARRIAGE. When a man died having debts which his widow was unable to pay, she was obliged, if she contracted a second marriage, to leave her clothes in the hands of the creditors, and to go through the ceremony in her shift. Gradually, however, the ceremony was mitigated by the bridegroom lending her clothes for the occasion. Said by Lecky, Hist. of Eng. 18th Cent., IV, p. 23, to be a curious relic of a standard of commercial integrity which had long since passed away.

SHIFTING. Changing; varying; passing from one person to another by substitution.

SHIFTING CLAUSE. In a settlement, a clause by which some other mode of devolution is substituted for that primarily prescribed. Examples of shifting clauses are: The ordinary name and arms clause, and the clause of less frequent occurrence by which a settled estate is destined as the foundation of a second family, in the event of the elder branch becoming otherwise enriched. These shifting clauses take effect under the statute of uses. Sweet.

SHIFTING RISK. In insurance, a risk created by a contract of insurance on a stock of merchandise, or other similar property, which is kept for sale, or is subject to change in items by purchase and sale; the policy being conditioned to cover the goods in the stock at any and all times and not to be affected by changes in its composition. Farmers' etc., Ins. Ass'n v. Kryder, 5 Ind.App. 430, 31 N.E. 851, 51 Am.St.Rep. 284.

SHIFTING SEVERALTY. See Severalty.

SHIFTING STOCK OF MERCHANDISE. A stock of merchandise subject to change from time to time, in the course of trade by purchases, sales, or other transactions. Laderburg v. Miller, C.C.A. Va., 210 F. 614, 617.

SHIFTING THE BURDEN OF PROOF. Transferring it from one party to the other, or from one side of the case to the other, when he upon whom it rested originally has made out a *prima facie* case or defense by evidence, of such a character that it then becomes incumbent upon the other to rebut it by contradictory or defensive evidence.

SHIFTING USE. See Use.

SHILLING. In English law. The name of an English coin, of the value of one-twentieth part of

a pound. This denomination of money was also used in America, in colonial times, but was not everywhere of uniform value.

SHIN-PLASTER. Formerly, a jocosé term for a bank-note greatly depreciated in value; also for paper money of a denomination less than a dollar. Webster, Dict. See *Madison Ins. Co. v. Forsythe*, 2 Ind. 483.

SHINNEY. A local name for a homemade whiskey. *State v. McClinton*, 94 So. 141, 142, 152 La. 632.

SHINTO. State religion of Japan.

SHIP, v. To put on board a ship; to send by ship. *Harrison v. Fortlage*, 16 S.Ct. 488, 490, 161 U.S. 57, 40 L.Ed. 616. To place (goods) on board of a vessel for the purchaser or consignee, to be transported at his risk. *Krauter v. Menchacatorre*, 202 App.Div. 200, 195 N.Y.S. 361, 363.

In a broader sense, to transport. *Burton v. State*, 135 Ark. 612, 206 S.W. 51, 52. To deliver to a common carrier for transportation. *State v. Bayer*, 93 Ohio St. 72, 112 N.E. 197, 198; *Horner v. Daily*, 77 Ind.App. 378, 133 N.E. 585, 587. To send away, to get rid of. *Bird v. State*, 131 Tenn. 518, 175 S.W. 554, 556, Ann.Cas.1917A, 634. To send by established mode of transportation, as to "carry," "convey," or "transport," which are synonymous and defined, respectively, as "to bear or cause to be borne as from one place to another," "to transport from one place to another," and "to carry or convey from one place to another." *Chicago, R. I. & P. Ry. Co. v. Petroleum Refining Co.*, D.C.Ky., 39 F.2d 629, 630.

SHIP, n. A vessel of any kind employed in navigation. In a more restricted and more technical sense, a three-masted vessel navigated with sails. *U. S. v. Kelly*, 4 Wash.C.C. 528, F.Cas.No.15,516.

Nautical men apply the term "ship" to distinguish a vessel having three masts, each consisting of a lower mast, a topmast, and a topgallant mast, with their appropriate rigging. In familiar language, it is usually employed to distinguish any large vessel, however rigged. *Tomlins; Cope v. Vallette Dry-Dock Co.*, 119 U.S. 625, 7 S.Ct. 336, 30 L.Ed. 501; *Swan v. U. S.*, 19 Ct.Cl. 62; *The St. Louis*, D.C.Ky., 48 F. 312; *Wood v. Two Barges*, C.C.La., 46 F. 204, as to what is not a ship.

An agreement to construct an ocean going ship is performed by the construction of an ocean going barge suitable for a cargo carrying steamer, since the hull and spars constitute the ship. *Bell v. First Nat. Bank of Rockport*, Tex.Civ.App., 226 S.W. 1107.

Ex Ship

These words in a contract of sale are not restricted to any particular ship, and by the usage of merchants simply denote that the property in the goods shall pass to the buyer upon their leaving the ship's tackle, and that he shall be liable for all subsequent charges of landing. They do not constitute a condition of the contract but are inserted for the benefit of the seller. *Harrison v. Fortlage*, 16 S.Ct. 488, 161 U.S. 57, 40 L.Ed. 616.

General Ship

Where a ship is not chartered wholly to one person, but the owner offers her generally to carry the goods of all comers, or where, if chartered to one person, he offers her to several subfreighters for the conveyance of their goods, she is called a "general" ship, as opposed to a "chartered" one. *Brown*. One which is employed by the charterer or owner on a particular voyage, and is hired to a number of persons, unconnected with each other to convey their respective goods to the place of destination. *Alexander Eccles & Co. v. Strachan Shipping Co.*, D.C.Ga., 21 F.2d 653, 655; *Ward v. Green*, 6 Cow., N.Y., 173, 16 Am.Dec. 437.

Ship-Breaking

In Scotch law. The offense of breaking into a ship. *Arkley*, 461.

Ship-Broker

An agent for the transaction of business between ship-owners and charterers or those who ship cargoes. *Little Rock v. Barton*, 33 Ark. 444.

Ship-Chandlery

A term of extensive import, and includes everything necessary to furnish and equip a vessel, so as to render her seaworthy for the intended voyage.

Not only stores, stoves, hardware, and crockery have been held to be within the term, but muskets and other arms also, the voyage being round Cape Horn to California, in the course of which voyage arms are sometimes carried for safety. *Weaver v. The S. G. Owens, Pa.*, 29 F.Cas. 17,310; 29 F.Cas. 489.

Ship-Channel

In rivers, harbors, etc., the channel in which the water is deep enough for vessels of large size, usually marked out in harbors by buoys. *The Oliver*, D.C.Va., 22 F. 848.

Ship-Damage

In the charter-parties with the English East India Company, these words occur. Their meaning is, damage from negligence, insufficiency, or bad stowage in the ship. *Abb. Shipp.* 204.

Ship-Master

The captain or master of a merchant ship, appointed and put in command by the owner, and having general control of the vessel and cargo, with power to bind the owner by his lawful acts and engagements in the management of the ship.

Ship-Money

In English law. An imposition formerly levied on port-towns and other places for fitting out ships; revived by Charles I., and abolished in the same reign. 17 Car. I. c. 14.

Ship's-Bill

The copy of the bill of lading retained by the master. It is not authoritative as to the terms of

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the contract of affreightment; the bill delivered to the shipper must control, if the two do not agree. *The Thames*, 14 Wall. 98, 20 L.Ed. 804.

Ship's Company

A term embracing all the officers of the ship, as well as the mariners or common seamen, but not a passenger. *U. S. v. Libby*, 26 F.Cas. 928; *U. S. v. Winn*, 28 F.Cas. 735.

Ship's Husband

In maritime law. A person appointed by the several part-owners of a ship, and usually one of their number, to manage the concerns of the ship for the common benefit. Generally understood to be the general agent of the owners in regard to all the affairs of the ship in the home port. *Story*, Ag. § 35; 3 Kent, Comm. 151; *Webster v. The Andes*, 18 Ohio 187; *Muldon v. Whitlock*, 1 Cow., N.Y., 307, 13 Am.Dec. 533; 1 Y. & C. 326; *Gould v. Stanton*, 16 Conn. 12. He cannot insure or bind the owners for premiums. *Hewett v. Buck*, 17 Me. 147, 35 Am.Dec. 243; 2 Maule & S. 485; *Foster v. Ins. Co.*, 11 Pick., Mass., 85; 5 Burr. 2627.

Ship's Papers

The papers which must be carried by a vessel on a voyage, in order to furnish evidence of her national character, the nature and destination of the cargo, and of compliance with the navigation laws. The ship's papers are of two sorts: Those required by the law of a particular country; such as the certificate of registry, license, charter-party, bills of lading and of health, required by the law of England to be on board all British ships. These required by the law of nations to be on board neutral ships, to vindicate their title to that character; these are the pass port, sea-brief, or sea-letter, proofs of property, the muster-roll or *rôle d'équipage*, the charter-party, the bills of lading and invoices, the log-book or ship's journal, and the bill of health. 1 March. Ins. c. 9, § 6. See, also, *Grace v. Browne*, C.C.A.N.Y., 86 F. 155.

SHIPMENT. The delivery of the goods within the time required on some vessel, destined to the particular port, which the seller has reason to suppose will sail within a reasonable time. It does not mean a clearance of the vessel as well as putting the goods on board where there is nothing to indicate that the seller was expected to exercise any control over the clearance of the vessel or of her subsequent management. *Ledon v. Havemeyer*, 121 N.Y. 179, 24 N.E. 297, 8 L.R.A. 245. See *L.R. 2 App.Cas. 455*; *Stubbs v. Lund*, 7 Mass. 453, 5 Am.Dec. 63; *Lamborn & Co. v. Log Cabin Products Co.*, D.C.Minn., 291 F. 435, 438.

The delivery of goods to a carrier and his issuance of a bill of lading therefor. *Goldenberg v. Cutler*, 189 App.Div. 489, 178 N.Y.S. 522, 523.

A "shipment" does not consist in loading alone, but consists in complete delivery of goods by the shipper to the carrier for transportation, and shipment is not made until the shipper has parted with all control over the goods and nothing remains to be done by him to complete delivery.

National Importing & Trading Co. v. E. A. Bear & Co., 324 Ill. 346, 155 N.E. 343, 346.

The transportation of goods. *Pennsylvania R. Co. v. Carolina Portland Cement Co.*, C.C.A.S.C., 16 F.2d 760, 761.

Also, the property which is the subject of transportation. *Pennsylvania R. Co. v. Carolina Portland Cement Co.*, C.C.A.S.C., 16 F.2d 760, 761. An order. *Young v. Flickinger*, 75 Cal.App. 171, 242 P. 516, 517. A consignment of goods as delivered by the carrier. *Pennsylvania R. Co. v. Kittanning Iron & Steel Mfg. Co.*, 263 Pa. 205, 106 A. 207, 208.

SHIPPER. A Dutch word, signifying the master of a ship. It is mentioned in some statutes, and is now generally called "skipper." Tomlins.

One who ships goods; one who puts goods on board of a vessel, for carriage to another place during her voyage and for delivery there, by charter-party or otherwise. One who signs a bill of lading as "shipper," unless the contrary appears, is presumably the consignor. *New York Cent. R. Co. v. Singer Mfg. Co.*, 3 N.J.M. 1137, 131 A. 111, 114.

Under federal statutes, one is a "shipper" who, although a consignee, exercises such direct control over shipments of commodities consigned to him by another as enables him, by his own act, to procure for himself discriminations in respect to transportation service. *U. S. v. Metropolitan Lumber Co.*, D.C.N.J., 254 F. 335, 346. Thus, a forwarder of freight, who sends in his own name all the freight he can over a carrier, which, in consideration of the business thus obtained, pays him a commission or salary calculated on the freight moneys received by the carrier from him, is a "shipper," and the payment in form of commission or salary or otherwise is a "rebate" or concession in violation of the Interstate Commerce Act Feb. 4, 1887, c. 104, § 6, 24 Stat. 380 (49 U.S.C.A. § 6), and *Elkins Act* Feb. 19, 1903, c. 708, 32 Stat. 847, § 1, as amended by Act June 29, 1906, c. 3591, 34 Stat. 587, § 2 (49 U.S.C.A. § 41). *U. S. v. Lehigh Valley R. Co.*, D.C.N.Y., 222 F. 685, 686.

SHIPPER'S ORDER. In bills of lading, is well understood and means that the title remains in the shipper until he orders a delivery of the goods. *B. W. McMahan & Co. v. State Nat. Bank of Shawnee*, Tex.Civ.App., 160 S.W. 403, 404; *Bennett v. Dickinson*, 106 Kan. 95, 186 P. 1005.

SHIPPING. Ships in general; ships or vessels of any kind intended for navigation. Relating to ships; as, shipping interests, shipping affairs, shipping business, shipping concerns. Putting on board a ship or vessel, or receiving on board a ship or vessel. *Webster, Dict.*; *Worcester, Dict.*

Law of Shipping

A comprehensive term for all that part of the maritime law which relates to ships and the persons employed in or about them. It embraces such subjects as the building and equipment of vessels, their registration and nationality, their ownership and inspection, their employment, (including charter-parties, freight, demurrage, towage, and salvage,) and their sale, transfer, and mortgage; also, the employment, rights, powers, and duties of masters and mariners; and the law relating to ship-brokers, ship-agents, pilots, etc.

SHIPPING ARTICLES. A written agreement between the master of a vessel and the mariners, specifying the voyage or term for which the latter are shipped, and the rate of wages. See 46 U.S.C.A. § 564.

SHIPPING COMMISSIONER. An officer of the United States, appointed by the several circuit courts, within their respective jurisdictions, for each port of entry (the same being also a port of ocean navigation), which, in the judgment of such court, may require the same; his duties being to supervise the engagement and discharge of seamen; to see that men engaged as seamen report on board at the proper time; to facilitate the apprenticing of persons to the marine service; and other similar duties, such as may be required by law. 46 U.S.C.A. §§ 541-549 and notes.

SHIPWRECK. The demolition or shattering of a vessel, caused by her driving ashore or on rocks and shoals in the midseas, or by the violence of winds and waves in tempests. 2 Arn.Ins. p. 734.

SHIRE. A Saxon word which signified a division; it was made up of an indefinite number of hundreds—later called a county (*Comitatus*). 1 Steph.Com. 76.

English Law

A county. So called because every county or shire is divided and parted by certain metes and bounds from another. Co.Litt. 50a.

General

Knights of the shire. See that title.

Shire-clerk. He that keeps the county court.

Shire-gemot, scire-gemote, scir-gemot. (From the Saxon *scir* or *scyre*, county, shire, and *gemote*, a court, an assembly.) Variants of *scyregemote* (*q. v.*). See, also, Shire-mote, *infra*.

Shire-man, or scyre-man. Before the Conquest, the judge of the county, by whom trials for land, etc., were determined, Tomlins; Mozley & Whitley.

Shire-mote. The assize of the shire, or the assembly of the people, was so called by the Saxons. It was nearly if not exactly, the same as the *scyregemote*, and in most respects corresponded with what were afterwards called the "county courts." Brown.

Shire-reeve (spelled, also, Shire rieve, or Shire reve). In Saxon law. The reeve or bailiff of the shire. The *viscount* of the Anglo-Normans, and the *sheriff* of later times. Co.Litt. 168a.

SHOCK. A sudden agitation of the physical or mental sensibilities. Provident Life and Accident Ins. Co. v. Campbell, 18 Tenn.App. 452, 79 S.W.2d 292, 295.

Mental Shock

A sudden agitation of the mind; startling emotion, as the shock of a painful discovery, a shock

of grief or joy. Provident Life and Accident Ins. Co. v. Campbell, 18 Tenn.App. 452, 79 S.W.2d 292, 295.

Physical Shock

A blow, impact, collision, concussion, or violent shake or jar, or a violent collision of bodies, or the concussion caused by it; a sudden striking or dashing together or against something. Provident Life and Accident Ins. Co. v. Campbell, 18 Tenn.App. 452, 79 S.W.2d 292, 295.

Medical Jurisprudence

A sudden depression of the vital forces of the entire body, or a part of it, marking some profound impression produced upon the nervous system, as by severe injury, a surgical operation, profound emotion, or the like, or a prostration of the bodily functions, as from sudden injury or mental disturbance. Provident Life & Accident Ins. Co. v. Campbell, 18 Tenn.App. 452, 79 S.W.2d 292, 295.

SHOOFAA. In Mohammedan law. Pre-emption, or a power of possessing property which has been sold, by paying a sum equal to that paid by the purchaser. Wharton.

SHOOT. To strike with something shot; to hit, wound, or kill, with a missile discharged from a weapon; and the missile meant in such cases is the arrow, bullet, or ball, intended to be discharged and to strike the object aimed at. A person cannot be said to have been shot who was not hit by bullet or ball, but only powder burned by the weapon discharged. State v. Manuel, 153 La. 7, 95 So. 263, 264. The term generally implies the use of firearms. Shumake v. State, 90 Fla. 133, 105 So. 314, 315.

SHOP. A building in which goods and merchandise are sold at retail, or where mechanics work, and sometimes keep their products for sale. State v. Morgan, 98 N.C. 641, 3 S.E. 927; State v. O'Connell, 26 Ind. 267; State v. Sprague, 149 Mo. 409, 50 S.W. 901; Com. v. Riggs, 14 Gray, Mass., 378, 77 Am.Dec. 333; Richards v. Ins. Co., 60 Mich. 426, 27 N.W. 586. There must be some structure of a more or less permanent character. 6 B. & S. 303.

The term is properly applied to a place of manufacture or repair, such as a roundhouse, Koecher v. Minneapolis, St. P. & S. S. M. Ry. Co., 122 Minn. 458, 142 N.W. 874, 876, or a building used for repairing automobiles and for the sale of automobile parts, gas, and oil, State v. Garon, 161 La. 867, 109 So. 530, 532. But it is not strictly applicable to a garage, State v. Garon, 158 La. 1014, 105 So. 47, 48, nor to a restaurant, even though the restaurant also engages in the sale of cigars, Debenham v. Short, Tex.Civ. App., 199 S.W. 1147.

The word "shop" in its popular as well as legal meaning is not confined to a workshop, but is a word of various significance, and "store" and "workshop" are both included in it and do not exhaust its meaning. A place kept and used for the sale of goods may be rightly denominated a "shop". Commonwealth v. Moriarty, 311 Mass. 116, 40 N.E.2d 307, 308.

SHOP RIGHT. In patent law. The right of an employer to use employee's invention in employer's business without payment of royalty. Ash-

SHOP

land Oil & Refining Co. v. Dorton, 300 Ky. 385, 189 S.W.2d 394.

It cannot come into existence unless the inventor was an employee of the one claiming the right at the time when the invention was made and reduced to practice. *Crom v. Cement Gun Co.*, D.C.Del., 46 F.Supp. 403, 405.

SHOPA. In old records, a shop. *Cowell*.

SHOP-BOOK RULE. An exception to the hearsay evidence rule, permitting the introduction in evidence of books of original entry made in the usual course of business, and introduced from proper custody and upon general authentication. *Clayton v. Metropolitan Life Ins. Co.*, 96 Utah 331, 85 P.2d 819, 822, 120 A.L.R. 1117.

SHOP-BOOKS. Books of original entry kept by trademen, shop-keepers, mechanics, and the like, in which are entered their accounts and charges for goods sold, work done, etc., commonly called "account-books," or "books of account." The term does not include the stubs of a check book and entries thereon, *McWhorter v. Tyson*, 203 Ala. 509, 83 So. 330, 333, nor the book and entries of an express messenger, *Rhoades v. New York Cent. & H. R. R. R.*, 227 Mass. 138, 116 N.E. 244, 245.

SHOPKEEPER. Whether a person who buys and sells commodities as a business is a merchant or a shopkeeper depends on the extent, and not on the character, of his business; if his business is large he is a "merchant," and if it is small he is a "shopkeeper." *White Mountain Fur Co. v. Town of Whitefield*, 77 N.H. 340, 91 A. 870, 871.

SHORE. Land on the margin of the sea, a lake, or a river,—especially a large river, in which the water ebbs and flows. *Galveston v. Menard*, 23 Tex. 349; *Bell v. Gough*, 23 N.J.L. 683.

Strictly and technically, lands adjacent to the sea or other tidal waters; the lands adjoining navigable waters, where the tide flows and reflows, which at high tides are submerged, and at low tides are bare. *Shively v. Bowlby*, 14 S.Ct. 548, 152 U.S. 1, 38 L.Ed. 331; *Mather v. Chapman*, 40 Conn. 400, 16 Am.Rep. 46; *Axline v. Shaw*, 35 Fla. 305, 17 So. 411, 28 L.R.A. 391. The space bounded by the high and low water marks. *La Porte v. Menacon*, 220 Mich. 684, 190 N.W. 655, 656; *Sinford v. Watts*, 123 Me. 230, 122 A. 573, 574; *Borax Consolidated v. City of Los Angeles, Cal.*, 56 S.Ct. 23, 296 U.S. 101, 80 L.Ed. 9. And this is also true even though the lands may lie along nonnavigable bodies of water. *Hunter v. Van Keuren*, 130 Misc. 599, 224 N.Y.S. 153, 160.

Sea-shore is that space of land over which the waters of the sea spread in the highest water, during the winter season. *Civ.Code La. art. 451*.

Under the civil law the "shore line" boundary of lands adjoining navigable waters is the line marked by the highest tide. *Dincans v. Keeran*, *Tex.Civ.App.*, 192 S.W. 603, 604.

In connection with salvage, "shore" means the land on which the waters have deposited things which are the subject of salvage, whether below or above ordinary high-water mark. *The Gulfport*, D.C.Ala., 243 F. 676, 680.

SHORE LANDS. Those lands lying between the lines of high and low water mark. *State v. Sturtevant*, 76 Wash. 158, 135 P. 1035, 1036. Lands

bordering on the shores of navigable lakes and rivers below the line of ordinary high water. *Rem. & Bal.Code, Wash.*, § 6641 (*Rem.Rev.Stat.* § 7833).

SHORT. Not long; of brief length; brief; not coming up to a measure, standard, requirement, or the like. *Webster, Dict.*

A term of common use in the stock and produce markets. To say that one is "short," in the vernacular of the exchanges, implies only that one has less of a commodity than may be necessary to meet demands and obligations. It does not imply that commodity cannot or will not be supplied upon demand. *Thomas v. McShan*, 99 Okl. 88, 225 P. 713, 714.

SHORT CAUSE. A cause which is not likely to occupy a great portion of the time of the court, and which may be entered on the list of "short causes," upon the application of one of the parties, and will then be heard more speedily than it would be in its regular order. This practice obtains in the English chancery and in some of the American states. The time allowed for the hearing varies in the different courts.

SHORT ENTRY. A custom of bankers of entering on the customer's pass-book the amount of notes deposited for collection, in such a manner that the amount is not carried to the latter's general balance until the notes are paid. *Giles v. Perkins*, 9 East, 12; *Blaine v. Bourne*, 11 R.I. 121, 23 Am.Rep. 429.

SHORT LEASE. A term applied colloquially, but without much precision, to a lease for a short term, (as a month or a year,) as distinguished from one running for a long period.

SHORT NOTICE. In practice. Notice of less than the ordinary time; generally of half that time. 2 *Tidd, Pr.* 757. In English Practice, four days' notice of trial. *Wharton, Law Dict. Notice of trial.* 1 *Cr. & M.* 499.

SHORT RATE. Cancellation of insurance policy. Where insurance policy is mutually rescinded by both parties and new policy contract, identical with original, save for shortened term and lessened earned premium, is re-issued and substituted for original contract. *Keehn v. Hi-Grade Coal & Fuel Co.*, 23 N.J.Misc. 102, 41 A.2d 525, 532.

SHORT SALE. A contract for sale of shares of stock which the seller does not own, or certificates for which are not within his control, so as to be available for delivery at the time when, under rules of the exchange, delivery must be made. *Provost v. U. S.*, 46 S.Ct. 152, 153, 269 U.S. 443, 70 L.Ed. 352; *Chandler v. Prince*, 221 Mass. 495, 109 N.E. 374, 378. In a "short sale" the broker may make a delivery of bonds or stock, charging the price thereof to the customer, and the account is carried until the customer orders the broker to repurchase the bonds, and an adjustment is made between the broker and customer on the difference between the selling and purchasing price. *Brown v. Carpenter*, 182 App.Div. 650, 168 N.Y.S. 921, 923.

SHORT SUMMONS. A process, authorized in some of the states, to be issued against an absconding, fraudulent, or nonresident debtor, which is returnable within a less number of days than an ordinary writ of summons.

SHORTFORD. An old custom of the city of Exeter, similar to that of *gavelet* in London, which was a mode of foreclosing the right of a tenant by the chief lord of the fee, in cases of non-payment of rent. Cowell.

SHORTLY AFTER. In point of time, a relative term, meaning in a short or brief time or manner; soon; presently; quickly. Chittenden County Trust Co. v. Hurd, 93 Vt. 71, 106 A. 564, 565.

SHOT. A projectile, particularly a solid ball or bullet that is not intended to fit the bore of a piece; also such projectiles collectively. Green v. Commonwealth, 122 Va. 862, 94 S.E. 940, 941.

SHOTGUN. A smooth-bore gun, often double-barreled, and now almost universally breach-loading, designed for firing shots at short range and killing small game, especially birds. Henderson v. State, 75 Fla. 464, 78 So. 427, 428.

SHOULD. The past tense of shall, St. Louis & S. F. R. Co. v. Brown, 45 Okl. 143, 144 P. 1075, 1080, ordinarily implying duty or obligation; Scarborough v. Walton, 36 Ga.App. 428, 136 S.E. 830; Kippenbrock v. Wabash R. Co., 270 Mo. 479, 194 S.W. 50, 51; although usually no more than an obligation of propriety or expediency, or a moral obligation, thereby distinguishing it from "ought," U. S. v. Stickrath, D.C.Ohio, 242 F. 151, 153. It is not normally synonymous with "may", Williams v. Mt. Vernon Car Mfg. Co., 197 Ill.App. 271, 272; Elliott v. Maves, 196 Ill.App. 605, 606; and although often interchangeable with the word "would," Barnett v. Savannah Electric Co., 15 Ga.App. 270, 82 S.E. 910, 911, it does not ordinarily express certainty as "will" sometimes does. Hubbard v. Turner Department Store Co., 220 Mo.App. 95, 278 S.W. 1060, 1061.

SHOW, n. Something that one views or at which one looks and at the same time hears. Longwell v. Kansas City, 199 Mo.App. 480, 203 S.W. 657, 659.

SHOW, v. To make apparent or clear by evidence; to prove. Coyle v. Com., 104 Pa. 133. It may be equivalent to the words "reasonably satisfy," Birmingham Ry., Light & Power Co. v. Co-hill, 196 Ala. 278, 72 So. 126, but is not synonymous with "state"; Chapin v. State, 107 Tex.Cr. R. 477, 296 S.W. 1095, 1099; Chumbley v. Courtney, 181 Iowa, 482, 164 N.W. 945, 946.

Although the words "show" and "indicate" are sometimes interchangeable in popular use, they are not always so. To "show" is to make apparent or clear by evidence, to prove; while an "indication" may be merely a symptom; that which points to or gives direction to the mind. Coyle v. Com., 104 Pa. 133. "Show" means to point out, or make known by evidence. Commonwealth v. Delfino, 259 Pa. 272, 102 A. 949, 952.

SHOW CAUSE. Against a rule *nisi*, an order, decree, execution, etc., is to appear as directed, and present to the court such reasons and considerations as one has to offer why it should not

be confirmed, take effect, be executed, or as the case may be.

SHOWER. One who accompanies a jury to the scene to call the attention of the jurors to specific objects to be noted. Snyder v. Mass., 54 S.Ct. 330.

SHRUB. A low, small plant, the branches of which grow directly from the earth without any supporting trunk, or stem. Clay v. Tel. Cable Co., 70 Miss. 406, 11 So. 658.

SHUT DOWN. To stop work;—usually said of a factory, etc. Webster, Dict.

Thus, within the meaning of an insurance policy, a saw mill which has stopped running for the winter is shut down, though men are employed about the premises and the machinery has not been dismantled. McKenzie v. Ins. Co., 112 Cal. 548, 44 P. 922.

SHY. To start suddenly aside through fright or suspicion; said especially of horses. San Antonio Machine & Supply Co. v. McKinley, Tex.Civ.App., 239 S.W. 340, 342.

SHYSTER. A trickish knave; one who carries on any business, especially a legal business, in a dishonest way. Gribble v. Press Co., 34 Minn. 343, 25 N.W. 710; Nolan v. Standard Pub. Co., 67 Mont. 212, 216 P. 571, 574. An unscrupulous practitioner who disgraces his profession by doing mean work, and resorts to sharp practice to do it. Bailey v. Kalamazoo Pub. Co., 40 Mich. 251.

SI A JURE DISCEDAS, VAGUS ERIS, ET ERUNT OMNIA OMNIBUS INCERTA. If you depart from the law, you will go astray, and all things will be uncertain to everybody. Co.Litt. 227b.

SI ACTIO. Lat. The conclusion of a plea to an action when the defendant demands judgment, if the plaintiff ought to have his action, etc. Obsolete.

SI ALICUJUS REI SOCIETAS SIT ET FINIS NEGOTIO IMPOSITUS EST, FINITUR SOCIETAS. If there is a partnership in any matter, and the business is ended, the partnership ceases. Griswold v. Waddington, 16 Johns, N.Y., 438, 489.

SI ALIQUID EX SOLEMNIBUS DEFICIAT, CUM ÆQUITAS POSCIT, SUBVENIENDUM EST. If any one of certain required forms be wanting, where equity requires, it will be aided. The want of some of a neutral vessel's papers is strong presumptive evidence against the ship's neutrality, yet the want of any one of them is not absolutely conclusive. 1 Kent, Comm. 157.

SI ALIQUID SAPIT. Lat. If he knows anything; if he is not altogether devoid of reason.

SI ASSUETIS MEDERI POSSIS, NOVA NON SUNT TENTANDA. If you can be relieved by accustomed remedies, new ones should not be tried. If an old wall can be repaired, a new one should not be made. 10 Coke, 142b.

SI CONSTET DE PERSONA. Lat. If it be certain who is the person meant.

SI CONTINGAT

SI CONTINGAT. Lat. If it happen. Words of condition in old conveyances. 10 Coke, 42a.

SI DUO IN TESTAMENTO PUGNANTIA REPERIENTUR, ULTIMUM EST RATUM. If two conflicting provisions are found in a will, the last is observed. Lofft 251.

SI FECERIT TE SECURUM. Lat. If he make you secure. In practice. The initial and emphatic words of that description of original writ which directs the sheriff to cause the defendant to appear in court, without any option given him, provided the plaintiff gives the sheriff security effectually to prosecute his claim. 3 Bl.Comm. 274.

SI INGRATUM DIXERIS, OMNIA DIXERIS. If you affirm that one is ungrateful, in that you include every charge. A Roman maxim. Tray. Lat. Max.

SI ITA EST. Lat. If it be so. Emphatic words in the old writ of mandamus to a judge, commanding him, if the fact alleged be truly stated, (*si ita est*,) to affix his seal to a bill of exceptions. Ex parte Crane, 5 Pet. 192, 8 L.Ed. 92.

SI JUDICAS, COGNOSCE. If you judge, understand.

SI MELIORES SUNT QUOS DUCIT AMOR, PLURES SUNT QUOS CORRIGIT TIMOR. If those are better who are led by love, those are the greater number who are corrected by fear. Co.Litt. 392.

SI NON APPAREAT QUID ACTUM EST, ERIT CONSEQUENS UT ID SEQUAMUR QUOD IN REGIONE IN QUA ACTUM EST FREQUENTATUR. If it does not appear what was agreed upon, the consequence will be that we must follow that which is the usage of the place where the agreement was made. Dig. 50, 17, 34.

SI NON OMNES. Lat. In English practice. A writ of association of justices whereby, if all in commission cannot meet at the day assigned, it is allowed that two or more may proceed with the business. Cowell; Fitzh.Nat.Brev. 111 C.

SI NULLA SIT CONJECTURA QUÆ DUCAT ALIO, VERBA INTELLIGENDA SUNT EX PROPRIETATE, NON GRAMMATICA SED POPULARI EX USU. If there be no inference which leads to a different result, words are to be understood according to their proper meaning, not in a grammatical, but in a popular and ordinary, sense, 2 Kent, Comm. 555.

SI PARET. Lat. If it appears. In Roman law. Words used in the formula by which the prætor appointed a judge, and instructed him how to decide the cause.

SI PLURES CONDITIONES ASCRIPTÆ FUERUNT DONATIONI CONJUNCTIM, OMNIBUS EST PARENDUM; ET AD VERITATEM COPULATIVE REQUIRITUR QUOD UTRAQUE PARS SIT VERA, SI DIVISIM, QUILIBET VEL ALTERI EORUM SATIS EST OBTEMPERARE; ET IN DISJUNCTIVIS, SUFFICIT ALTERAM PARTEM ESSE VERAM. If several conditions are conjunctively written in a gift, the whole of them

must be complied with; and with respect to their truth, it is necessary that every part be true, taken jointly; if the conditions are separate, it is sufficient to comply with either one or other of them; and being disjunctive, that one or the other be true. Co.Litt. 225.

SI PLURES SINT FIDEJUSSORES, QUOTQUOT ERUNT NUMERO, SINGULI IN SOLIDUM TENENTUR. If there are more sureties than one, how many soever they shall be, they shall each be held for the whole. Inst. 3, 20, 4.

SI PRIUS. Lat. In old practice. If before. Formal words in the old writs for summoning juries. Fleta, 1. 2, c. 65, § 12.

SI QUID UNIVERSITATI DEBETUR SINGULIS NON DEBETUR, NEC QUOD DEBET UNIVERSITAS SINGULI DEBENT. If anything be owing to an entire body [or to a corporation], it is not owing to the individual members; nor do the individuals owe that which is owing by the entire body. Dig. 3, 4, 7, 1; 1 Bla.Comm. 484; Lindl. Part. *5.

SI QUIDEM IN NOMINE, COGNOMINE, PRÆNOMINE LEGATARIJ TESTATOR ERRAVERIT, CUM DE PERSONA CONSTAT, NIHILOMINUS VALET LEGATUM. Although a testator may have mistaken the *nomen*, *cognomen*, or *prænomen* of a legatee, yet, if it be certain who is the person meant, the legacy is valid. Inst. 2, 20, 29; Broom, Max. 645; 2 Domat b. 2, 1, s. 6, §§ 10, 19.

SI QUIS. Lat. In the civil law. If any one. Formal words in the prætorian edicts. The word "*quis*," though masculine in form was held to include women. Dig. 50, 16, 1.

SI QUIS CUM TOTUM PETISSET PARTEM PETAT, EXCEPTIO REI JUDICATÆ VOCET. If a party, when he should have sued for an entire claim, sues only for a part, the judgment is *res judicata* against another suit. 2 Mart. O. S. (La.) 83.

SI A TUTELA REMOVENDUS EST. Jenk.Cent. 39. If a guardian do fraud to his ward, he shall be removed from his guardianship.

SI QUIS CUSTOS FRAUDEM PUPILLO FECERIT, SI QUIS PRÆGNANTEM UXOREM RELIQUIT, NON VIDETUR SINE LIBERIS DECESSISSE. If a man dies, leaving his wife pregnant, he shall not be considered to have died without children. A rule of the civil law.

SI QUIS, UNUM PERCUSSE, CUM ALIUM PERCUTERE VELLE, IN FELONIA TENETUR. 3 Inst. 51. If a man kill one, meaning to kill another, he is held guilty of felony.

SI RECOGNOSCAT. Lat. If he acknowledge. In old practice. A writ which lay for a creditor against his debtor for money numbered (*pecunia numerata*) or counted; that is, a specific sum of money, which the debtor had acknowledged in the county court, to owe him, as received *in pecuniis numeratis*. Cowell.

SI SUGGESTIO NON SIT VERA, LITERÆ PATENTES VACUÆ SUNT. 10 Coke, 113. If the suggestion be not true, the letters patent are void.

SI TE FECERIT SECURUM. If he make you secure. See *Si Fecerit te Securum*.

SIB. Sax. A relative or kinsman. Used in the Scotch tongue, but not now in English.

SIC. Lat. Thus; so; in such manner.

SIC ENIM DEBERE QUEM MELIOREM AGRUM SUUM FACERE NE VICINI DETERIOREM FACIAT. Every one ought so to improve his land as not to injure his neighbor's. 3 Kent, Comm. 441. A rule of the Roman law.

SIC INTERPRETANDUM EST UT VERBA ACIPIANTUR CUM EFFECTU. 3 Inst. 80. [A statute] is to be so interpreted that the words may be taken with effect.

SIC SUBSCRIBITUR. Lat. In Scotch practice. So it is subscribed. Formal words at the end of depositions, immediately preceding the signature. 1 How. State Tr. 1379.

SIC UTERE TUO UT ALIENUM NON LÆDAS. Use your own property in such a manner as not to injure that of another. 9 Coke, 59; 1 Bl.Comm. 306; Broom, Max. 268, 365; Webb, Poll. Torts 153; 2 Bouv.Inst. n. 2379; 5 Exch. 797; 12 Q.B. 739; 4 A. & E. 384; 17 Mass. 334; 4 McCord., S.C., 472. Various comments have been made on this maxim: "Mere verbiage"; El. B. & E. 643. "No help to decision"; L. R. 2 Q.B. 247. "Utterly useless as a legal maxim"; 9 N.Y. 445. It is a mere begging of the question; it assumes the very point in controversy. 13 Lea 507. See 2 Aust.Jurisp. 795, 829.

SICH. A little current of water, which is dry in summer; a water furrow or gutter. Cowell.

SICIUS. A sort of money current among the ancient English, of the value of 2d.

SICK. Affected with disease, ill, indisposed. State v. Douglas, 124 Kan. 482, 260 P. 655, 657. See *Sickness*.

SICKNESS. Disease; malady; any morbid condition of the body (including insanity) which, for the time being, hinders or prevents the organs from normally discharging their several functions. L. R. 8 Q. B. 295. Any affection of the body which deprives it temporarily of the power to fulfill its usual functions, *Martin v. Waycross Coca-Cola Bottling Co.*, 18 Ga.App. 226, 89 S.E. 495, 496, including injury, *Doody v. Davie*, 77 Cal. App. 310, 246 P. 339, 340; *contra*, *Poole v. Imperial Mut. Life & Health Ins. Co.*, 188 N.C. 468, 125 S.E. 8. See, also, *Beaudoin v. La Societe St. Jean Baptiste de Bienfaisance de Biddeford*, 116 Me. 428, 102 A. 234, 235, L.R.A.1918B, 641, limiting the term to those disabilities which are the natural results of disease arising from a pathological condition, and *Northwestern Mut. Life Ins. Co. v. Wiggins*, C.C.A.Or., 15 F.2d 646, 648, defining sickness as a condition interfering with one's usual avocations.

Illness; an ailment of such a character as to affect the general soundness and health; not a mere temporary indisposition, which does not tend to undermine and weaken the constitution. *National Live Stock Ins. Co. v. Bartlow*, 60 Ind.App. 233, 110 N.E. 224, 225.

In construing a sickness indemnity policy, there may be said to be three degrees of sickness: First, when the patient is confined to his bed; second, when he is confined to the house, but not to his bed; and, third, when he is too sick to work, but not confined to the house. *Rocci v. Massachusetts Acc. Co.*, 226 Mass. 545, 116 N.E. 477, 479.

SICUT ALIAS. Lat. As at another time, or heretofore. This was a second writ sent out when the first was not executed. Cowell.

SICUT ME DEUS ADJUVET. Lat. So help me God. Fleta, l. 1, c. 18, § 4.

SICUT NATURA NIL FACIT PER SALTUM, ITA NEC LEX. Co.Litt. 238. In the same way as nature does nothing by a bound, so neither does the law.

SIDDI. In the Orient, a name for marihuana. See *Mariguana*.

SIDE. The margin, edge, verge, or border of a surface; any one of the bounding lines of the surface. *Parkman v. Freeman*, 121 Me. 341, 117 A. 301, 302.

"Side" may be used in a generic sense so as to include the "front," but it also has a specific meaning which distinguishes it from "front." The word "front" as applied to a house is always specific and speaking of the "side line" of a house as "fronting" toward the street is incorrect. *Howland v. Andrus*, 81 N.J.Eq. 175, 86 A. 391, 393. The front of a lot is that portion opposite the rear of the lot and facing on the street, and the side is that portion adjacent to the lot or lots on either side of it. *Turney v. Shriver*, 269 Ill. 164, 109 N.E. 708, 709.

The party or parties collectively to a lawsuit considered in relation to his or their opponents, *i. e.*, the plaintiff side, or the defendant side. *Carr v. Davis*, 159 Minn. 485, 199 N.W. 237, 239.

A province or field of jurisdiction;—said of courts. Thus, the same court is sometimes said to have different *sides*. An admiralty court may have an "instance side," distinct from its powers as a prize court; the "crown side," (criminal jurisdiction) is to be distinguished from the "plea side," (civil jurisdiction;) the same court may have an "equity side" and a "law side."

SIDE-BAR RULES. In English practice. There are some rules which the courts authorize their officers to grant as a matter of course without formal application being made to them in open court, and these are technically termed "side-bar rules," because formerly they were moved for by the attorneys at the side bar in court; such, for instance, was the rule to plead, which was an order or command of the court requiring a defendant to plead within a specified number of days. Such also were the rules to reply, to rejoin, and many others, the granting of which depended upon settled rules of practice rather than upon the discretion of the courts, all of which have been rendered unnecessary by statutory changes. *Brown*, voc. "Rule."

SIDE-KICKER

SIDE-KICKER. A coined expression without any standing in lexicology, which the court, as a matter of common knowledge, can say is not an uncommon vernacular or colloquial expression which may with equal propriety express a social relationship between the parties to whom it is applied, or convey the idea that they are business partners or have business interests in common. *Spoon v. Sheldon*, 27 Cal.App. 765, 151 P. 150, 152.

SIDE LINES. In commercial usage, lines of goods sold or businesses followed in addition to one's principal articles or occupation. *Merrimac Mfg. Co. v. Bibb*, 124 Ark. 189, 186 S.W. 817, Ann. Cas.1918C, 951. In mining law, the side lines of a mining claim are those which measure the extent of the claim on each side of the middle of the vein at the surface. They are not necessarily the side lines as laid down on the ground or on a map or plat; for if the claim, in its longer dimension, crosses the vein, instead of following it, the plated side lines will be treated in law as the end lines, and vice versa. *Argentine Min. Co. v. Terrible Min. Co.*, 7 S.Ct. 1356, 122 U.S. 478, 30 L.Ed. 1140; *Del Monte Min. Co. v. Last Chance Min. Co.*, 18 S.Ct. 895, 171 U.S. 55, 43 L.Ed. 72.

SIDE REPORTS. A term sometimes applied to unofficial volumes or series of reports, as contrasted with those prepared by the official reporter of the court, or to collections of cases omitted from the official reports.

SIDESMEN. In ecclesiastical law. These were originally persons whom, in the ancient episcopal synods, the bishops were wont to summon out of each parish to give information of the disorders of the clergy and people, and to report heretics. In process of time they became standing officers, under the title of "synodsmen," "sidesmen," or "questmen." The whole of their duties seems now to have devolved by custom upon the church-wardens of a parish. 1 Burn. Ecc.Law, 399.

SIDEWALK. That part of a public street or highway designed for the use of pedestrians, *City of Birmingham v. Shirley*, 209 Ala. 305, 96 So. 214, 215; being exclusively reserved for them, and constructed somewhat differently than other portions of the street used by animals and vehicles generally, *Central Life Assur. Soc. of the United States v. City of Des Moines*, 185 Iowa 573, 171 N.W. 31, 32. That part of the street of a municipality which has been set apart and used for pedestrians, as distinguished from that portion set apart and used for animals and vehicles. *Graham v. Albert Lea*, 48 Minn. 201, 50 N.W. 1108; *McCormick v. Allegheny County*, 263 Pa. 146, 106 A. 203, 204. A way for foot passengers, or a public way especially intended for pedestrians. *Russo v. City of Pueblo*, 63 Colo. 519, 168 P. 649, 650. A walk for foot passengers at the side of a street or road. *Kohlhof v. Chicago*, 192 Ill. 249, 61 N.E. 446, 85 Am.St.Rep. 335; *Challiss v. Parker*, 11 Kan. 391; *State v. Berdetta*, 73 Ind. 185, 38 Am.Rep. 117; *Pequignot v. Detroit*, C.C.Mich., 16 F. 212.

Generally the sidewalk is included with the gutters and roadway in the general term *street*. In re *Burmeister*, 76 N.Y. 174; *Warner v. Knox*, 50 Wis. 429, 7 N.W. 372; *Wiles*

v. Hoss, 114 Ind. 371, 16 N.E. 800. But in many cases of municipal ordinances and contracts the word *street* is held not to include sidewalks. *Barry v. City of Cloverport*, 175 Ky. 548, 194 S.W. 818, 819. See, also, *James v. City of Newberg*, 101 Or. 616, 201 P. 212.

SIEN. An obsolete form of the word "scion," meaning offspring or descendant. Co.Litt. 123a.

SIERVO. Span. In Spanish law. A slave. *Las Partidas*, pt. 4, tit. 21, l. 1.

SIETE PARTIDAS. Span. Seven parts. See *Las Partidas*.

SIGHT. The power of seeing; the faculty of vision or of perceiving objects; or the act of seeing, and perception of objects through the eyes. *Locomotive Engineers' Mut. Life & Accident Ins. Co. v. Meeks*, 157 Miss. 97, 127 So. 699, 703.

Presentment. Bills of exchange are frequently drawn payable at sight or certain number of days or months after sight.

When a bill of exchange is expressed to be payable "at sight," it means on presentment to the drawee. *Campbell v. French*, 6 Term, 212.

After sight in a bill means after acceptance; in a note, after exhibition to the maker. *Dan.Neg.Instr.* § 619. A bill drawn payable a certain number of days after sight, acceptance waived, must be presented to fix the time at which the bill is to become due, and the term of the bill begins to run from the date of present. 4 *Montreal L. Rep.* 249.

SIGHT DRAFTS OR BILLS. Those payable at sight.

SIGIL. In old English law, a seal, or a contracted or abbreviated signature used as a seal.

SIGILLUM. Lat. In old English law. A seal; originally and properly a seal impressed upon wax.

SIGILLUM EST CERA IMPRESSA, QUIA CERA SINE IMPRESSIONE NON EST SIGILLUM. A seal is a piece of wax impressed, because wax without an impression is not a seal. 3 *Inst.* 169.

SIGLA. Lat. In Roman law. Marks or signs of abbreviation used in writing. *Cod.* 1, 17, 11, 13.

SIGN. To affix one's name to a writing or instrument, for the purpose of authenticating it, or to give it effect as one's act. *McCall v. Textile Industrial Institute*, 189 N.C. 775, 128 S.E. 349, 353. To attach a name or cause it to be attached to a writing by any of the known methods of impressing a name on paper. In re *Covington Lumber Co.*, D.C.Wash., 225 F. 444, 446. To affix a signature to; to ratify by hand or seal; to subscribe in one's own handwriting. *Webster, Dict.*; *Knox's Estate*, 131 Pa. 230, 18 A. 1021, 6 L.R.A. 353, 17 *Am.St.Rep.* 798; In re *Manchester's Estate*, 174 Cal. 417, 163 P. 358, 359, L.R.A.1917D, 629, *Ann.Cas.* 1918B, 227. See, also, *Miner v. Larney*, 87 N.J.L. 40, 94 A. 26, 28.

To make any mark, as upon a document, in token of knowledge, approval, acceptance, or obligation. In re *Manchester's Estate*, 174 Cal. 417, 163 P. 358, 360, L.R.A.1917D, 629, *Ann.Cas.*1918B,

227; *Weiner v. Mullaney*, 59 Cal.App.2d 620, 140 P.2d 704, 712. See, also, *Pugh v. Jackson*, 154 Ky. 772, 159 S.W. 600; and *In re Kimmel's Estate*, 278 Pa. 435, 123 A. 405, 406, 31 A.L.R. 678, with which compare *In re Brennan's Estate*, 244 Pa. 574, 91 A. 220, 222. See *Signature*.

To "sign" is merely to write one's name on paper, or declare assent or attestation by some sign or mark, and does not, like "subscribe," require that one should write at the bottom of the instrument signed. *Sheehan v. Kearney*, 82 Miss. 688, 21 So. 41, 35 L.R.A. 102; *Robins v. Corvye*, 27 Barb., N.Y., 560; *James v. Patten*, 6 N.Y. 9, 55 Am.Dec. 376; *In re Phelan's Estate*, 82 N.J.Eq. 316, 87 A. 625, 626. But compare *In re Manchester's Estate*, 174 Cal. 417, 163 P. 358, 359, L.R.A.1917D, 629, Ann.Cas.1918B, 227.

The word "subscribed" is more restricted than the word "signature." The word "signature" in its origin involves merely a sign, the word "subscribed" involves a writing. The signing of a written instrument has a much broader and more extended meaning than attaching one's written signature to it implies. When a person attaches his name or causes it to be attached to a writing by any of the known methods of impressing his name upon paper with the intention of signing it he is regarded as having "signed" in writing. *Hagen v. Gresby*, 34 N.D. 349, 159 N.W. 3, 5, L.R.A.1917B, 281.

Signing Judgment

In English practice. The signature or allowance of the proper officer of a court, obtained by the party entitled to judgment in an action, expressing generally that judgment is given in his favor, and which stands in the place of its actual delivery by the judges themselves. *Steph.Pl.* 110, 111; *French v. Pease*, 10 Kan. 54. In American practice. A signing of the judgment record itself, which is done by the proper officer, on the margin of the record, opposite the entry of the judgment. 1 *Burrill*, Pr. 268.

SIGN MANUAL. An autograph signature; specifically, the official signature of a sovereign, chief magistrate, or the like, to an official document, as letters patent, to give validity. *Webster, Dict.*; *Wharton, Law Dict.*

English Law

The signature of the king to grants or letters patent, inscribed at the top. 2 *Sharsw. Bla.Comm.* 347*. The sign manual is not good unless countersigned, etc.; 9 *Mod.* 54. There is this difference between what the sovereign does under the sign manual and what he or she does under the great seal, viz., that the former is done as a personal act of the sovereign; the latter as an act of state. *Brown*.

SIGNA. The plural of *signum* (q. v.).

SIGNAL. A means of communication, as between vessels at sea or between a vessel and the shore. The international code of signals for the use of all nations assigns arbitrary meanings to different arrangements of flags or displays of lights.

SIGNATORIUS ANNULUS. Lat. In the civil law. A signet-ring; a seal-ring. *Dig.* 50, 16, 74.

SIGNATORY. A term used in diplomacy to indicate a nation which is a party to a treaty.

SIGNATURE. The act of putting down a man's name at the end of an instrument to attest its validity, the name thus written. A "signature" may be written by hand, printed, stamped, typewritten, engraved, photographed, or cut from one instrument and attached to another, and a signature lithographed on an instrument by a party is sufficient for the purpose of signing it; it being immaterial with what kind of instrument a signature is made. *Smith v. Greenville County*, 188 S.C. 349, 199 S.E. 416, 419. *Maricopa County v. Osborn*, 60 Ariz. 290, 136 P.2d 270, 274. And whatever mark, symbol, or device one may choose to employ as representative of himself is sufficient. *Griffith v. Bonawitz*, 73 Neb. 622, 103 N.W. 327, 339. See *Sign*.

Ecclesiastical Law

The name of a sort of rescript, without seal, containing the supplication, the signature of the pope or his delegate, and the grant of a pardon.

Where one who cannot write directs another to sign for him in his presence, it will be valid with or without a mark. *Just v. Wise Tp.*, 42 Mich. 573, 4 N.W. 298.

The "signature" to a deed may be made either by the grantor affixing his own signature, or by adopting one written for him, or by making his mark, or impressing some other sign or symbol on the paper by which the signature, though written by another for him, may be identified. *Lee v. Parker*, 171 N.C. 144, 88 S.E. 217, 221.

SIGNET. A seal commonly used for the sign manual of the sovereign. *Wharton*. In Scotland, a seal by which royal warrants connected with the administration of justice were formerly authenticated.

SIGNIFICATION. In French law. The notice given of a decree, sentence, or other judicial act.

SIGNIFICAVIT. In ecclesiastical law. When this word is used alone, it means the bishop's certificate to the court of chancery in order to obtain the writ of excommunication; but, where the words "*writ of significavit*" are used, the meaning is the same as "*writ de excommunicato capi-endo*." *Shelf. Mar. & Div.* 502. Obsolete.

SIGNIFY. To make known by signs or words; express; communicate; announce; declare. *State v. Klein*, 94 Wash. 212, 162 P. 52, 53.

SIGNING JUDGMENT. See *Sign*.

SIGNUM. Lat.

Roman and Civil Law

A sign; a mark; a seal. The seal of an instrument. *Calvin*.

A species of proof. By "*signa*" were meant those species of *indicia* which come more immediately under the cognizance of the senses; such as stains of blood on the person of one accused of murder, indications of terror at being charged with the offense, and the like. *Best, Pres.* 13, note f.

Saxon Law

The sign of a cross prefixed as a sign of assent and approbation to a charter or deed.

SILENCE

SILENCE. The state of a person who does not speak, or of one who refrains from speaking. In the law of estoppel, "silence" implies knowledge and an opportunity to act upon it. *Pence v. Langdon*, 99 U.S. 581, 25 L.Ed. 420; *Stewart v. Wyoming Cattle Ranch Co.*, 9 S.Ct. 101, 128 U.S. 383, 32 L. Ed. 439; *Chicora Fertilizer Co. v. Dunan*, 91 Md. 144, 46 A. 347, 50 L.R.A. 401.

SILENCE, ESTOPPEL BY. It arises where person is under duty to another to speak or failure to speak is inconsistent with honest dealings. In *re McArdle's Estate*, 250 N.Y.S. 276, 287, 140 Misc. 257; *Jones v. Kentucky Glycerine Co.*, 226 Ky. 676, 11 S.W.2d 713, 716; *Tanenbaum Textile Co. v. Schlanger*, 287 N.Y. 400, 40 N.E.2d 225, 227.

An agreement inferred from silence rests upon principle of "estoppel." *Letres v. Washington Co-op. Chick Ass'n*, 8 Wash.2d 64, 111 P.2d 594, 596. Silence, to work "estoppel", must amount to bad faith. *Wise v. United States*, D.C.Ky., 38 F.Supp. 130, 134.

Elements or essentials of such estoppel include change of position to prejudice of person claiming estoppel. *Sherlock v. Greaves*, 106 Mont. 206, 76 P.2d 87, 91. Damages if the estoppel is denied, *James v. Nelson*, C.C.A.Alaska, 90 F.2d 910, 917; duty and opportunity to speak. *Codd v. Westchester Fire Ins. Co.*, 14 Wash.2d 600, 128 P.2d 968, 971, 151 A.L.R. 316; *Merry v. Garibaldi*, 48 Cal.App.2d 397, 119 P.2d 768, 771. Ignorant of facts by person claiming estoppel, *Cushing v. United States*, D.C.Mass., 18 F.Supp. 83, 85; *Nelson v. Chicago Mill & Lumber Corporation*, C.C.A. Ark., 76 F.2d 17, 100 A.L.R. 87; inducing person claiming estoppel to alter his position, *Brauch v. Freking*, 219 Iowa 556, 258 N.W. 892; *Truax*, State ex rel. v. *Burrows*, 136 Neb. 691, 287 N.W. 178, 179; knowledge of facts and of rights by person estopped, *Harvey v. Richard*, 200 La. 97, 7 So.2d 674, 677; *Consolidated Freight Lines v. Groenen*, 10 Wash.2d 672, 117 P.2d 966, 968, 137 A.L.R. 1072; misleading of party claiming estoppel, *Ridgill v. Clarendon County*, 192 S.C. 321, 6 S.E.2d 766, 768; *Lincoln v. Bennett*, Tex.Civ.App., 135 S.W.2d 632, 636; reliance upon silence of party sought to be estopped, *Mosley v. Magnolia Petroleum Co.*, 45 N.M. 230, 114 P.2d 740, 751. *New York Life Ins. Co. v. Talley*, C.C.A.Iowa, 72 F.2d 715, 718; willful or culpable silence in absence of duty to speak. *Lencioni v. Fidelity Trust & Savings Bank of Fresno*, 95 Cal.App. 490, 273 P. 103, 106; *Utah State Building Commission for Use and Benefit of Mountain States Supply Co. v. Great American Indemnity Co.*, 105 Utah 11, 140 P.2d 763, 771, 772.

SILENCE SHOWS CONSENT. 6 Barb. (N.Y.) 28, 35.

SILENT LEGES INTER ARMA. The power of law is suspended during war. *Bacon*; 4 Inst. 70.

SILENTIARIUS. In English law. One of the privy council; also an usher, who sees good rule and silence kept in court. *Wharton*.

SILK. Fine, soft thread produced by various species of caterpillars, etc. *Lowder v. Union Transfer Co. of San Francisco*, 79 Cal.App. 598, 250 P. 703, 704.

Under a statute referring to silk in a manufactured or unmanufactured state, any fabric which contains silk will not necessarily be included. See 28 L.J.C.P. 265; 33 L.J. Ex. 187.

SILK GOWN. Used especially of the gowns worn in England by king's counsel; hence, "to take silk" means to attain the rank of king's counsel. *Mozley & Whitley*.

SILVA. Lat. In the civil law. Wood; a wood.

SILVA CÆDUA. In the civil law. That kind of wood which was kept for the purpose of being cut.

In English law. Underwood; coppice wood. 2 Inst. 642; *Cowell*. All small wood and under timber, and likewise timber when cut down, under twenty years' growth; titheable wood. 3 Salk. 347. See, also, *Sylva Cædua*.

SILVER. Coin made of silver; silver money; money (in general). *Webster, Dict.*; *Cook v. State*, 130 Ark. 90, 196 S.W. 922, 924.

SILVER SALT. A name applied commercially to anthraquinone sulphoacid, a coal tar product. *Newport Co. v. U. S.*, 12 Ct.Cust.App. 115, 116.

SIMILAR. Nearly corresponding; resembling in many respects; somewhat like; having a general likeness. *Scott v. State*, 107 Ohio St. 475, 141 N.E. 19, 23; *Greenbaum v. De Jong*, 166 N.Y.S. 1042, 1044; *People v. Standard Home Co.*, 59 Colo. 355, 148 P. 869.

Also, sometimes, exactly like; identical; exactly corresponding (at least in all essential particulars). *Fletcher v. Interstate Chemical Co.*, 94 N.J.Law, 332, 110 A. 709; *Stowell v. Blanchard*, 122 Me. 368, 119 A. 866, 868; *Commercial Nat. Bank of Checotah v. Phillips*, 61 Okl. 179, 160 P. 920, 921. Thus, a statutory provision in relation to "previous conviction of a similar offense" may mean conviction of an offense identical in kind. *Com. v. Fountain*, 127 Mass. 454.

SIMILAR DESCRIPTION. Such words as used in a tariff act import that the goods are similar in product and adapted to similar uses; not necessarily that they have been produced by similar methods of manufacture. *Greenleaf v. Goodrich*, 1 Hask. 586, F.Cas. No. 5,778.

SIMILITER. Lat. In pleading. Likewise; the like. The name of the short formula used either at the end of pleadings or by itself, expressive of the acceptance of an issue of fact tendered by the opposite party; otherwise termed a "joinder in issue." *Steph.Pl.* 57, 237. See *Solomons v. Chesley*, 57 N.H. 163; 2 Saund. 319b; *Shaw v. Redmond*, 11 Serg. & R. (Pa.) 32. The plaintiff's reply, that, as the defendant has put himself upon the country, he, the plaintiff, does the like. It occurs only when the plea has the conclusion to the country, and its effect is to join the plaintiff in the issue thus tendered by the defendant. *Co.Litt.* 126a.

SIMILITUDO LEGALIS EST CASUUM DIVERSORUM INTER SE COLLATORUM SIMILIS RATIO; QUOD IN UNO SIMILIU VALET, VALEBIT IN ALTERO. DISSIMILIU, DISSIMILIS EST RATIO. Legal similarity is a similar reason which governs various cases when compared with each other; for what avails in one similar case will avail in the other. Of things dissimilar, the reason is dissimilar. *Co.Litt.* 191; *Benj.Sales* 379.

SIMONIA EST VOLUNTAS SIVE DESIDERIUM EMENDI VEL VENDENDI SPIRITUALIA VEL SPIRITUALIBUS ADHÆRENTIA. CONTRACTUS EX TURPI CAUSA ET CONTRA BONOS MORES. Hob. 167. Simony is the will or desire of buying or selling spiritualities, or things pertaining thereto. It is a contract founded on a bad cause, and against morality.

SIMONY. In English ecclesiastical law. The corrupt presentation of any one to an ecclesiastical benefice for money, gift, or reward. 2 Bl.Comm. 278. An unlawful contract for presenting a clergyman to a benefice. The buying or selling of ecclesiastical preferments or of things pertaining to the ecclesiastical order. Hob. 167. See State v. Buswell, 40 Neb. 158, 58 N.W. 728, 24 L.R.A. 68.

An unlawful agreement to receive a temporal reward for something holy or spiritual. Code 1, 3, 31; Ayliffe, Parerg. 496.

Giving or receiving any material advantage in return for spiritual promotion, whether such advantage be actually received or only stipulated for. Jenks, Mod.Land L. 220.

SIMPLA. Lat. In the civil law. The single value of a thing. Dig. 21, 2, 37, 2.

SIMPLE. Pure; unmixed; not compounded; not aggravated; not evidenced by sealed writing or record.

As to simple "Assault," "Average," "Battery," "Blockade," "Bond," "Confession," "Contract," "Contract Debt," "Deposit," "Imprisonment," "Interest," "Larceny," "Obligation," "Tool," "Trust," and "Warrandice," see those titles.

SIMPLE SENTENCE. In rhetoric, one in which only one principal statement is made, even though there be adverbial phrases modifying the predicate. San Antonio, U. & G. R. Co. v. Dawson, Tex. Civ.App., 201 S.W. 247, 251.

SIMPLEX. Lat. Simple; single; pure; unqualified.

Charta Simplex

A deed-poll or single deed. Jacob, Law Dict.

Simplex Beneficium

In ecclesiastical law. A minor dignity in a cathedral or collegiate church, or any other ecclesiastical benefice, as distinguished from a cure of souls. It may therefore be held with any parochial cure, without coming under the prohibitions against pluralities. Wharton.

Simplex Dictum

In old English practice. Simple averment; mere assertion without proof.

Simplex Justitarius

In old records. Simple justice. A name sometimes given to a puisne justice. Cowell.

Simplex Loquela

In old English practice. Simple speech; the mere declaration or *plaint* of a plaintiff.

Simplex Obligatio

A single obligation; a bond without a condition. 2 Bl.Comm. 340.

Simplex Peregrinatio

In old English law. Simple pilgrimage. Fleta, 1. 4, c. 2, § 2.

SIMPLEX COMMENDATIO NON OBLIGAT. Mere recommendation [of an article] does not bind, [the vendor of it.] Dig. 4, 3, 37; 2 Kent, Comm. 485; Broom, Max. 781; 4 Taunt. 488; 16 Q.B. 282, 283; Cro.Jac. 4; 2 Allen, Mass., 214; 5 Johns, N.Y., 354; 4 Barb., N.Y., 95.

SIMPLEX ET PURA DONATIO DICI POTERIT, UBI NULLA EST ADJECTA CŒDITIO NEC MODUS. A gift is said to be pure and simple when no condition or qualification is annexed. Bract. 1.

SIMPLICITA EST LEGIBUS AMICA; ET NIMIA SUBTILITAS IN JURE REPROBATUR. 4 Coke, 8. Simplicity is favorable to the laws; and too much subtlety in law is to be reprobated.

SIMPLICITER. Lat. Simply; without ceremony; in a summary manner.

Directly; immediately; as distinguished from inferentially or indirectly.

By itself; by its own force; *per se*.

SIMUL CUM. Lat. Together with. In actions of tort and in prosecutions, where several persons united in committing the act complained of, some of whom are known and others not, it is usual to allege in the declaration or indictment that the persons therein named did the injury in question, "together with (*simul cum*) other persons unknown." In cases of riots, it is usual to charge that A B, together with others unknown, did the act complained of. 2 Chitty, Cr.Law 488; 2 Salk. 593.

When a party sued with another pleads separately, the plea is generally entitled in the name of the person pleading, adding, "sued with _____," naming the other party. When this occurred, it was, in the old phraseology, called pleading with a *simul cum*.

SIMUL ET SEMEL. Lat. Together and at one time.

SIMULATE. To assume the mere appearance of, without the reality; to assume the signs or indications of, falsely; to counterfeit; feign; imitate; pretend. Harryman v. Harryman, 93 Kan. 223, 144 P. 262, 265, Ann.Cas.1915B, 369. To engage, usually with the co-operation or connivance of another person, in an act or series of acts, which are apparently transacted in good faith, and intended to be followed by their ordinary legal consequences, but which in reality conceal a fraudulent purpose of the party to gain thereby some advantage to which he is not entitled, or to injure, delay, or defraud others. See Cartwright v. Bamberger, 90 Ala. 405, 8 So. 264.

SIMULATED CONTRACT. One which, though clothed in concrete form, has no existence in fact.

SIMULATED

It may at any time and at the demand of any person in interest be declared a sham and may be ignored by creditors of the apparent vendor. *Hibernia Bank & Trust Co. v. Louisiana Ave. Realty Co.*, 143 La. 962, 79 So. 554, 556.

SIMULATED FACT. In the law of evidence. A fabricated fact; an appearance given to things by human device, with a view to deceive and mislead. *Burrill*, Circ.Ev. 131.

SIMULATED JUDGMENT. One which is apparently rendered in good faith, upon an actual debt, and intended to be collected by the usual process of law, but which in reality is entered by the fraudulent contrivance of the parties, for the purpose of giving to one of them an advantage to which he is not entitled, or of defrauding or delaying third persons.

SIMULATED SALE. One which has all the appearance of an actual sale in good faith, intended to transfer the ownership of property for a consideration, but which in reality covers a collusive design of the parties to put the property beyond the reach of creditors, or proceeds from some other fraudulent purpose. *Moran v. Johnson*, La. App., 151 So. 139, 140.

It results when parties execute a formal act of sale of a thing for which no price is paid or is intended to be paid, and such sale has no legal effect and no title is transferred thereby. If there exists an actual consideration for transfer evidenced by alleged act of sale, no matter how inadequate it be, the transaction is not a "simulated sale", and, even though it be charged to be in fraud of vendor's creditors, such transfer cannot be set aside as a simulation although it may be subject to annulment on the ground of fraud or the giving of undue preference. *Caster v. Miller*, D.C.La., 39 F.Supp. 120, 123.

SIMULATIO LATENS. Lat. A species of feigned disease, in which disease is actually present, but where the symptoms are falsely aggravated, and greater sickness is pretended than really exists. *Beck*, Med.Jur. 3.

SIMULATION. Assumption of appearance which was feigned, false, deceptive, or counterfeit. *United States v. Peppas*, D.C.Cal., 13 F.Supp. 669, 670.

In the civil law. Misrepresentation or concealment of the truth; as where parties pretend to perform a transaction different from that in which they really are engaged. *Mackeld.Rom.Law*, § 181. A feigned, pretended act, one which assumes the appearance without the reality and, being entirely without effect, it is held not to have existed, and, for that reason, it may be disregarded or attacked collaterally by any interested person. *Freeman v. Woods*, La.App., 1 So.2d 134, 136.

In French law. Collusion; a fraudulent arrangement between two or more persons to give a false or deceptive appearance to a transaction in which they engage.

SIMULTANEOUS. A word of comparison meaning that two or more occurrences or happenings

are identical in time. *Brush Electric Co. v. Western Electric Co.*, C.C.Ill., 69 F. 240, 244.

The word "simultaneous," as used in a patent claim, does not imply absolute synchronism from beginning to end, but has some elasticity. Events may be substantially or relatively simultaneous, although not absolutely so. *Westinghouse Mach. Co. v. C. & G. Cooper Co.*, C.C.A.Ohio, 245 F. 463, 468.

SINCE. This word's proper signification is "after," *Keller v. Keller*, 121 Kan. 520, 247 P. 433, 435, 49 A.L.R. 113, and in its apparent sense it includes the whole period between the event and the present time. *Jones v. Bank*, 79 Me. 195, 9 A. 22. "Since" a day named, does not necessarily include that day. *Monroe v. Acworth*, 41 N.H. 201.

SINDERESIS. "A natural power of the soul, set in the highest part thereof, moving and stirring it to good, and abhorring evil. And therefore *sinderesis* never sinneth nor erreth. And this *sinderesis* our Lord put in man, to the intent that the order of things should be observed. And therefore *sinderesis* is called by some men the 'law of reason,' for it ministereth the principles of the law of reason, the which be in every man by nature, in that he is a reasonable creature." *Doct. & Stud.* 39.

SINE. Lat. Without.

SINE ANIMO REVERTENDI. Without the intention of returning. 1 Kent, Comm. 78.

SINE ASSENSU CAPITULI. Without the consent of the chapter. In old English practice. A writ which lay where a dean, bishop, prebendary, abbot, prior, or master of a hospital alienated the lands holden in the right of his house, abbey, or priory, without the consent of the chapter; in which cases his successor might have this writ. *Fitzh. Nat. Brev.* 194, I; *Cowell*.

SINE CONSIDERATIONE CURIÆ. Without the judgment of the court. *Fleta*, lib. 2, c. 47, § 13.

SINE DECRETO. Without authority of a judge. 2 Kames, Eq. 115.

SINE DIE. Without day; without assigning a day for a further meeting or hearing.

Hence, a final adjournment; final dismissal of a cause. *Quod eat sine die*, that he go without day; the old form of a judgment for the defendant, *i. e.*, a judgment discharging the defendant from any further appearance in court.

SINE HOC QUOD. Without this, that. A technical phrase in old pleading, of the same import with the phrase "*absque hoc quod*."

SINE NUMERO. Without stint or limit. A term applied to common. *Fleta*, lib. 4, c. 19, § 8.

SINE PROLE. Without issue. Used in genealogical tables, and often abbreviated into "*s. p.*"

SINE QUA NON. Without which not. That without which the thing cannot be. An indispensable requisite or condition.

SINE POSSESSIONE USUCAPIO PROCEDERE NON POTEST. There can be no prescription without possession.

SINECURE. In ecclesiastical law. When a rector of a parish neither resides nor performs duty at his benefice, but has a vicar under him endowed and charged with the cure thereof, this is termed a "sinecure." Brown.

An ecclesiastical benefice without cure of souls.

In popular usage, the term denotes an office which yields a revenue to the incumbent, but makes little or no demand upon his time or attention.

SINGLE. One only; being a unit; alone; one which is abstracted from others. State ex rel. Nelson v. Board of Com'rs of Yellowstone County, 111 Mont. 395, 109 P.2d 1106, 1107.

Unitary; detached; individual; affecting only one person; containing only one part, article, condition, or covenant. State v. Patch, 64 Mont. 565, 210 P. 748, 750. Unmarried. In re Rudman's Estate, 244 Pa. 248, 90 A. 566, 567. The term is applicable to a widow; Crum v. Brock, 136 Miss. 858, 101 So. 704, 705, 12 L.J.W.C. 74; and occasionally even to a married woman living apart from her husband; 12 Q.B.D. 681.

Sometimes, principal; dominating. Attorney General v. Marx, 203 Mich. 331, 168 N.W. 1005, 1006.

As to single "Adultery," "Bill," "Bond," "Combat," "Demise," "Entry," "Escheat," "Obligation," "Original," and "Tract," see those titles.

SINGLE CREDITOR. One having a lien only on a single fund;—distinguished from double creditor, who is one having a lien on two funds. Newby v. Fox, 90 Kan. 317, 133 P. 890, 47 L.R.A., N.S., 302.

SINGLE JUROR CHARGE. The charge that, if there is any juror who is not reasonably satisfied from the evidence that plaintiff should recover a verdict against the defendant, jury cannot find against defendant. Greyhound Corp. v. Brown, 113 So.2d 916, 269 Ala. 520; Southern Ry. Co. v. Stallings, 107 So.2d 873, 884, 268 Ala. 463.

SINGULAR. Each; as in the expression "all and singular." Also, individual. In grammar, the singular is used to express only one. In law, the singular frequently includes the plural. Under the 13 & 14 Vict. c. 21, § 4, words in acts of parliament importing the singular shall include the plural, and *vice versa*, unless the contrary is expressly provided. Whart. Lex.

As to singular "Successor," and "Title," see those titles.

SINGULI IN SOLIDUM TENENTUR. Each is bound for the whole. 6 Johns.Ch. (N.Y.) 242, 252.

SINKING FUND. See Fund.

SIPESSOCUA. In old English law. A franchise, liberty, or hundred.

SIST, v. In Scotch practice. To stay proceedings. Bell.

SIST, n. In Scotch practice. A stay or suspension of proceedings; an order for a stay of proceedings. Bell.

SISTER. A woman who has the same father and mother with another, or has one of them only. In the first case, she is called sister, simply; in the second, half-sister. Wood v. Mitchell, 61 How. Prac., N.Y., 48. The word is the correlative of "brother."

SISTER IN LAW. Sister of one's spouse; wife of one's brother.

SIT. To hold court; to do any act of a judicial nature. Russell v. Crook County Court, 75 Or. 168, 146 P. 806, 808. To hold a session, as of a court, grand jury, legislative body, etc. To be formally organized and proceeding with the transaction of business. Allen v. State, 102 Ga. 619, 29 S.E. 470.

SITE. A plot of ground suitable or set apart for some specific use. Victoria v. Our Lord's Church, 22 B.C. 174, 175. A seat or ground plot. Miller v. Alliance Ins. Co. of Boston, C.C.N.Y., 7 F. 649, 651. The term does not of itself necessarily mean a place or tract of land fixed by definite boundaries. Petersburg School Dist. of Nelson County v. Peterson, 14 N.D. 344, 103 N.W. 756, 758. See, also, Scite.

SITHCUNDMAM. In Saxon law. The high constable of a hundred.

SITIO GANADO MAYOR. (Sometimes written, also, *sitio de ganado mayor*.) Sp. In Spanish and Mexican land law, a tract of land in the form of a square, each side of which measures 5,000 varas; the distance from the center of each sitio to each of its sides should be measured directly to the cardinal points of the compass, and should be 2,500 varas. U. S. v. Cameron, 3 Ariz. 100, 21 P. 177. Equivalent to 4338.464 acres. Ainsa v. U. S., 16 S.Ct. 544, 161 U.S. 219, 40 L.Ed. 673. A square league. U. S. v. Sutherland, 19 How. 363, 364, 15 L.Ed. 666.

SITIO DE GANADO MENOR, or sheep ranch, is equivalent to 1928.133 acres. Ainsa v. U. S., 16 S.Ct. 544, 161 U.S. 219, 40 L.Ed. 673.

SITTING. In English law. The part of the year in which judicial business is transacted. A session or term of court; usually plural. People v. Higgins, 173 Misc. 96, 16 N.Y.S.2d 302, 310.

SITTINGS AFTER TERM. Sittings *in banc* after term were held by authority of the St. 1 & 2 Vict. c. 32. The courts were at liberty to transact business at their sittings as in term-time, but the custom was to dispose only of cases standing for argument or judgment. Wharton.

SITTINGS IN BANK, OR BANC. The sittings which the respective superior courts of common law hold during every term for the purpose of hearing and determining the various matters of law agreed before them.

SITTINGS

They are so called in contradistinction to the sittings at nisi prius which are held for purpose of trying issues of fact.

In America, the practice is essentially the same, all the judges, or a majority of them usually, sitting in banc and but one holding the court for jury trials; and the term has the same application here as in England.

SITTINGS IN CAMERA. See Chambers.

SITUATE. To give a specific position to; fix a site for; to place in certain position; subject to definite conditions or circumstances; (rare) having a fixed place or a relative position; (archaic) residing; dwelling. *Century Ins. Co. v. Glidden Buick Corporation*, 174 Misc. 149, 20 N.Y.S.2d 108, 112.

SITUATION. State of being placed; posture. *Jones v. Tuck*, 48 N.C. 202, 205. Position as regards conditions and circumstances; state; condition. *Bellomy v. Bruce*, 303 Ill.App. 349, 25 N.E.2d 428, 433.

SITUATION OF DANGER. Within the meaning of the last clear chance rule as applicable to a plaintiff operating a moving vehicle is reached only when plaintiff, in moving toward path of an on-coming train or vehicle has reached a position from which he cannot escape by ordinary care, and it is not enough that plaintiff was merely approaching a position of danger. *Johnson v. Sacramento Northern Ry.*, 54 Cal.App.2d 528, 129 P.2d 503, 506.

SITUS. Lat. Situation; location. *Smith v. Bank*, 5 Pet. 524, 8 L.Ed. 212; *Heston v. Finley*, 118 Kan. 717, 236 P. 841, 843; *Avery v. Interstate Grocery Co.*, 118 Okl. 268, 248 P. 340, 341, 52 A.L.R. 528. Site; position; the place where a thing is considered, for example, with reference to jurisdiction over it, or the right or power to tax it. *Boyd v. Selma*, 96 Ala. 144, 11 So. 393, 16 L.R.A. 729; *Bullock v. Guilford*, 59 Vt. 516, 9 A. 360; *Fenton v. Edwards*, 126 Cal. 43, 58 P. 320, 46 L.R.A. 832, 77 Am.St.Rep. 141.

It imports fixedness of location. In its natural signification the term is applicable only to landed estates which are really fixed and immovable. Conventionally, it is applied to personal property as annexing it to the individual to whom it belongs; its situs being primarily in legal contemplation where the owner happens to be at any time. It is the exception that personal property has any other situs than that of the person of its owner. *Zanes v. Mercantile Bank & Trust Co. of Texas*, Tex.Civ.App., 49 S.W.2d 922, 926.

Generally, personal property has its taxable "situs" in that state where owner of it is domiciled. *Smith v. Lummus*, 149 Fla. 660, 6 So.2d 625, 627, 628.

"Situs" of a trust means place of performance of active duties of trustee. *Campbell v. Albers*, 313 Ill.App. 152, 39 N.E.2d 672, 676.

SIVE TOTA RES EVINCATUR, SIVE PARS, HABET REGRESSUM EMPTOR IN VENDITOREM. The purchaser who has been evicted in whole or in part has an action against the vendor. Dig. 21, 2, 1; *Broom*, Max. 768.

SIX ACTS, THE. The acts passed in 1819, for the pacification of England, are so called. They, in

effect, prohibited the training of persons to arms; authorized general searches and seizure of arms; prohibited meetings of more than fifty persons for the discussion of public grievances; repressed with heavy penalties and confiscations seditious and blasphemous libels; and checked pamphleteering by extending the newspaper stamp duty to political pamphlets. *Brown*.

SIX ARTICLES, LAWS OF. A celebrated act entitled "An act for abolishing diversity of opinion," (31 Hen. VIII, c. 14,) enforcing conformity under the severest penalties on six of the strongest points in the Roman Catholic religion: Transubstantiation, communion in one kind, the celibacy of the clergy, monastic vows, the sacrifice of the mass, and auricular confession. 4 Steph.Com. 183; 4 Reeve, Eng.Law, 378. Repealed by 1 Eliz. c. 1.

SIX CLERKS. In English practice. Officers of the court of chancery, who received and filed all bills, answers, replications, and other papers, signed office copies of pleadings, examined and signed dockets of decrees, etc., and had the care of all records in their office. *Holthouse*; 3 Bl. Comm. 443. They were abolished by St. 5 Vict. c. 5.

SIX-DAY LICENSE. In English law. A liquor license, containing a condition that the premises in respect of which the license is granted shall be closed during the whole of Sunday, granted under section 49 of the licensing act, 1872 (35 & 36 Vict. c. 94.)

SKHINDI. Servants of the same nature as rod knights, (*q. v.*) *Anc. Inst. Eng.*

SKELETON BILL. One drawn, indorsed, or accepted in blank.

SKELETON BILL OF EXCEPTIONS. A bill of exceptions containing calls for the insertion by the clerk of the necessary documents. *Padgett v. Gulfport Fertilizer Co.*, 11 Ala.App. 366, 66 So. 866, 867.

SKID, n. A simple contrivance used for handling heavy articles under many conditions. *Beckman v. Anheuser Busch Brewing Ass'n*, 98 Mo.App. 555, 72 S.W. 710, 711.

SKID, v. As used in connection with operation of motor vehicle on roadway means that car slips sideways on road and rear wheels fail to grip roadway. *Correia v. Boston Motor Tours*, 270 Mass. 88, 169 N.E. 775, 776.

SKILL. Practical and familiar knowledge of the principles and processes of an art, science, or trade, combined with the ability to apply them in practice in a proper and approved manner and with readiness and dexterity. *Akridge v. Noble*, 114 Ga. 949, 41 S.E. 78; *Haworth v. Severs Mfg. Co.*, 87 Iowa 765, 51 N.W. 68.

Reasonable Skill

Such skill as is ordinarily possessed and exercised by persons of common capacity, engaged in

the same business or employment. *Mechanics' Bank v. Merchants' Bank*, 6 Metc., Mass., 26.

SKILLED WITNESSES. One possessing knowledge and experience as to particular subject which are not acquired by ordinary persons. *Firemen's Ins. Co. v. Little*, 189 Ark. 640, 74 S.W.2d 777, 780.

Such witness is allowed to give evidence on matters of opinion and abstract fact.

SKINPOP. An intramuscular injection or narcotic drug. *Broadway Angels, Inc. v. Wilson*, 125 N.Y.S.2d 546, 548, 282 App.Div. 643.

SKIOGRAPHS. Photographs of the interior of the object portrayed. *Texas Emp. Ins. Ass'n v. Crow, Tex.*, 221 S.W.2d 235, 237.

SLACKER. A person who was derelict in the performance of his duty toward his country in the world war. *Dimmitt v. Breakey, C.C.A.Tex.*, 267 F. 792; *Choctaw Coal & Mining Co. v. Lillich*, 204 Ala. 533, 86 So. 383, 385, 11 A.L.R. 1014.

SLADE. In old records. A long, flat, and narrow piece or strip of ground. *Paroch. Antiq.* 465.

SLAINS. See Letters of Slains.

SLANDER. The speaking of base and defamatory words tending to prejudice another in his reputation, office, trade, business, or means of livelihood. *Little Stores v. Isenberg*, 26 Tenn.App. 357, 172 S.W.2d 13, 16. *Harbison v. Chicago, R. I. & P. Ry. Co.*, 327 Mo. 440, 37 S.W.2d 609, 616. Oral defamation; the speaking of false and malicious words concerning another, whereby injury results to his reputation. *Pollard v. Lyon*, 91 U.S. 227, 23 L.Ed. 308; *Fredrickson v. Johnson*, 60 Minn. 337, 62 N.W. 388; *Johnston v. Savings Trust Co. of St. Louis, Mo.*, 66 S.W.2d 113, 114; *Lloyd v. Commissioner of Internal Revenue, C.C.A.7*, 55 F.2d 842, 844. An essential element of "slander" is that slanderous words be spoken in presence of another than person slandered, and publication is always material and issuable fact in action for slander. *Tucker v. Pure Oil Co. of Carolinas*, 191 S.C. 60, 3 S.E.2d 547, 549. Hence an oral defamation, heard only by one who does not understand the language in which it is spoken, is not "slander". *Allen v. American Indemnity Co.*, 63 Ga. App. 894, 12 S.E.2d 127, 128.

"Libel" and "slander" are both methods of defamation; the former being expressed by print, writing, pictures, or signs; the latter by oral expressions. *Ajouelo v. Auto-Soler Co.*, 61 Ga.App. 216, 6 S.E.2d 415, 418.

SLANDER OF TITLE. A false and malicious statement, oral or written, made in disparagement of a person's title to real or personal property, or of some right of his causing him special damage. *Reliable Mfg. Co. v. Vaughan Novelty Mfg. Co.*, 294 Ill.App. 601, 13 N.E.2d 518; *Cawrse v. Signal Oil Co.*, 164 Or. 666, 103 P.2d 729, 730, 129 A.L.R. 174. "Malice" as essential element of "slander of title" purports an intention to vex, injure or annoy another person. *Cawrse v. Signal Oil Co.*, 164 Or. 666, 103 P.2d 729, 730, 129 A.L.R. 174.

An action for "slander of title" is maintainable only by one who possesses an estate or interest in the property. *Allison v. Berry*, 316 Ill.App. 261, 44 N.E.2d 929, 934.

SLANDERER. One who maliciously and without reason imputes a crime or fault to another of which he is innocent. See Slander.

SLANDEROUS PER SE. Slanderous in itself. Words falsely spoken of another are slanderous per se only when they impute the commission of a crime involving moral turpitude, impute the existence of a loathsome and infectious disease, impute unfitness to perform the duties of an office or employment, prejudice in a profession or trade, or tend to disinherit him. *Smallwood v. York*, 163 Ky. 139, 173 S.W. 380, 381, L.R.A.1915D, 578; *Nelson v. Rosenberg*, 135 Neb. 34, 280 N.W. 229. Words which are slanderous without proof of special damages. *Simons v. Harris*, 215 Iowa 479, 245 N.W. 875, 876.

To constitute slander "per se," the published statement must be susceptible of but one meaning. *Tucker v. Wallace*, 90 Mont. 359, 3 P.2d 404, 405.

SLAVE. A person who is wholly subject to the will of another; one who has no freedom of action, but whose person and services are wholly under the control of another. *Webster; Anderson v. Salant*, 38 R.I. 463, 96 A. 425, 428, L.R.A.1916D, 651.

One who is under the power of a master, and who belongs to him; so that the master may sell and dispose of his person, of his industry, and of his labor, without his being able to do anything, have anything, or acquire anything, but what must belong to his master. *Civ.Code La.* 1838, art. 35.

SLAVE-TRADE. The traffic in slaves, or the buying and selling of slaves for profit.

SLAVERY. The condition of a slave; that civil relation in which one man has absolute power over the life, fortune, and liberty of another.

SLAY. This word, in an indictment, adds nothing to the force and effect of the word "kill," when used with reference to the taking of human life. It is particularly applicable to the taking of human life in battle; and, when it is not used in this sense, it is synonymous with "kill." *State v. Thomas*, 32 La. Ann. 351.

SLEDGE. A hurdle to draw traitors to execution. 1 Hale, P. C. 82.

SLEEPING PARTNER. A dormant partner; one whose name does not appear in the firm, and who takes no active part in the business, but who has an interest in the concern, and shares the profits, and thereby becomes a partner, either absolutely, or as respects third persons.

SLEEPING RENT. In English law. An expression frequently used in coal-mine leases and agreements for the same. It signifies a fixed or dead, *i. e.*, certain, rent, as distinguished from a rent or royalty varying with the amount of coals gotten, and is payable although the mine should

SLICE

not be worked at all, but should be sleeping or dead, whence the name. Brown.

SLICE. An indeterminate part or portion. Read v. McKeague, 252 Mass. 162, 147 N.E. 585.

SLICK. Smooth, with a slippery or greasy smoothness. McCall v. B. Nugent Bros. Dry Goods Co., Mo., 236 S.W. 324, 327.

SLIGHT. A word of indeterminate meaning. Moxley v. Hertz, 30 S.Ct. 305, 308, 216 U.S. 344, 54 L.Ed. 510. Variouslly defined as inconsiderable; unimportant; remote; insignificant. Newsome v. Louisville and N. R. Co., 20 Ala.App. 349, 102 So. 61, 64; Moxley v. Hertz, 30 S.Ct. 305, 308, 216 U.S. 344, 356, 54 L.Ed. 510.

As to slight "Care," "Evidence," "Fault," and "Negligence," see those titles.

SLIP. In negotiations for a policy of insurance. In England, the agreement is in practice concluded between the parties by a memorandum called the "slip," containing the terms of the proposed insurance, and initialed by the underwriters. Sweet.

Also that part of a police court which is divided off from the other parts of the court, for the prisoner to stand in. It is frequently called the "dock." Brown.

The intermediate space between two wharves or docks; the opening or vacant space between two piers. Thompson v. New York, 11 N.Y. 120; New York v. Scott, 1 Caines, N.Y., 543.

A break or cleavage in the continuity of the slate structure of the roof of a mine. Edgren v. Scandia Coal Co., 171 Iowa 459, 151 N.W. 519, 522.

SLIPPA. A stirrup. There is a tenure of land in Cambridgeshire by holding the sovereign's stirrup. Wharton.

SLOPE. Within a mining statute, a level or inclined way, passage, or opening used for the same purpose as a shaft. Roberts v. Tennessee Coal, Iron & R. Co., C.C.A.Ala., 255 F. 469, 471.

SLOT MACHINE. Within a statute prohibiting operation of slot machines or similar gambling device, an apparatus by which a person depositing money therein may, by chance, get directly or indirectly money or articles of value worth either more or less than the money deposited. Elder v. Camp, 193 Ga. 320, 18 S.E.2d 622, 624. See also State v. Abbott, 218 N.C. 470, 11 S.E.2d 539, 544.

SLOUGH. An arm of a river, flowing between islands and the main-land, and separating the islands from one another. Sloughs have not the breadth of the main river, nor does the main body of water of the stream flow through them. Dunlieth & D. Bridge Co. v. Dubuque County, 55 Iowa 565, 8 N.W. 443.

SLOUGH SILVER. A rent paid to the castle of Wigmore, in lieu of certain days' work in harvest, heretofore reserved to the lord from his tenants. Cowell.

SLUICEWAY. An artificial channel into which water is let by a sluice. Specifically, a trench constructed over the bed of a stream, so that logs or lumber can be floated down to a convenient place of delivery. Webster. See Anderson v. Munch, 29 Minn. 416, 13 N.W. 192.

SLUM. A squalid, dirty street or quarter of a city, town or village, ordinarily inhabited by the very poor, destitute or criminal classes; overcrowding is usually a prevailing characteristic. Marvin v. Housing Authority of Jacksonville, 133 Fla. 590, 183 So. 145, 150. Spahn v. Stewart, 268 Ky. 97, 103 S.W.2d 651, 658.

SLUNG-SHOT. A small mass of metal or stone fixed on a flexible handle, strap, or the like, used as a weapon. People v. Williams, 100 Cal.App. 149, 279 P. 1040.

SLUSH FUND. Money collected or spent for corrupt purposes such as lobbying or the like. Boehm v. United States, C.C.A.Mo., 123 F.2d 791, 812.

SMAKA. In old records. A small, light vessel; a smack. Cowell.

SMALL DEBTS COURTS. The several county courts established by St. 9 & 10 Vict. c. 95, for the purpose of bringing justice home to every man's door.

SMALL TITHES. All personal and mixed tithes, and also hops, flax, saffrons, potatoes, and sometimes, by custom, wood. Otherwise called "privy tithes." 2 Steph.Comm. 726.

SMART-MONEY. Vindictive or exemplary damages given by way of punishment and example, in cases of gross misconduct of defendant. Brewer v. Jacobs, C.C.Tenn., 22 F. 224; Springer v. Somers Fuel Co., 196 Pa. 156, 46 A. 370; Murphy v. Hobbs, 7 Colo. 541, 5 P. 119, 49 Am.Rep. 366; Cotton v. Fisheries Products Co., 181 N.C. 151, 106 S.E. 487, 488.

SMELLER. In liquor cases. A witness who is shown to know liquor by smell. Mathews v. State, 21 Ala.App. 181, 106 So. 390, 391.

SMELTING. A melting of ores in the presence of some re-agent which operates to separate the metallic element by combining with a non-metallic element. Lowrey v. Smelting & Aluminum Co., C.C.Ohio, 68 F. 354.

SMOKE-FARTHINGS. In old English law. An annual rent paid to cathedral churches; another name for the pentecostals or customary oblations offered by the dispersed inhabitants within a diocese, when they made their processions to the mother cathedral church. Cowell.

SMOKE-SILVER. In English law. A sum paid to the ministers of divers parishes as a modus in lieu of tithe-wood. Blount.

SMUGGLING. The offense of importing prohibited articles, or of defrauding the revenue by the introduction of articles into consumption, without

paying the duties chargeable upon them. It may be committed indifferently either upon the excise or customs revenue. Wharton.

Clandestine introduction of goods into United States, importation of which is prohibited without payment of duty, constitutes. *Tomplain v. U. S.*, C.C.A.La., 42 F.2d 203, 204.

The fraudulent taking into a country, or out of it, merchandise which is lawfully prohibited. (Quoted and approved by Brewer, J., in *Dunbar v. U. S.*, 15 S.Ct. 325, 156 U.S. 185, 39 L.Ed. 390.)

"The bringing on shore, or carrying from the shore, goods and merchandise, for which the duty has not been paid, or of goods of which the importation or exportation is prohibited." 6 Bac. Abr. 258; *Hill v. U. S.*, C.C.A.Md., 42 F.2d 812, 814.

SMUT. See Obscene.

SNOTTERING SILVER. A small duty which was paid by servile tenants in Wylegh to the abbot of Colchester. Cowell.

SO. In the same manner as has been stated; under this circumstance; in this way, referring to something which is asserted. *Blanton v. State*, 1 Wash. 265, 24 P. 439, 441. Sometimes the equivalent of "hence," or "therefore," and it is thus understood whenever what follows is an illustration of, or conclusion from, what has gone before. *Clem v. State*, 33 Ind. 431.

In connection with time, it suggests a period of indefinite duration. Thus, an agreement to pay rent "within a week or so". *Marshall v. Partyka*, 98 Conn. 778, 120 A. 507, 508.

SO HELP YOU GOD. The formula at the end of a common oath.

SOAKAGE. As used in the laws and regulations relating to withdrawal of liquors from bonded warehouses, the spirits which in course of time in the warehouse had been absorbed by the staves of the barrel containing it. *Bernheim Distilling Co. v. Mayes*, D.C.Ky., 268 F. 629, 630.

SOBER. Moderate in, or abstinent from, the use of intoxicating liquors. *American Cigar Co. v. Fabacher*, 156 La. 182, 100 So. 299, 300.

SOBBE. Span. Above; over; upon. *Ruis v. Chambers*, 15 Tex. 586, 592.

SOBRE-JUEZES. In Spanish law. Superior judges. *Las Partidas*, pt. 3, tit. 4, l. 1.

SOBRINI and SOBRINÆ. Lat. In the civil law. The children of cousins german in general.

SOC, SOK, or SOKA. In Saxon law. Jurisdiction; a power or privilege to administer justice and execute the laws; also a shire, circuit, or territory. Cowell.

SOCA. A seignory or lordship, enfranchised by the king, with liberty of holding a court of his *socmen* or *socagers*; i. e., his tenants.

SOCAGE. A species of tenure, in England, where- by the tenant held certain lands in consideration

of certain inferior services of husbandry to be performed by him to the lord of the fee. In its most general and extensive signification, a tenure by any certain and determinate service. And in this sense it is by the ancient writers constantly put in opposition to tenure by chivalry or knight-service, where the render was precarious and uncertain. Socage is of two sorts,—free socage, where the services are not only certain, but honorable; and villein socage, where the services, though certain, are of baser nature. Such as hold by the former tenure are also called in Glanvil and other authors by the name of "*liberi sokemanni*," or tenants in free socage. By the statute 12 Car. 2, c. 24, all the tenures by knight-service were, with one or two immaterial exceptions, converted into free and common socage. Cowell; *Bract.* l. 2, c. 35; 2 *Bl.Comm.* 79; *Flota*, lib. 3, c. 14, § 9; *Litt.* § 117; *Glan.* l. 3, c. 7.

SOCAGER. A tenant by socage.

SOCAGIUM IDEM EST QUOD SERVITUM SOCÆ; ET SOCA, IDEM EST QUOD CARUCA. Co. Litt. 86. Socage is the same as service of the soc; and soc is the same thing as a plow.

SOCER. Lat. In the civil law. A wife's father; a father-in-law. Calvin.

SOCIAL CLUBS. Within federal statute imposing tax on dues and initiation fees of such clubs, clubs whose social features are a material part of their activities and necessary to their existence, and not merely incidental. *Transportation Club of San Francisco v. United States*, Ct.Cl., 17 F.Supp. 201, 205.

SOCIAL CONTRACT, or COMPACT. In political philosophy, a term applied to the theory of the origin of society associated chiefly with the names of Hobbes, Locke and Rousseau, though it can be traced back to the Greek Sophists. Rousseau (*Contract Social*) held that in the pre-social state man was unwarlike and timid. Laws resulted from the combination of men who agreed, for mutual protection, to surrender individual freedom of action. Government must therefore rest on the consent of the governed. *Encycl. Br.*

SOCIAL INSURANCE. Covers insurance referred to under the head: Unemployment, old age pensions, mothers' and orphans' pensions, sickness, etc. *Smythe v. Home Life & Accident Ins. Co.*, 134 La. 368, 64 So. 142, 143.

SOCIAL SETTLEMENT. The term as applied to organizations engaged in charitable or philanthropic work, implies a fixed locality to be benefited by supplying moral, physical, and educational help to the poor and needy. In *re Young Women's Christian Ass'n*, Sup., 141 N.Y.S. 260, 261.

SOCIALISM. Any theory or system of social organization which would abolish, entirely or in great part, the individual effort and competition on which modern society rests, and substitute for it co-operative action, would introduce a more

SOCIDA

perfect and equal distribution of the products of labor, and would make land and capital, as the instruments and means of production, the joint possession of the members of the community.

SOCIDA. In civil law. The name of a contract by which one man delivers to another, either for a small recompense or for a part of the profits, certain animals on condition that if any of them perish they shall be replaced by the bailee or he shall pay their value.

A contract of hiring, with the condition that the bailee takes upon him the risk of the loss of the thing hired. Wolff § 638.

SOCIEDAD. In Spanish law. Partnership. Schm. Civil Law, 153, 154.

SOCIEDAD ANONIMA. In Spanish and Mexican law. A business corporation. "By the corporate name, the shareholders' names are unknown to the world; and, so far as their connection with the corporation is concerned, their own names may be said to be anonymous, that is, nameless. Hence the derivation of the term 'anonymous' as applied to a body of persons associated together in the form of a company to transact any given business under a company name which does not disclose any of their own." Hall, Mex. Law, § 749.

SOCIEDAD DE GANANCIALES. A Cuban law. It exists between husband and wife and is literally an association for profit. The underlying purpose of such associations is that the spouses may each contribute to a common stock, the wife her dowry, the husband his capital, the gains from those as well as from their joint labors, to be shared equally. On dissolution of the association, ordinarily by death, the distribution is as follows: First the wife gets back her dowry and "parapherna"; second, the debts of the "sociedad" are paid; and the husband's contribution, "capital," is returned. The remainder is profits, "gananciales," and is divided equally between the spouses after restoring any losses to their contributed property. Sanchez v. Bowers, C.C.A.N.Y., 70 F.2d 715, 716, 718.

SOCIETAS. Lat. In the civil law. Partnership; a partnership; the contract of partnership. Inst. 3, 26. A contract by which the goods or labor of two or more are united in a common stock, for the sake of sharing in the gain. Halifax, Civil Law, b. 2, c. 18, no. 12.

SOCIETAS LEONINA. That kind of society or partnership by which the entire profits belong to some of the partners, in exclusion of the rest. So called in allusion to the fable of the lion, who, having entered into partnership with other animals for the purpose of hunting, appropriated all the prey to himself. Wharton.

SOCIETAS NAVALIS. A naval partnership; an association of vessels; a number of ships pursuing their voyage in company, for purposes of mutual protection.

SOCIÉTÉ. Fr. In French law. Partnership. See Commendam.

SOCIÉTÉ ANONYME. In French law originally a partnership conducted in the name of one of the members; the others were strictly secret partners. To creditors of the firm they came into no relation and under no liability. An association where the liability of all the partners is limited. It had in England until lately no other name than that of "chartered company," meaning thereby a joint-stock company whose shareholders, by a charter from the crown, or a special enactment of the legislature, stood exempted from any liability for the debts of the concern, beyond the amount of their subscriptions. 2 Mill, Pol. Econ. 485.

SOCIÉTÉ D'ACQUETS. A written contract between husband and wife to regard as community property only those things which are acquired during the marriage.

SOCIÉTÉ EN COMMANDITE. In Louisiana. A partnership formed by a contract by which one person or partnership agrees to furnish another person or partnership a certain amount, either in property or money, to be employed by the person or partnership to whom it is furnished, in his or their own name or firm, on condition of receiving a share in the profits, in the proportion determined by the contract, and of being liable to losses and expenses to the amount furnished and no more. Civ.Code La. art. 2839.

SOCIÉTÉ EN NOM COLLECTIF. A partnership in which all the members are jointly and severally liable.

SOCIÉTÉ EN PARTICIPATION. A joint adventure.

SOCIÉTÉ PAR ACTIONS. A joint stock company.

SOCIETY. An association or company of persons (generally unincorporated) united together by mutual consent, in order to deliberate, determine, and act jointly for some common purpose. In a wider sense, the community or public; the people in general. Gilmer v. Stone, 7 S.Ct. 689, 120 U.S. 586, 30 L.Ed. 734.

Within rule that husband is entitled to damages for loss of wife's "society" through wrongful injury means such capacities for usefulness, aid, and comfort as a wife as she possessed at the time of the injuries. Homan v. Missouri Pac. R. Co., 335 Mo. 30, 70 S.W.2d 869.

Civil society—usually, a state, nation, or body politic. Rutherford, Inst. c. 1, 2.

SOCII MEI SOCIUS MEUS SOCIUS NON EST. The partner of my partner is not my partner. Dig. 50, 17, 47, 1.

SOCIOPATHIC PERSONALITY. See Psychopath.

SOCIUS. Lat. In the civil law. A partner.

SOCMAN. A socager.

Free Socmen. In old English law. Tenants in free socage. Glanv. Lib. 3, c. 7; 2 Bl.Comm. 79.

SOCMANRY. Free tenure by socage.

SOCNA. A privilege, liberty, or franchise. Cowell.

SOCOME. A custom of grinding corn at the lord's mill. Cowell. Bond-socome is where the tenants are bound to it. Blount.

SODOMITE. One who has been guilty of sodomy.

SODOMY. A carnal copulation by human beings with each other against nature, or with a beast. Strum v. State, 168 Ark. 1012, 272 S.W. 359. State v. Young, 140 Or. 228, 13 P.2d 604, 607.

This term is often defined in statutes and judicial decisions as meaning "the crime against nature," the "*crimen innominatum*," or as carnal copulation, against the order of nature, by man with man, or, in the same unnatural manner, with woman or with a beast. See Code Ga. 1882, § 4352 (Penn.Code 1910, § 373); Honselman v. People, 168 Ill. 172, 48 N.E. 304. But, strictly speaking, it should be used only as equivalent to "*pederasty*," that is, the sexual act as performed by a man upon the person of another man or a boy by penetration of the *anus*. See Ausman v. Veal, 10 Ind. 355, 71 Am.Dec. 331. The term might also, without any great violence to its original meaning, be so extended as to cover the same act when performed in the same manner by a man upon the person of a woman. Another possible method of unilateral sexual connection, by penetration of the mouth (*penem in orem alii immittere, vel penem alii in orem recipere*) is not properly called "sodomy," but "fellation." That this does not constitute sodomy within the meaning of a statute is held in Com. v. Poindexter, Ky., 118 S.W. 943; Lewis v. State, 36 Tex. Cr.R. 37, 35 S.W. 372, 61 Am.St.Rep. 831; but a greater number of jurisdictions hold otherwise. See State v. Farris, 189 Iowa, 505, 178 N.W. 361, 362; Glover v. State, 179 Ind. 459, 101 N.E. 629, 630, L.R.A., N.S., 473; White v. State, 136 Ga. 158, 71 S.E. 135; State v. Start, 65 Or. 178, 132 P. 512, 46 L.R.A., N.S., 266. On the other hand *bestiality* is the carnal copulation of a human being with a brute, or animal of the sub-human orders of the opposite sex. It is not identical with sodomy, nor is it a form of sodomy, though the two terms are often confused in legal writings and sometimes in statutes. See Ausman v. Veal, 10 Ind. 355, 71 Am.Dec. 331. *Buggery* is a term rarely used in statutes, but apparently including both sodomy (in the widest sense) and bestiality as above defined. See Ausman v. Veal, 10 Ind. 355, 71 Am.Dec. 331; Com. v. J., 21 Pa.Co. Ct.R. 625.

SOFT DRINK PARLOR. A place where soft drinks are sold and drunk on premises. People v. De Geovanni, 326 Ill. 230, 157 N.E. 195, 197.

SOIL. The surface, or surface-covering of the land, not including minerals beneath it or grass or plants growing upon it. But in a wider (and more usual) sense, the term is equivalent to "land," and includes all that is below, upon, or above the surface.

SOIT. Fr. Let it be; be it so. A term used in several law; French phrases employed in English law, particularly as expressive of the will or assent of the sovereign in formal communications with parliament or with private suitors.

SOIT BAILE AUX COMMONS. Let it be delivered to the commons. The form of indorsement on a bill when sent to the house of commons. Dyer, 93a.

SOIT BAILE AUX SEIGNEURS. Let it be delivered to the lords. The form of indorsement on a bill in parliament when sent to the house of lords. Hob. 111a.

SOIT DROIT FAIT AL PARTIE. In English law. Let right be done to the party. A phrase written on a petition of right, and subscribed by the king.

SOIT FAIT COMME IL EST DESIRE. Let it be as it is desired. The royal assent to private acts of parliament.

SOJOURNING. This term means something more than "traveling," and applies to a temporary, as contradistinguished from a permanent, residence. Henry v. Ball, 1 Wheat. 5, 4 L.Ed. 21; In re Gahn's Will, 110 Misc. 96, 180 N.Y.S. 262, 266.

SOKEMANRIES. Lands and tenements which were not held by knight-service, nor by grand serjeanty, nor by petit, but by simple services; being, as it were, lands enfranchised by the king or his predecessors from their ancient demesne. Their tenants were *sokemans*. Wharton.

SOKEMANS. In English law. Those who held their lands in socage. 2 Bl. Comm. 100.

SOKE-REEVE. The lord's rent gatherer in the soca. Cowell.

SOLA AC PER SE SENECTUS DONATIONEM TESTAMENTUM AUT TRANSACTIONEM NON VITIAT. Old age does not alone and of itself vitiate a will or gift. Van Alst v. Hunter, 5 Johns. Ch., N.Y., 148, 158.

SOLAR. In Spanish law. Land; the demesne, with a house, situate in a strong or fortified place. White, New Recop. b. 1, tit. 5, c. 3, § 2.

SOLAR DAY. That period of time which begins at sunrise and ends at sunset. Co. Litt. 135a.

SOLAR MONTH. A calendar month. See Month.

SOLARES. In Spanish law. Lots of ground. This term is frequently found in grants from the Spanish government of lands in America. 2 White, Recop. 474.

SOLARIUM. Lat. In the civil law. A rent paid for the ground, where a person built on the public land. A ground rent. Spelman; Calvin.

SOLATIUM. Compensation. Damages allowed for injury to the feelings.

SOLD. See "Sale."

SOLD NOTE. A note given by a broker, who has effected a sale of merchandise, to the buyer, stating the fact of sale, quantity, price, etc. Story, Ag. § 28; Saladin v. Mitchell, 45 Ill. 83.

SOLDIER. A military man; a private in the army.

Prior to induction a selectee is subject to Selective Training Act but is not yet a "soldier". Billings v. Truesdell, Kan., 64 S.Ct. 737, 741, 321 U.S. 542, 88 L.Ed. 917.

SOLDIER

A member of the Women's Army Corps is a "soldier in the military service." *United States v. Williams*, D.C.N.Y., 59 F.Supp. 300, 301.

SOLE. Single; individual; separate; the opposite of joint; as a *sole tenant*. *Fort Worth & D. C. Ry. Co. v. Williams*, Tex.Civ.App., 275 S.W. 415, 419.

Comprising only one person; the opposite of aggregate; as a *sole corporation*.

Unmarried; as a *feme sole*. See the nouns.

SOLE ACTOR DOCTRINE. Under this doctrine a principal is charged with the knowledge of his agent. It contemplates that agent must have ostensibly endeavored to benefit his principal, and even though he did not do so and his acts were for his personal benefit, possibly through defalcation, the third party who obligated himself must have been under the impression that he was dealing with the principal. *General American Life Ins. Co. v. Anderson*, D.C.Ky., 46 F.Supp. 189, 195, 196, 198. It is based on the presumption that by reason of the relationship between an agent and his principal the principal is presumed to have been told everything the agent has done and presumed to have known of his actions and promises. *Federal Deposit Ins. Corporation v. Pendleton*, D.C.Ky., 29 F.Supp. 779, 782, 783.

SOLE AND UNCONDITIONAL OWNER. See Owner.

SOLEMN. Formal; in regular form; with all the forms of a proceeding. As to solemn "Form," see Probate. As to solemn "Oath" and "War," see the nouns.

SOLEMN OCCASION. Within constitutional provision empowering the Legislature to require the opinion of the Justices on important questions of law means occasion when such questions of law are necessary to be determined by the body making the inquiry in the exercise of the power intrusted to it by the Constitution or laws. In re Opinion of the Justices, 217 Mass. 607, 105 N.E. 440, 441.

SOLEMNES LEGUM FORMULÆ. Lat. In the civil law. Solemn forms of laws; forms of forensic proceedings and of transacting legal acts. One of the sources of the unwritten law of Rome. *Butl. Hor. Jur.* 47.

SOLEMNITAS ATTACHIAMENTORUM. In old English practice. Solemnity or formality of attachments. The issuing of attachments in a certain formal and regular order. *Bract. fols.* 439, 440; 1 *Reeve, Eng. Law*, 480.

SOLEMNITATES JURIS SUNT OBSERVANDÆ. The solemnities of law are to be observed. *Jenk. Cent.* 13.

SOLEMNITY. A rite or ceremony; the formality established by law to render a contract, agreement, or other act valid.

SOLEMNIZE. A marriage, means no more than to enter into a marriage contract, with due publi-

cation, before third persons, for the purpose of giving it notoriety and certainty; which may be before any persons, relatives, friends, or strangers, competent to testify to the facts. See *Dyer v. Brannock*, 66 Mo. 410, 27 Am.Rep. 359; *Pearson v. Howey*, 11 N.J.L. 19; *Bowman v. Bowman*, 24 Ill.App. 172.

SOLICIT. To appeal for something; to apply to for obtaining something; to ask earnestly; to ask for the purpose of receiving; to endeavor to obtain by asking or pleading; to entreat, implore, or importune; to make petition to; to plead for; to try to obtain; and though the word implies a serious request, it requires no particular degree of importunity, entreaty, imploration, or supplication. *People v. Phillips*, 70 Cal.App.2d 449, 160 P. 2d 872, 874. To tempt a person; to lure on, especially into evil. *People v. Rice*, 383 Ill. 584, 50 N.E. 2d 711, 713. To awake or excite to action, or to invite. *In re Winthrop*, 135 Wash. 135, 237 P. 3, 4; *Briody v. De Kimpe*, 91 N.J.Law, 206, 102 A. 688, 689. The term implies personal petition and importunity addressed to a particular individual to do some particular thing. *Golden & Co. v. Justice's Court of Woodland Tp., Yolo County*, 23 Cal.App. 778, 140 P. 49, 58.

SOLICITATION. Asking; enticing; urgent request. Any action which the relation of the parties justifies in construing into a serious request. *State v. Underwood*, 79 Or. 338, 155 P. 194. Thus "solicitation of chastity" is the asking or urging a woman to surrender her chastity. *State v. Render*, 203 Iowa 329, 210 N.W. 911; *People v. Murray*, 307 Ill. 349, 138 N.E. 649, 653. The word is also used in such phrases as "solicitation to larceny," to bribery, etc.

SOLICITOR. In English law. A legal practitioner in the court of chancery. The words "solicitor" and "attorney" are commonly used indiscriminately, although they are not precisely the same, an attorney being a practitioner in the courts of common law, a solicitor, a practitioner in the courts of equity. Most attorneys take out a certificate to practice in the courts of chancery, and therefore become solicitors also, and, on the other hand, most, if not all, solicitors take out a certificate to practice in the courts of common law, and therefore become attorneys also. *Brown*.

SOLICITOR GENERAL. In English law. One of the principal law officers of the crown, associated in his duties with the attorney general, holding office by patent during the pleasure of the sovereign, and having a right of preaudience in the courts. 3 *Bl. Comm.* 27. In American law, an officer of the department of justice, next in rank and authority to the attorney general, whose principal assistant he is. His chief function is to represent the United States in all cases in the supreme court and the court of claims in which the government is interested or to which it is a party, and to discharge the duties of the attorney general in the absence or disability of that officer or when there is a vacancy in the office. *Rev.St.U.S.* §§ 347, 359 (5 U.S.C.A. §§ 293, 309).

SOLICITOR OF THE SUPREME COURT. The solicitors before the supreme courts, in Scotland, are a body of solicitors entitled to practice in the court of session, etc. Their charter of incorporation bears date August 10, 1797.

SOLICITOR OF THE TREASURY. An officer of the United States attached to the department of justice, having general charge of the law business appertaining to the treasury.

SOLICITOR TO THE SUITORS' FUND. An officer of the English court of chancery, who is appointed in certain cases guardian *ad litem*.

SOLIDARITY. In the civil law, when several persons bind themselves towards another for the same sum, at the same time, and in the same contract; and so obligate themselves that each may be compelled to pay the whole debt, and that payment made by one of them exonerates the others towards the creditor; and the obligation thus contracted is one, in solido, although one of the debtors be obliged differently from the others to the payment of one and the same thing; as if the one be but conditionally bound, while the engagement of the others is pure and simple, or if the one is allowed a term which is not granted to the others. *Rex Credit Co. v. Long*, La.App., 159 So. 359, 360.

SOLIDARY. A term of civil-law origin, signifying that the right or interest spoken of is joint or common. A "solidary obligation" corresponds to a "joint and several" obligation in the common law; that is, one for which several debtors are bound in such wise that each is liable for the entire amount, and not merely for his proportionate share. But in the civil law the term also includes the case where there are several creditors, as against a common debtor, each of whom is entitled to receive the entire debt and give an acquittance for it.

SOLIDUM. Lat. In the civil law. A whole; an entire or undivided thing.

SOLIDUS LEGALIS. A coin equal to 13s. 4d. of the present standard. 4 Steph. Comm. 119*n*. Originally the "solidus" was a gold coin of the Byzantine Empire, but in medieval times the term was applied to several varieties of coins, or as descriptive of a money of account, and is supposed to be the root from which "shilling" is derived.

SOLINUM. In old English law. Two plowlands, and somewhat less than a half. Co. Litt. 5*a*.

SOLITARY CONFINEMENT. In a general sense, the separate confinement of a prisoner, with only occasional access of any other person, and that only at the discretion of the jailer; in a stricter sense, the complete isolation of a prisoner from all human society, and his confinement in a cell so arranged that he has no direct intercourse with or sight of any human being, and no employment or instruction. See *Medley*, Petitioner, 10 S.Ct. 384, 134 U.S. 160, 33 L.Ed. 835.

SOLO CEDIT QUOD SOLO IMPLANTATUR. That which is planted in the soil belongs to the soil. The proprietor of the soil becomes also the proprietor of the seed, the plant, and the tree, as soon as these have taken root. *Mackeld. Rom. Law*, § 275.

SOLO CEDIT QUOD SOLO INÆDIFICATUR. That which is built upon the soil belongs to the soil. The proprietor of the soil becomes also proprietor of the building erected upon it. *Mackeld. Rom. Law*, § 275.

SOLUM PROVINCIALE. Lat. In Roman law. The *solum italicum* (an extension of the old *Ager Romanus*) admitted full ownership, and of the application to it of *usucapio*; whereas the *solum provinciale* (an extension of the old *Ager Publicus*) admitted of a possessory title only, and of *longi temporis possessio* only. Justinian abolished all distinctions between the two, sinking the *italicum* to the level of the *provinciale*. Brown.

SOLUM REX HOC NON FACERE POTEST, QUOD NON POTEST INJUSTE AGERE. 11 Coke, 72. This alone the king cannot do, he cannot act unjustly.

SOLUS DEUS FACIT HÆREDEM, NON HOMO. Co. Litt. 5. God alone makes the heir, not man.

SOLUTIO. Lat. In civil law. Payment, satisfaction, or release; any species of discharge of an obligation accepted as satisfactory by the creditor. The term refers not so much to the counting out of money as to the substance of the obligation. *Dig.* 46, 3, 54; *Id.* 50, 16, 176.

SOLUTIO INDEBITI. In the civil law. Payment of what was not due. From the payment of what was not due arises an obligation *quasi ex contractu*. When one has erroneously given or performed something to or for another, for which he was in no wise bound, he may redemand it, as if he had only lent it. The term "*solutio indebiti*" is here used in a very wide sense, and includes also the case where one performed labor for another, or assumed to pay a debt for which he was not bound, or relinquished a right or released a debt, under the impression that he was legally bound to do so. *Mackeld. Rom. Law*, § 500.

SOLUTIO PRETHI EMPTIONIS LOCO HABETUR. The payment of the price [of a thing] is held to be in place of a purchase, [operates as a purchase.] *Jenk. Cent. p.* 56, case 2; 2 *Kent. Comm.* 387.

SOLUTIONE FEODI MILITIS PARLIAMENTI, or FEODI BURGENSIS PARLIAMENTI. Old writs whereby knights of the shire and burgesses might have recovered their wages or allowance if it had been refused. 35 *Hen. VIII. c.* 11.

SOLUTUS.

In the civil law. Loosed; freed from confinement; set at liberty. *Dig.* 50, 16, 48.

SOLUTUS

In Scotch practice. Purged. A term used in old depositions.

SOLVABILITÉ. Fr. In French law. Ability to pay; solvency. Emerig. *Traité des Assur.* c. 8, § 15.

SOLVENCY. Ability to pay debts as they mature, *Vandevanter v. Goss*, 116 Mo.App. 316, 91 S.W. 958, 961. Ability to pay debts in the usual and ordinary course of business. *Jeck v. O'Meara*, 343 Mo. 559, 122 S.W.2d 897, 903. Present ability of debtor to pay out of his estate all his debts. *Ring v. Paint and Glass Co.*, 44 Mo.App. 111, 116. Excess of assets over liabilities. *Akin v. Hull*, 222 Mo. App. 1022, 9 S.W.2d 688, 690. Also such attitude of a person's property as that it may be reached and subjected by process of law, without his consent, to the payment of such debts. *Graf v. Allen*, 230 Mo.App. 721, 74 S.W.2d 61, 66. The opposite of *insolvency* (*q. v.*). *Marsh v. Dunkel*, 25 Hun (N. Y.) 169; *Osborne v. Smith*, C.C.Minn., 18 F. 130; *Larkin v. Hapgood*, 56 Vt. 601; *Kennedy v. Burr*, 101 Wash. 61, 171 P. 1022, 1024.

SOLVENDO. Lat. Paying. An apt word of reserving a rent in old conveyances. *Co. Litt.* 47a.

SOLVENDO ESSE. Lat. To be in a state of solvency; *i. e.*, able to pay.

SOLVENDO ESSE NEMO INTELLIGITUR NISI QUI SOLLDUM POTEST SOLVERE. No one is considered to be solvent unless he can pay all that he owes. *Dig.* 50, 16, 114.

SOLVENDUM IN FUTURO. (Lat.) To be paid in the future. Used of an indebtedness which is said to be *debitum in presenti* (due now) and *solvendum in futuro* (payable in the future). An interest in an estate may be rested *in presenti*, though it be *solvendum in futuro*, enjoyable in the future.

SOLVENT. See Solvency.

For "solvent debt" and "solvent partner" see "Debt" and "Partner."

SOLVERE. Lat. To pay; to comply with one's engagement; to do what one has undertaken to do; to release one's self from obligation, as by payment of a debt. *Calvin.*

SOLVERE PŒNAS. To pay the penalty.

SOLVIT. Lat. He paid; paid. 10 East, 206.

SOLVIT AD DIEM. He paid at the day. The technical name of the plea, in an action of debt on bond, that the defendant paid the money *on the day* mentioned in the condition. 1 Archb. N. P. 220, 221.

SOLVIT ANTE DIEM. A plea that the money was paid before the day appointed.

SOLVIT POST DIEM. He paid after the day. The plea in an action of debt on bond that the

defendant paid the money *after the day* named for the payment, and before the commencement of the suit. 1 Archb. N. P. 222.

SOLVITUR ADHUC SOCIETAS ETIAM MORTE SOCII. A partnership is moreover dissolved by the death of a partner. *Inst.* 3, 26, 5; *Dig.* 17, 2.

SOLVITUR EO LIGAMINE QUO LIGATUR. In the same manner that a thing is bound it is unloosed. *Livingston v. Lynch*, 4 Johns. Ch. (N. Y.) 582.

SOMERSETT'S CASE. A celebrated decision of the English king's bench, in 1771, (20 How. St. Tr. 1.) that slavery no longer existed in England in any form, and could not for the future exist on English soil, and that any person brought into England as a slave could not be thence removed except by the legal means applicable in the case of any free-born person.

SOMMATION. In French law. A demand served by a *huissier*, by which one party calls upon another to do or not to do a certain thing. This document has for its object to establish that upon a certain date the demand was made. *Arg. Fr. Merc. Law*, 574.

SOMNAMBULISM. Sleep-walking. Whether this condition is anything more than a co-operation of the voluntary muscles with the thoughts which occupy the mind during sleep is not settled by physiologists. *Wharton.*

SOMPNOUR. In ecclesiastical law, an officer of the ecclesiastical courts whose duty was to serve citations or process.

SON. An immediate male descendant. The word may be applied also to a distant male descendant. In a broad use, term may be employed as designating any young male person, as a pupil, a ward, an adopted male child or dependent. *Lind v. Burke*, 56 Neb. 785, 77 N.W. 444, 445.

The description son in wills, means *primia facie* legitimate son. *Flora v. Anderson*, C.C.Ohio, 67 F. 182, 185; *In re Flood's Estate*, 217 Cal. 763, 21 P.2d 579.

SON. Fr. His. See *Civ. Code La. art.* 3556.

Son assault demesne. His own assault. A plea which occurs in the actions of trespass and trespass on the case, by which the defendant alleges that it was the plaintiff's own original assault that occasioned the trespass for which he has brought the action, and that what the defendant did was merely in his own defense. *Steph. Pl.* 186; *Oliverius v. Wicks*, 107 Neb. 821, 187 N.W. 73, 74; *Cameron Compress Co. v. Kubecka*, *Tex. Civ.App.*, 283 S.W. 285, 287.

SON-IN-LAW. The husband of one's daughter. *Diebold v. Diebold*, 235 Mo.App. 83, 141 S.W.2d 119, 125.

SONTAGE. A tax of forty shillings anciently laid upon every knight's fee. *Cowell.*

SONTICUS. Lat. In the civil law. Hurtful; injurious; hindering; excusing or justifying de-

lay. *Morbus santicus* is any illness of so serious a nature as to prevent a defendant from appearing in court and to give him a valid excuse. Calvin.

SOON. Within a reasonable time. Sanford v. Shephard, 14 Kan. 232.

SOREHON, or SORN. An arbitrary exaction, formerly existing in Scotland and Ireland. Whenever a chieftain had a mind to revel, he came down among the tenants with his followers, by way of contempt called "*Gilliwitfitts*," and lived on free quarters. Wharton; Bell.

SORNER. In Scotch law. A person who takes meat and drink from others by force or menaces, without paying for it. Bell.

SOROR. Lat. Sister. Inst. 3, 6, 1.

SORORICIDE. The killing or murder of a sister; one who murders his sister. This is not a technical term of the law.

SORS. Lat. In old English law. A principal lent on interest, as distinguished from the interest itself.

A thing recovered in action, as distinguished from the costs of the action.

In the civil law. Lot; chance; fortune; hazard; a lot, made of wood, gold, or other material. Money borrowed, or put out at interest. A principal sum or fund, such as the capital of a partnership. Ainsworth; Calvin.

SORTITIO. Lat. In the civil law. A drawing of lots. *Sortitio iudicium* was the process of selecting a number of judges, for a criminal trial, by drawing lots.

SOUGH. In English law. A drain or water-course. The channels or water-courses used for draining mines are so termed; and those mines which are near to any given sough, and lie within the same level, and are benefited by it, are technically said to lie within the title of that sough. 5 Mees. & W. 228; Brown.

SOUL SCOT. A mortuary, or customary gift due ministers, in many parishes of England, on the death of parishioners. It was originally voluntary and intended as amends for ecclesiastical dues neglected to be paid in the life-time. 2 Bl. Comm. 425.

SOUND, v. To have reference or relation to; to aim at. An action is technically said to *sound in damages* where it is brought not for the specific recovery of a thing, but for damages only. Steph. Pl. 105.

SOUND, adj. Whole; in good condition; marketable. So used in warranties of chattels. See Brown v. Bigelow, 10 Allen, Mass., 242; Hawkins v. Pemberton, 35 How.Prac., N.Y., 383; Woodbury v. Robbins, 10 Cush. (Mass.) 522. Free from disease. Raney & Hamon v. Hamilton & White, Tex.Civ.App., 234 S.W. 229, 230. The term may also mean free from danger to the life, safety,

and welfare. Kuhn v. Cincinnati Traction Co., 109 Ohio, St. 263, 142 N.E. 370, 373.

Sound and disposing mind and memory. Testamentary capacity. In re Hudson's Estate, 131 Minn. 439, 155 N.W. 392, 395. Such mind and memory as enables testator to know and understand business in which he is engaged at time of making will. Farmers' Union Bank of Henning v. Johnson, 27 Tenn.App. 342, 181 S.W.2d 369, 374.

Sound judicial discretion. Discretion exercised on full and fair consideration of the facts presented to the judge by the well-known and established mode of procedure. Caldwell v. State, 164 Tenn. 325, 48 S.W.2d 1087, 1089. Discretion exercised not arbitrarily or willfully but with regard to what is right and equitable under the circumstances. Cornwell v. Cornwell, 73 App.D.C. 233, 118 F.2d 396, 398.

Sound health. In insurance law, means that the applicant has no grave impairment or serious disease, and is free from any ailment that seriously affects the general soundness and healthfulness of the system. National Life & Accident Ins. Co. of Nashville, Tenn., v. Martin, 35 Ga.App. 1, 131 S.E. 120, 121; Metropolitan Life Ins. Co. v. Chappell, 151 Tenn. 299, 269 S.W. 21, 24. A state of health unimpaired by any serious malady of which the person himself is conscious. National Life & Accident Ins. Co. v. Ware, 169 Okl. 618, 37 P.2d 905.

Sound mind. The normal condition of the human mind,—that state in which its faculties of perception and judgment are ordinarily well developed, and not impaired by mania, insanity, or dementia. See Daly v. Daly, 183 Ill. 269, 55 N.E. 671; Delafield v. Parish, 25 N.Y. 102; Harrison v. Rowan, 11 Fed.Cas. 661; Yoe v. McCord, 74 Ill. 37; Rodney v. Burton, 4 Boyce (Del.) 171, 86 A. 826, 829. In the law of wills means that testator must have been able to understand and carry in mind, in a general way, nature and situation of his property, his relations to those having claim to his remembrance, and nature of his act. Needham Trust Co. v. Cookson, 251 Mass. 160, 146 N.E. 268; In re Lawrence's Estate, 286 Pa. 58, 132 A. 786, 789; In re Bossom's Will, 195 App.Div. 339, 186 N.Y.S. 782, 786; Rose v. Rose, Mo.Sup., 249 S.W. 605, 607.

Sound value. Of property within fire policy is the cash value of property, making an allowance for depreciation due to use at and immediately preceding the time of the fire. Reliance Ins. Co. v. Bowen, Tex.Civ.App., 54 S.W.2d 597, 598.

SOUNDING IN DAMAGES. When an action is brought, not for the recovery of lands, goods, or sums of money, (as is the case in real or mixed actions or the personal action of debt or detinue,) but for damages only, as in covenant, trespass, etc., the action is said to be "sounding in damages." Steph. Pl. 116. See Collins v. Greene, 67 Ala. 211; Rosser v. Bunn, 66 Ala. 93.

SOUNDNESS

SOUNDNESS. General health; freedom from any permanent disease. 1 Car. & M. 291. See "Sound."

SOURCE. That from which any act, movement, or effect proceeds; a person or thing that originates, sets in motion, or is a primary agency in producing any course of action or result; an originator; creator; origin. A place where something is found or whence it is taken or derived. *Jackling v. State Tax Commission*, 40 N.M. 241, 58 P.2d 1167, 1171.

The source of income. Place where it is produced. *Union Electric Co. v. Coale*, 347 Mo. 175, 146 S.W.2d 631, 635.

SOURCES OF THE LAW. The origins from which particular positive laws derive their authority and coercive force. Such are constitutions, treaties, statutes, usages, and customs.

In another sense, the authoritative or reliable works, records, documents, edicts, etc., to which we are to look for an understanding of what constitutes the law. Such, for example, with reference to the Roman law, are the compilations of Justinian and the treatise of Gaius; and such, with reference to the common law, are especially the ancient reports and the works of such writers as Bracton, Littleton, Coke, Fleta, and others.

SOUS. Fr. Under.

SOUS SEING PRIVÉ. Fr. In French law. Under private signature; under the private signature of the parties. A contract or instrument thus signed is distinguished from an "authentic act," which is formally concluded before a notary or judge. *Civil Code La. art. 2240*.

SOUTH SEA FUND. The produce of the taxes appropriated to pay the interest of such part of the English national debt as was advanced by the South Sea Company and its annuitants. The holders of South Sea annuities have been paid off, or have received other stock in lieu thereof. 2 Steph.Comm. 578.

SOVEREIGN. A person, body, or state in which independent and supreme authority is vested; a chief ruler with supreme power; a king or other ruler with limited power.

In English law. A gold coin of Great Britain, of the value of a pound sterling.

SOVEREIGN IMMUNITY OF STATE FROM LIABILITY. Exists when the state is engaged in a governmental function. *Manion v. State*, 303 Mich. 1, 5 N.W.2d 527, 528.

SOVEREIGN PEOPLE. The political body, consisting of the entire number of citizens and qualified electors, who, in their collective capacity, possess the powers of sovereignty and exercise them through their chosen representatives. See *Scott v. Sandford*, 19 How. 404, 15 L.Ed. 691.

SOVEREIGN POWER or SOVEREIGN PREROGATIVE. That power in a state to which none other is superior or equal, and which includes all

the specific powers necessary to accomplish the legitimate ends and purposes of government. See *Boggs v. Merced Min. Co.*, 14 Cal. 309; *Donnelly v. Decker*, 58 Wis. 461, 17 N.W. 389, 46 Am.Rep. 637; *Com. v. Alger*, 7 Cush., Mass., 81; *Ætna Casualty & Surety Co. v. Bramwell*, D.C.Or., 12 F.2d 307, 309.

SOVEREIGN RIGHT. A right which the state alone, or some of its governmental agencies, can possess, and which it possesses in the character of a sovereign, for the common benefit, and to enable it to carry out its proper functions; distinguished from such "proprietary" rights as a state, like any private person, may have in property or demands which it owns. See *St. Paul v. Chicago, etc., R. Co.*, 45 Minn. 387, 48 N.W. 17.

SOVEREIGN STATES. States whose subjects or citizens are in the habit of obedience to them, and which are not themselves subject to any other (or paramount) state in any respect. The state is said to be semi-sovereign only, and not sovereign, when in any respect or respects it is liable to be controlled (like certain of the states in India) by a paramount government, (*e. g.*, by the British empire.) Brown. In the intercourse of nations, certain states have a position of entire independence of others, and can perform all those acts which it is possible for any state to perform in this particular sphere. These same states have also entire power of self-government; that is, of independence upon all other states as far as their own territory and citizens not living abroad are concerned. No foreign power or law can have control except by convention. This power of independent action in external and internal relations constitutes complete sovereignty. Wools. *Pol. Science*, I. 204.

SOVEREIGNTY. The supreme, absolute, and uncontrollable power by which any independent state is governed; supreme political authority; paramount control of the constitution and frame of government and its administration; the self-sufficient source of political power, from which all specific political powers are derived; the international independence of a state, combined with the right and power of regulating its internal affairs without foreign dictation; also a political society, or state, which is sovereign and independent. *Chisholm v. Georgia*, 2 Dall. 455, 1 L.Ed. 440; *Union Bank v. Hill*, 3 Cold., Tenn., 325; *Moore v. Shaw*, 17 Cal. 218, 79 Am.Dec. 123; *State v. Dixon*, 66 Mont. 76, 213 P. 227.

The power to do everything in a state without accountability,—to make laws, to execute and to apply them, to impose and collect taxes and levy contributions, to make war or peace, to form treaties of alliance or of commerce with foreign nations, and the like. Story, *Const.* § 207.

"Sovereignty" in government is that public authority which directs or orders what is to be done by each member associated in relation to the end of the association. It is the supreme power by which any citizen is governed and is the person or body of persons in the state to whom there is politically no superior. The necessary existence of the state and that right and power which necessarily follow is "sovereignty." By "sovereignty" in its largest sense is

meant supreme, absolute, uncontrollable power, the absolute right to govern. The word which by itself comes nearest to being the definition of "sovereignty" is will or volition as applied to political affairs. *City of Bisbee v. Cochise County*, 52 Ariz. 1, 78 P.2d 982, 986.

SOVERTIE. In old Scotch law. Surety. Skene.

SOWLEGROVE. February; so called in South Wales. Cowell.

SOWMING AND ROWMING. In Scotch law. Terms used to express the form by which the number of cattle brought upon a common by those having a servitude of pasturage may be justly proportioned to the rights of the different persons possessed of the servitude. Beli.

SOWNE. In old English law. To be leviabie. An old exchequer term applied to sheriff's returns. 4 Inst. 107; Cowell; Spelman.

SPADARIUS. Lat. A sword-bearer. Blount.

SPADONES. Lat. In the civil law. Impotent persons. Those who, on account of their temperament or some accident they have suffered, are unable to procreate. Inst. 1, 11, 9; Dig. 1, 7, 2, 1.

SPARSIM. Lat. Here and there; scattered; at intervals. For instance, trespass to realty by cutting timber *sparsim* (here and there) through a tract.

SPATÆ PLACITUM. In old English law. A court for the speedy execution of justice upon military delinquents. Cowell.

SPEAK. In practice. To argue. "The case was ordered to be *spoke to* again." 10 Mod. 107. See *Imparlanee*; *Speaking with Prosecutor*.

SPEAKER. The official designation of the president or chairman of certain legislative bodies, particularly of the house of representatives in the congress of the United States, of one or both branches of several of the state legislatures, and of the two houses of the British parliament.

The term "speaker," as used in reference to either of the houses of parliament, signifies the functionary acting as chairman. In the commons his duties are to put questions, to preserve order, and to see that the privileges of the house are not infringed; and, in the event of the numbers being even on a division, he has the privilege of giving the casting vote. The speaker of the lords is the lord chancellor or the lord keeper of the great seal of England, or, if he be absent, the lords may choose their own speaker. The duties of the speaker of the lords are principally confined to putting questions, and the lord chancellor has no more to do with preserving order than any other peer. Brown.

SPEAKING DEMURRER. See *Demurrer*.

SPEAKING ORDER. See *Order*.

SPEAKING WITH PROSECUTOR. A method of compounding an offense, allowed in the English practice, where the court permits a defendant convicted of a misdemeanor to speak with the

prosecutor before judgment is pronounced; if the prosecutor declares himself satisfied, the court may inflict a trivial punishment. 4 Steph.Comm. 261.

SPECIAL. Relating to or designating a species, kind, individual, thing, or sort; designed for a particular purpose; confined to a particular purpose, object, person, or class. Unusual, extraordinary. *National Cash Register Co. v. Wall*, 58 Mont. 60, 190 P. 135; *Steele-Smith Dry Goods Co. v. Birmingham Ry., Light & Power Co.*, 15 Ala. App. 271, 73 So. 215; *People ex rel. City of New York v. Deyo*, 158 App.Div. 319, 143 N.Y.S. 334, 335; *State ex rel. and to use of Vaught v. Atchison, T. & S. F. Ry. Co.*, 270 Mo. 251, 192 S.W. 990, 995.

As to special "Acceptance," "Administration," "Agent," "Allocatur," "Allowances," "Appearance," "Assessment," "Assumpsit," "Bail," "Bailiff," "Bastard," "Benefit," "Calendar," "Charge," "Constable," "Contract," "Count," "Covenant," "Custom," "Damage," "Demurrer," "Deposit," "Deputy," "Election," "Finding," "Guaranty," "Guardian," "Imparlanee," "Indorsement," "Indorsement of Writ," "Injunction," "Insurance," "Issue," "Jury," "Legacy," "Letter of Credit," "License," "Limitation," "Malice," "Master," "Meeting," "Mortgage," "Motion," "Non Est Factum," "Occupant," "Owner," "Partner," "Partnership," "Plea," "Pleader," "Pleading," "Power," "Privilege," "Proceeding," "Property," "Request," "Replication," "Restraint of Trade," "Retainer," "Rule," "Service," "Sessions," "Statute," "Stock," "Tall," "Term," "Terms," "Traverse," "Trust," "Verdict," and "Warranty," see those titles.

SPECIAL ACT. A private statute; an act which operates only upon particular persons or private concerns. 1 Bl.Comm. 86; *Unity v. Burrage*, 103 U.S. 454, 26 L.Ed. 405.

SPECIAL CASE. In English practice. When a trial at *nisi prius* appears to the judge to turn on a point of law, the jury may find a general verdict, subject to the opinion of the court above, upon what is termed a "special case" to be made; that is, upon a written statement of all the facts of the case drawn up for the opinion of the court *in banc*, by the counsel and attorneys on either side, under correction of the judge at *nisi prius*. The party for whom the general verdict is so given is in such case not entitled to judgment till the court *in banc* has decided on the special case; and, according to the result of that decision, the verdict is ultimately entered either for him or his adversary. Brown.

SPECIAL CLAIM. In English law. A claim not enumerated in the orders of April 22, 1850, which required the leave of the court of chancery to file it. Such claims are abolished.

SPECIAL COMMISSION. In English law. An extraordinary commission of oyer and terminer and gaol delivery, issued by the crown to the judges when it is necessary that offenses should be immediately tried and punished. Wharton.

SPECIAL ERRORS. Special pleas in error are such as, instead of joining in error, allege some extraneous matter as a ground of defeating the writ of error, *e. g.*, a release of errors, expiration of the time within which error might be brought, or the like. To these, the plaintiff in error may either reply or demur.

SPECIAL EXAMINER. In English law. Some person, not one of the examiners of the court of chancery, appointed to take evidence in a particular suit. This may be done when the state of business in the examiner's office is such that it is impossible to obtain an appointment at a conveniently early day, or when the witnesses may be unable to come to London. Hunt. Eq. pt. I. c. 5, § 2.

SPECIAL EXCEPTION. An objection to the form in which a cause of action is stated. Cochran v. People's Nat. Bank, Tex.Civ.App., 271 S.W. 433, 434.

SPECIAL EXECUTION. A copy of a judgment with a direction to the sheriff indorsed thereon to execute it. Crombie v. Little, 47 Minn. 581, 50 N.W. 823. One that directs a levy upon some special property. Oklahoma Salvage & Supply Co. v. First Nat. Bank, 122 Okl. 128, 251 P. 1006, 1007.

SPECIAL EXECUTOR. One whose power and office are limited, either in respect to the time or place of their exercise, or restricted to a particular portion of the decedent's estate.

One only empowered by will to take charge of a limited portion of the estate, or such part as may lie in one place, or to carry on the administration only to a prescribed point.

SPECIAL FACTS RULE. In corporation law, as respects director's duty of disclosure when dealing with stockholders, is that where special circumstances or facts are present which make it inequitable for the director to withhold information from the stockholder, the duty to disclose arises, and concealment is fraud. Taylor v. Wright, 69 Cal.App.2d 371, 159 P.2d 980, 985.

SPECIAL JURISDICTION. A court authorized to take cognizance of only some few kinds of causes or proceedings expressly designated by statute is called a "court of special jurisdiction."

SPECIAL LAW. One relating to particular persons or things; one made for individual cases or for particular places or districts; one operating upon a selected class, rather than upon the public generally. State v. Irwin, 5 Nev. 120; Sargent v. Union School Dist., 63 N.H. 528, 2 A. 641; Dodge v. Youngblood, Tex.Civ.App., 202 S.W. 116, 118; Ex parte Crane, 27 Idaho 671, 151 P. 1006, 1011, L.R.A.1918A, 942; State v. Daniel, 87 Fla. 270, 99 So. 804, 809. A law is "special" when it is different from others of the same general kind or designed for a particular purpose, or limited in range or confined to a prescribed field of action or operation. State v. Johnson, 170 N. C. 685, 86 S.E. 788, 792.

A law is not special and local in a constitutional sense, if it affects all persons in like circumstances in the same manner. St. Louis-San Francisco Ry. Co. v. Bledsoe, C.C. A.Okl., 7 F.2d 364, 366. Whether an act be local or special is determined by the generality with which it affects the people as a whole, rather than the extent of territory over which it is operative, and, if it equally affects all people coming within its operation, it is not local or special. State ex rel. Garvey v. Buckner, 308 Mo. 390, 272 S.W. 940, 942. In taxation cases, courts make no distinction between "special law" and "local law." Bozarth v. Egg Harbor City, 85 N.J.Law, 412, 89 A. 920, 921. The phrases "special act" and "private act" mean the same thing. Federal Trust Co. v. East Hartford Fire Dist., C.C.A.Conn., 283 F. 95, 98.

SPECIAL LIEN. A special lien is in the nature of a particular lien, being a lien upon particular property; a lien which the holder can enforce only as security for the performance of a particular act or obligation and of obligations incidental thereto. Green v. Coast Line R. Co., 97 Ga. 15, 24 S.E. 814, 33 L.R.A. 806, 54 Am.St.Rep. 379; Civ. Code Cal. § 2875; Marks v. Baum Bldg. Co., 73 Okl. 264, 175 P. 818, 822.

SPECIAL MATTER. Under a plea of the general issue, the defendant is allowed to give special matter in evidence, usually after notice to the plaintiff of the nature of such matter, thus sparing him the necessity of pleading it specially. 3 Bl.Comm. 306.

SPECIAL PAPER. A list kept in the English courts of common law, and now in the king's bench, common pleas, and exchequer divisions of the high court, in which list demurrers, special cases, etc., to be argued are set down. It is distinguished from the new trial paper, peremptory paper, crown paper, revenue paper, etc., according to the practice of the particular division. Wharton.

SPECIAL PLACE. In Negotiable Instruments. A bank, office, or any other place of business, house or residence, usually occupied by people for business, social, or other purposes, without reference to its location, whether within or without a city, town, or village as distinguished from the city, town or village. O'Connor v. Kirby Inv. Co., Tex.Civ.App., 262 S.W. 554, 556; Maddock v. McDonald, 111 Or. 448, 227 P. 463, 464; Corbett v. Ulsaker Printing Co., 49 N.D. 103, 190 N.W. 75, 76, 24 A.L.R. 1047; Harrison v. Beals, 111 Or. 563, 222 P. 728, 731; Moore v. Knemeyer, Tex.Civ.App., 271 S.W. 653, 654.

SPECIAL REGISTRATION. In election laws. Registration for particular election only which does not entitle elector to vote at any succeeding election. Cowart v. City of Waycross, 159 Ga. 589, 126 S.E. 476, 479.

SPECIALIA GENERALIBUS DEROGANT. Special words derogate from general words. A special provision as to a particular subject-matter is to be preferred to general language, which might have governed in the absence of such special provision. L.R. 1 C.P. 546.

SPECIALIST. In stock exchange. Broker who remains at one post of exchange where particular stocks are dealt in and executes orders of other

brokers, for which he receives commission; one who specializes in limited group of stocks. In re Brown, 242 N.Y. 1, 150 N.E. 581, 585, 44 A.L.R. 510; People ex rel. Berdan v. Goldfogle, 213 App. Div. 702, 211 N.Y.S. 107.

SPECIALTY. A contract under seal. Furst v. Brady, 375 Ill. 425, 31 N.E.2d 606, 609, 133 A.L.R. 558.

A writing sealed and delivered, containing some agreement. A writing sealed and delivered, which is given as a security for the payment of a debt, in which such debt is particularly specified. Bac. Abr. "Obligation," A.

A corporate seal is not necessary to the contract of a corporation, and hence it is generally deemed that the affixing of a corporate seal to an instrument not required to be executed with that formality indicates that the instrument was intended to be a "specialty", but there is an exception if it appears from the instrument itself that the instrument was not intended to be a specialty. Caruthers v. Peninsular Life Ins. Co., 150 Fla. 467, 7 So.2d 841, 842.

SPECIALTY DEBT. A debt due or acknowledged to be due by deed or instrument under seal. 2 Bl. Comm. 465.

SPECIE. Coin of the precious metals, of a certain weight and fineness, and bearing the stamp of the government, denoting its value as currency. Trebilcock v. Wilson, 12 Wall. 695, 20 L.Ed. 460; Walkup v. Houston, 65 N.C. 501; Henry v. Bank of Salina, 5 Hill, N.Y., 536.

When spoken of a contract, the expression "performance *in specie*" means strictly, or according to the exact terms. As applied to things, it signifies individuality or identity. Thus, on a bequest of a specific picture, the legatee would be said to be entitled to the delivery of the picture *in specie*; *i. e.*, of the very thing. Whether a thing is due *in genere* or *in specie* depends, in each case, on the will of the transacting parties. Brown.

SPECIES. Lat. In the civil law. Form; figure; fashion or shape. A form or shape given to materials.

SPECIES FACTI. In Scotch law. The particular criminal act charged against a person.

SPECIFIC. Precisely formulated or restricted; definite; explicit; of an exact or particular nature. People v. Thomas, 25 Cal.2d 880, 156 P.2d 7, 17. Having a certain form or designation; observing a certain form; particular; precise; tending to specify, or to make particular, definite, limited or precise. Republic Casualty Co. v. Scandinavian-American Bank, D.C.Wash., 2 F.2d 113, 114; Western Union Telegraph Co. v. South & N. A. R. Co., 184 Ala. 66, 62 So. 788, 793.

As to specific "Denial," "Devise," "Legacy," and "Performance," see those titles.

SPECIFICALLY. In a specific manner; explicitly, particularly, definitely. Straton v. Hodgkins, 109 W.Va. 536, 155 S.E. 902.

SPECIFICATIO. Lat. In the civil law. Literal-ly, a making of form; a giving of form to mater-

ials. That mode of acquiring property through which a person, by transforming a thing belonging to another, especially by working up his materials into a new species, becomes proprietor of the same. Mackeld. Rom. Law, § 271.

SPECIFICATION. As used in the law relating to patents, machinery and in building contracts, a particular or detailed statement of the various elements involved. Gilbert v. U. S., 1 Ct.Cl. 34; State v. Kendall, 15 Neb. 262, 18 N.W. 85; Wilson v. Coon, C.C.N.Y., 6 F. 614; State Bank of Freeport v. Cape Girardeau & C. R. Co., 172 Mo.App. 662, 155 S.W. 1111, 1113; R. J. Waddell Inv. Co. v. Hall, 255 Mo. 675, 164 S.W. 541, 544.

Law of Personal Property

The acquisition of title to a thing by working it into new forms or species from the raw material; corresponding to the *specificatio* of the Roman law. See Lampton v. Preston, 1 J. J. Marsh, Ky., 462, 19 Am.Dec. 104.

Right by "specification" can only be acquired when, without the accession of any other material that of another person, which has been used by the operator innocently, has been converted by him into something specifically different in the inherent and characteristic qualities, which identify it. Such is the conversion of corn into meal, of grapes into wine, etc. Bozeman Mortuary Ass'n v. Fairchild, 253 Ky. 74, 68 S.W.2d 756, 92 A.L.R. 419.

Military Law

The clear and particular description of the charges preferred against a person accused of a military offense. Tytler, Mil. Law, 109; Carter v. McClaughry, 22 S.Ct. 181, 183 U.S. 365, 46 L.Ed. 236.

Practice

A detailed and particular enumeration of several points or matters urged or relied on by a party to a suit or proceeding; as, a "specification of errors," or a "specification of grounds of opposition to a bankrupt's discharge." See Railway Co. v. McArthur, 96 Tex. 65, 70 S.W. 317; In re Glass, D.C.Tenn., 119 F. 514; Fränk v. Ruzicka, 45 S.D. 49, 185 N.W. 371, 372.

SPECIFY. To mention specifically; to state in full and explicit terms; to point out; to tell or state precisely or in detail; to particularize, or to distinguish by words one thing from another. Independent Highway Dist. No. 2 of Ada County v. Ada County, 24 Idaho 416, 134 P. 542, 545; Roche Valley Land Co. v. Barth, 67 Mont. 353, 215 P. 654, 655; Aleksich v. Industrial Accident Fund, 116 Mont. 127, 151 P.2d 1016, 1021.

SPECIMEN. A sample; a part of something intended to exhibit the kind and quality of the whole. People v. Freeman, 1 Idaho 322.

SPECULATION. Buying or selling with expectation of profiting by a rise or fall in price; also engaging in hazardous business transactions for the chance of unusually large profit. Clucas v. Bank of Montclair, 110 N.J.L. 394, 166 A. 311, 313, 394, 88 A.L.R. 302.

SPECULATIVE DAMAGES. See Damages.

SPECULUM

SPECULUM. Lat. Mirror or looking-glass. The title of several of the most ancient lawbooks or compilations. One of the ancient Icelandic books is styled "*Speculum Regale.*"

SPEEDY EXECUTION. An execution which, by the direction of the judge at *nisi prius*, issues forthwith, or on some early day fixed upon by the judge for that purpose after the trial of the action. Brown.

SPEEDY REMEDY. One which, having in mind the subject-matter involved, can be pursued with expedition and without essential detriment to the party aggrieved. *State v. District Court of Thirteenth Judicial Dist. in and for Yellowstone County*, 50 Mont. 289, 146 P. 743, 745, Ann.Cas.1917C, 164.

SPEEDY TRIAL. In criminal law. As secured by constitutional guaranties, a trial conducted according to fixed rules, regulations, and proceedings of law, free from unreasonable delay. *People v. Hall*, 64 N.Y.S. 433, 51 App.Div. 57; *Nixon v. State*, 2 Smedes & M., Miss., 507, 41 Am.Dec. 601; *Hicks v. Boyne*, 236 Mich. 689, 211 N.W. 35; *Arrow-smith v. State*, 131 Tenn. 480, 175 S.W. 545, 547, L.R.A.1915E, 363; *State v. Clark*, 86 Or. 464, 168 P. 944, 946. A trial as soon after indictment as prosecution can with reasonable diligence prepare for it. *People v. Molinari*, 23 Cal.App.2d Supp. 761, 67 P.2d 767, 770.

It does not mean trial immediately after defendant's apprehension and indictment, but trial consistent with court's business. *People v. Wilson*, 356 Ill. 256, 190 N.E. 270, 272.

SPELLING. The formation of words by letters; orthography. Incorrect spelling does not vitiate a written instrument if the intention clearly appears.

SPEND. To consume by using in any manner, to use up, to exhaust, distribute, as to expend money or any other possession. *Levenson v. Wolfson*, 42 Ohio App. 332, 182 N.E. 116.

SPENDTHRIFT. One who spends money profusely and improvidently; a prodigal; one who lavishes or wastes his estate. *Taylor v. Koenigstein*, 128 Neb. 809, 260 N.W. 544.

In some jurisdictions, under statutes, a person who by excessive drinking, gaming, idleness, or debauchery of any kind shall so spend, waste, or lessen his estate as to expose himself or his family to want or suffering, or expose the town to charge or expense for the support of himself or family. *Rev.St.Maine*, c. 67, § 4, cl. 2 (*Rev.St.1930*, c. 80, § 4, cl. 2); *Pub.Laws N.H.1926*, c. 291, § 4; *G.L.Mass.*, c. 201, § 8; *Smith-Hurd Rev.St.Ill.1931*, c. 86, § 53; *Young v. Young*, 87 Me. 44, 22 A. 782; *Morey's Appeal*, 57 N.H. 54; *Norton v. Leonard*, 12 Pick., Mass., 152, 161; *In re Bishop*, 149 Ill.App. 491, 498.

Every person who is liable to be put under guardianship on account of excessive drinking, gaming, idleness, or debauchery. *Comp.Laws Mich.1929*, § 15777; *G.L.Vt.* 3651.

SPENDTHRIFT TRUST. A trust created to provide a fund for the maintenance of a beneficiary, and at the same time to secure it against his improvidence or incapacity. *In re Nicholson's Estate*, 104 Colo. 561, 93 P.2d 880, 883. One which provides a fund for benefit of another than settlor, secures it against beneficiary's own improvidence,

and places it beyond his creditors' reach. *Greenwich Trust Co. v. Tyson*, 129 Conn. 211, 27 A.2d 166, 171, 172. Provisions against alienation of the trust fund by the voluntary act of the beneficiary or by his creditors are the usual incidents. *Estes v. Estes*, Tex.Civ.App., 255 S.W. 649, 650; *Newcomb v. Masters*, 287 Ill. 26, 122 N.E. 85, 87; *Plitt v. Yakel*, 129 Md. 464, 99 A. 669, 670; *Keating v. Keating*, 182 Iowa 1056, 165 N.W. 74, 79; *Graham v. More*, Mo., 189 S.W. 1186, 1188; *Newell v. Tubbs*, 103 Colo. 224, 84 P.2d 820, 821.

To constitute valid "spendthrift trust," legal title must be vested in trustee; gift must be only of income to a beneficiary, taking no estate, having no power of alienation, right to possession, nor beneficial interest in property save qualified right to support and equitable interest in income; and trust must be active one. *Chinnis v. Cobb*, 210 N.C. 104, 185 S.E. 638, 640.

SPERATE. That of which there is hope. Thus a debt which one may hope to recover may be called "sperate," in opposition to "desperate." See 1 Chit. Pr. 520.

SPES ACCRESCENDI. Lat. Hope of surviving. 3 Atk. 762; 2 Kent, Comm. 424.

SPES EST VIGILANTIS SOMNIUM. Hope is the dream of the vigilant. 4 Inst. 203.

SPES IMPUNITATIS CONTINUUM AFFECTUM TRIBUIT DELINQUENDI. The hope of impunity holds out a continual temptation to crime. 3 Inst. 236.

SPES RECUPERANDI. Lat. The hope of recovery or recapture; the chance of retaking property captured at sea, which prevents the captors from acquiring complete ownership of the property until they have definitely precluded it by effectual measures. 1 Kent, Comm. 101.

SPIGURNEL. The sealer of the royal writs.

SPINNING HOUSE. A house of correction to which the authorities of Oxford and Cambridge may send persons (mostly women of frivolous character) not members of the University who are found consorting with the students, to the detriment of their morals. 4 Steph. Comm. 264.

SPINSTER. The addition given, in legal proceedings, and in conveyancing, to a woman who never has been married.

SPIRITUAL. Relating to religious or ecclesiastical persons or affairs, as distinguished from "secular" or lay, worldly; or business matters. *Johnson v. State*, 107 Miss. 196, 65 So. 218, 220, 51 L.R.A., N.S., 1183.

As to spiritual "Corporation," "Courts," and "Lords," see those titles.

SPIRITUALITIES OF A BISHOP. Those profits which a bishop receives in his ecclesiastical character, as the dues arising from his ordaining and instituting priests, and such like, in contradistinction to those profits which he acquires in his temporal capacity as a baron and lord of parliament, and which are termed his "temporalities," consisting of certain lands, revenues, and lay fees, etc. Cowell.

SPIRITUALITY OF BENEFICES. In ecclesiastical law. The tithes of land, etc. Wharton.

SPIRITUOUS LIQUORS. Inflammable liquids produced by distillation, and forming an article of commerce. *Blankenship v. State*, 93 Ga. 814, 21 S.E. 130; *State v. Munger*, 15 Vt. 293; *Allred v. State*, 89 Ala. 112, 8 So. 56; *State v. Dennison*, 85 W.Va. 261, 101 S.E. 458, 459; *Shaneyfelt v. State*, 8 Ala.App. 370, 62 So. 331, 332; *Billing v. State*, 99 Tex.Cr.R. 653, 271 S.W. 607.

The phrase "spirituous liquor," in a penal statute, cannot be extended beyond its exact literal sense. Spirit is the name of an inflammable liquor produced by distillation. Wine is the fermented juice of the grape, or a preparation of other vegetables by fermentation; hence the term does not include wine. *State v. Moore*, 5 Blackf., Ind., 118.

SPITAL, or SPITTLE. A charitable foundation; a hospital for diseased people; a hospital. Cowell.

SPITE FENCE. A fence of no beneficial use to person erecting and maintaining it on his land and maintained solely for purpose of annoying owner of adjoining land. *Burriss v. Creech*, 220 N.C. 302, 17 S.E.2d 123. A high and unsightly fence erected to annoy a neighbor or adjoining landowner by obstructing his air, light or view. *Kuzniak v. Kozminski*, 107 Mich. 444, 65 N.W. 275, 61 Am.St.Rep. 344; *Wood, Nuis.*, 2d Ed., § 6.

SPLIT SENTENCE. One where penalty of fine and imprisonment, as provided by statute, is imposed and imprisonment part is suspended and fine part enforced. *Cote v. Cummings*, 126 Me. 330, 138 A. 547, 552.

SPLITTING A CAUSE OF ACTION. Dividing a single cause of action, claim, or demand into two or more parts, and bringing suit for one of such parts only. The plaintiff who does this is bound by his first judgment, and can recover no more. 2 Black, Judgm. § 734. *Birdville Independent School Dist. v. Deen*, Tex.Civ.App., 114 S.W.2d 628, 632. Commencement of an action for only a part of the cause of action. *Silber v. James Drug Stores*, 124 N.J.L. 401, 11 A.2d 756, 758. *Floyd v. C. I. T. Corporation*, 191 S.C. 518, 5 S.E.2d 299, 301.

There is no "splitting of causes" where demand which is subject of second action was not due at time of the first action. *Glavich v. Industrial Accident Commission of California*, 44 Cal.App.2d 517, 112 P.2d 774, 778.

The rule against "splitting causes of action" does not mean that plaintiff cannot sue for less than is his due but means merely that if he does so he may be precluded from maintaining another action for the remainder of the same demand. *Scientific & Hospital Supply Corporation v. Board of Education of City of New York*, 16 N.Y.S.2d 91, 93, 172 Misc. 770.

The rule against "splitting cause of action" applies only when several actions are between same parties. *Warnecke v. Foley*, 234 Iowa 348, 11 N.W.2d 457, 459.

SPOLIATION.

English Ecclesiastical Law

An injury done by one clerk or incumbent to another, in taking the fruits of his benefice without any right to them, but under a pretended title. 3 Bl. Comm. 90, 91.

The name of a suit sued out in the spiritual court to recover for the fruits of the church or for the church itself. *Fitzh. Nat. Brev.* 85.

Torts

Destruction of a thing by the act of a stranger, as the erasure or alteration of a writing by the act of a stranger. This has not the effect to destroy its character or legal effect. 1 Greenl. Ev. § 566; *Medlin v. Platt County*, 8 Mo. 239, 40 Am. Dec. 135; *Edwards v. Thompson*, 99 Wash. 188, 169 P. 327, 328; *Knox v. Horne*, Tex.Civ.App., 200 S. W. 259, 260; *Cooper v. Hembree*, 194 Okl. 465, 152 P.2d 695, 697.

SPOLIATOR. Lat. A spoiler or destroyer. It is a maxim of law, bearing chiefly on evidence, but also upon the value generally of the thing destroyed, that everything most to his disadvantage is to be presumed against the destroyer, (*spoliator*,) *contra spoliatorem omnia præsumentur*. 1 Smith, Lead. Cas. 315.

SPOLIATUS DEBET ANTE OMNIA RESTITUI. A party despoiled [forcibly deprived of possession] ought first of all to be restored. 2 Inst. 714; 4 Reeve, Eng. Law, 18.

SPOLIATUS EPISCOPUS ANTE OMNIA DEBET RESTITUI. A bishop despoiled of his see ought, above all, to be restored. See 14 L. Q. R. 27.

SPOLIUM. Lat. In the civil and common law. A thing violently or unlawfully taken from another.

SPONDEO. Lat. In the civil law. I undertake; I engage. Inst. 3, 16, 1.

SPONDES? SPONDEO. Lat. Do you undertake? I do undertake. The most common form of verbal stipulation in the Roman law. Inst. 3, 16, 1.

SPONDET PERITIAM ARTIS. He promises the skill of his art; he engages to do the work in a skillful or workmanlike manner. 2 Kent, Comm. 588. Applied to the engagements of workman for hire. *Story, Bailm.* § 428.

SPONSALIA, STIPULATIO SPONSALITIA. Lat. In the civil law. Espousal; betrothal; a reciprocal promise of future marriage.

SPONSIO. Lat. In the civil law. An engagement or undertaking; particularly such as was made in the form of an answer to a formal interrogatory by the other party. Calvin.

An engagement to pay a certain sum of money to the successful party in a cause. Calvin.

SPONSIO JUDICIALIS. In Roman law. A judicial wager corresponding in some respects to the "feigned issue" of modern practice.

SPONSIO LUDICRA. A trifling or ludicrous engagement, such as a court will not sustain an action for. 1 Kames, Eq. Introd. 34. An informal undertaking, or one made without the usual formula of interrogation. Calvin.

SPONSIONS

SPONSIONS. In international law. Agreements or engagements made by certain public officers (as generals or admirals in time of war) in behalf of their governments, either without authority or in excess of the authority under which they purport to be made, and which therefore require an express or tacit ratification.

SPONSOR. A surety; one who makes a promise or gives security for another, particularly a god-father in baptism.

In the civil law. One who intervenes for another voluntarily and without being requested.

SPONTANEOUS COMBUSTION. The ignition of a body by the internal development of heat without the action of an external agent. *Eckman Chemical Co. v. Chicago & N. W. Ry. Co.*, 107 Neb. 268, 185 N.W. 444, 446.

SPONTANEOUS EXCLAMATION. Within *res gestae* rule, a statement or exclamation made immediately after some exciting occasion by a participant or spectator and asserting the circumstances of that occasion as it is observed by him. *Riley v. State*, 50 Ariz. 442, 73 P.2d 96, 101.

SPONTE OBLATA. Lat. A free gift or present to the crown.

SPONTE VIRUM MULIER FUGIENS ET ADULTERA FACTA, DOTE SUA CAREAT, NISI SPONSI SPONTE RETRACTA. Co. Litt. 32b. Let a woman leaving her husband of her own accord, and committing adultery, lose her dower, unless taken back by her husband of his own accord.

SPORTING HOUSE. A house of ill-fame. *Johnson v. People*, 202 Ill. 53, 66 N.E. 877, 881. A house frequented by sportsmen, betting men, gamblers, and the like, but not necessarily a house kept for unlawful sports or practices. *White v. Western, Assur. Co. of Toronto*, 52 Minn. 352, 54 N.W. 195.

SPORTULA. Lat. In Roman law. A largess, dole, or present; a pecuniary donation; an official perquisite; something over and above the ordinary fee allowed by law. Inst. 4, 6, 24.

SPOUSALS. In old English law. Mutual promises to marry.

SPOT A FREIGHT CAR. To place it at a precise spot where it is to be loaded or unloaded, such as a freight house, a team track, or a shipper's warehouse. *Union Pac. R. Co. v. Anderson*, 167 Or. 687, 120 P.2d 578, 585.

SPOUSE. One's wife or husband. *Rosell v. State Industrial Accident Commission*, 164 Or. 173, 95 P.2d 726, 729.

SPOUSE-BREACH. In old English law. Adultery. Cowell.

SPRING. A fountain of water; an issue of water from the earth, or the basin of water at the place of its issue. Webster. A natural chasm in which water has collected, and from which it either is lost by percolation or rises in a defined channel.

Furner v. Seabury, 135 N.Y. 50, 31 N.E. 1004; *Bloodgood v. Ayers*, 108 N.Y. 405, 15 N.E. 433, 2 Am.St.Rep. 443; *Proprietors of Mills v. Braintree Water Supply Co.*, 149 Mass. 478, 21 N.E. 761, 4 L.R.A. 272; *Harrison v. Chaboya*, 198 Cal. 473, 245 P. 1087, 1088.

SPRING-BRANCH. In American land law. A branch of a stream, flowing from a spring. *Wootton v. Redd's Ex'r*, 12 Grat. (Va.) 196.

SPRINGING USE. See Use.

SPUILZIE. In Scotch law. The taking away or meddling with movables in another's possession, without the consent of the owner or authority of law. Bell.

SPUR TRACK. A short track leading from a line of railway and connected with it at one end only, and not an adjunct usual or necessary to the operation of main line trains and cars. *Simons Brick Co. v. City of Los Angeles*, 182 Cal. 230, 187 P. 1066, 1067; *Detroit & M. Ry. Co. v. Boyne City, G. & A. R. Co.*, D.C.Mich., 286 F. 540, 547; *Cleveland, C. C. & St. L. Ry. Co. v. Commerce Commission*, 315 Ill. 461, 146 N.E. 606, 610; *Menasha Woodenware Co. v. Railroad Commission of Wisconsin*, 167 Wis. 19, 166 N.W. 435, 438.

SPURIOUS BANK-BILL. A bill which may be a legitimate impression from the genuine plate, but it must have the signatures of persons not the officers of the bank whence it purports to have issued, or else the names of fictitious persons. It may also be an illegitimate impression from a genuine plate, or an impression from a counterfeit plate, but it must have such signatures or names as indicated. A bill, therefore, may be both counterfeit and forged, or both counterfeit and spurious, but it cannot be both forged and spurious. *Kirby v. State*, 1 Ohio St. 187.

SPURIUS. Lat. In the civil law. A bastard; the offspring of promiscuous cohabitation.

SPY. A person sent into an enemy's camp to inspect their works, ascertain their strength and their intentions, watch their movements, and secretly communicate intelligence to the proper officer. By the laws of war among all civilized nations, a spy is punished with death. Webster. See *Vattel*, 3, 179; *U. S. ex rel. Wessels v. McDonald*, D.C.N.Y., 1920, 265 F. 754; *Ex parte Milligan*, 4 Wall. 2, 44, 18 L.Ed. 281 (argument of counsel).

SQUARE. As used to designate a certain portion of land within the limits of a city or town, this term may be synonymous with "block," that is, the smallest subdivision which is bounded on all sides by principal streets, or it may denote a space (more or less rectangular) not built upon, and set apart for public passage, use, recreation, or ornamentation, in the nature of a "park" but smaller. *State v. Natal*, 42 La. Ann. 612, 7 South. 781; *Rowzee v. Pierce*, 75 Miss. 846, 23 South. 307, 40 L.R.A. 402, 65 Am.St.Rep. 625; *City of St. Louis v. Pope*, 344 Mo. 479, 126 S.W.2d 1201, 1213.

Public Square

In its popular import, the phrase refers almost exclusively to ground occupied by a courthouse owned by a county, *Logansport v. Dunn*, 8 Ind. 378; but it may be used as synonymous with park; *Church of Hoboken v. Council of Hoboken*, 33 N. J.L. 13, 97 Am.Dec. 696; *Woodward v. City of Des Moines*, 182 Iowa 1102, 165 N.W. 313, 314.

Square Block

Territory bounded by four streets. *People ex rel. Beinert v. Miller*, 100 Misc. 318, 165 N.Y.S. 602, 607; *Bernfeld v. Freedenberg*, 125 Misc. 645, 211 N.Y.S. 692.

SQUATTER. In American law. One who settles on another's land, particularly on public lands, without legal authority. *O'Donnell v. McIntyre*, 16 Abb. N. C., N.Y., 84; *Parkersburg Industrial Co. v. Schultz*, 43 W.Va. 470, 27 S.E. 255. A person entering upon lands, not claiming in good faith the right to do so by virtue of any title of his own or by virtue of some agreement with another whom he believes to hold the title. *Mayor and Council of City of Forsyth v. Hooks*, 182 Ga. 78, 184 S.E. 724, 728.

A squatter can never gain prescriptive title to land regardless of how long he holds possession, since his possession is never considered as "adverse possession". *Conway v. Shuck*, 203 Ark. 559, 157 S.W.2d 777, 778.

SQUIRE. A contraction of "esquire."

SS. An abbreviation used in that part of a record, pleading, or affidavit, called the "statement of the venue." Commonly translated or read, "to-wit," and supposed to be a contraction of "*scilicet*."

Also in ecclesiastical documents, particularly records of early councils, "ss" is used as an abbreviation for *subscripti*. Occasionally, in Law French, it stands for *sans*, "without," e. g., "*faire feoffment ss son baron*." *Bendloe*, p. 180.

STAB. A wound inflicted by a thrust with a pointed weapon. *State v. Cody*, 18 Or. 506, 23 P. 891; *Ward v. State*, 56 Ga. 410.

STABILIA. A writ called by that name, founded on a custom in Normandy, that where a man in power claimed lands in the possession of an inferior, he petitioned the prince that it might be put into his hands till the right was decided, whereupon he had this writ. *Wharton*.

STABILIZE. To keep steady, fixed, as distinguished from fluctuating, shifting. *McCanless v. Klein*, 182 Tenn. 563, 188 S.W.2d 745, 748.

STABILIZE PRICES. Holding prices steady against any and all increases. *Philadelphia Coke Co. v. Bowles*, Em.App., 139 F.2d 349, 353.

STABIT PRÆSUMPTIO DONEC PROBETUR IN CONTRARIUM. A presumption will stand good till the contrary is proved. *Hob. 297*; *Broom*, Max. 949.

STABLE. House, shed, or building for beasts to lodge and feed in. *Culp v. Firestone Tire & Rubber Co.*, 303 Pa. 257, 154 A. 479, 480.

STABLE-STAND. In forest law. One of the four evidences or presumptions whereby a man was convicted of an intent to steal the king's deer in the forest. This was when a man was found at his *standing* in the forest with a cross-bow or long-bow bent, ready to shoot at any deer, or else standing close by a tree with grey-hounds in a leash, ready to slip. *Cowell*; *Manwood*.

STABULARIUS. Lat. In the civil law. A stable-keeper. *Dig. 4, 9, 4, 1*.

STACHIA. In old records. A dam or head made to stop a water-course. *Cowell*.

STAFF-HERDING. The following of cattle within a forest.

STAGE LINE. A regular line of vehicles for public use operating between distant points or between different cities. *Bruce Transfer Co. v. Johnston*, 227 Iowa 50, 287 N.W. 278, 280.

STAGE-RIGHT. A word which it has been attempted to introduce as a substitute for "the right of representation and performance," but it can hardly be said to be an accepted term of English or American law. *Sweet*.

STAGIARIUS. A resident. *Cowell*.

STAGNUM. In old English law. A pool, or pond. *Co. Litt. 5a*; *Johnson v. Rayner*, 6 Gray (Mass.) 110.

STAKE. A deposit made to answer an event, as on a wager. *Mohr v. Miesen*, 47 Minn. 228, 49 N. W. 862; *Pompano Horse Club v. State*, 93 Fla. 415, 111 So. 801, 813, 52 A.L.R. 51. Something deposited by two persons with the third on condition that it is to be delivered to the one who shall become entitled to it by the happening of a specified contingency. *Baxter v. Deneen*, 98 Md. 181, 57 A. 601, 607, 64 L.R.A. 949, 1 Ann.Cas. 147.

STAKEHOLDER. A person with whom money is deposited pending the decision of a bet or wager; (*q. v.*). *Sweet*. *Wabash R. Co. v. Flannigan*, 95 Mo.App. 477, 75 S.W. 691; *Martin v. Francis*, 173 Ky. 529, 191 S.W. 259, 262, L.R.A. 1918F, 966, Ann. Cas.1918E, 289. His function is to receive the sums wagered and hold them against the determining event, whether that event be a horse race or otherwise, and then pay them over to the winner. Also a third person chosen by two or more persons to keep in deposit property the right or possession of which is contested between them, and to be delivered to the one who shall establish his right to it. *State v. Dudley*, 127 N.J.L. 127, 21 A.2d 209, 210.

STALE, n. In Saxon law. Larceny. *Wharton*.

STALE DEMAND, or CLAIM. A demand or claim that has long remained unasserted, one that is first asserted after an unexplained delay which is so long as to render it difficult or impossi-

STALLAGE

ble for the court to ascertain the truth of the matters in controversy and do justice between the parties, or as to create a presumption against the existence or validity of the claim, or a presumption that the claim has been abandoned or satisfied. *Luschen v. Stanton*, 192 Okl. 454, 137 P.2d 567, 572. It implies a greater lapse of time than is necessary to "laches." *Bell v. Mackey*, 191 S.C. 105, 3 S.E.2d 816, 824, 830. The doctrine is purely an equitable one, and arises only when, from lapse of time and laches of plaintiff, it would be inequitable to allow a party to enforce his legal rights. *Wood v. City Board of Plumbing Examiners*, 192 Ga. 415, 15 S.E.2d 486, 488; *Lamar v. Rivers*, 235 Ala. 130, 178 So. 16, 18.

STALLAGE. The liberty or right of pitching or erecting stalls in fairs or markets, or the money paid for the same. 1 Steph. Comm. 664.

STALLARIUS. In Saxon law. The *praefectus stabuli*, now master of the horse. Sometimes one who has a stall in a fair or market.

STAMP. An impression made by public authority, in pursuance of law, upon paper or parchment, upon which certain legal proceedings, conveyances, or contracts are required to be written, and for which a tax or duty is exacted.

A small label or strip of paper, bearing a particular device, printed and sold by the government, and required to be attached to mail-matter, and to some other articles subject to duty or excise. *U. S. v. Skilken*, D.C.Ohio, 293 F. 916, 919.

STAMP ACTS. In English law. Acts regulating the stamps upon deeds, contracts, agreements, papers in law proceedings, bills and notes, letters, receipts, and other papers.

STAMP DUTIES. Duties imposed upon and raised from stamps upon parchment and paper, and forming a branch of the perpetual revenue of the kingdom. 1 Bl. Comm. 323.

STANCE. In Scotch law. A resting place; a field or place adjoining a drove-road, for resting and refreshing sheep and cattle on their journey. 7 Bell, App. Cas. 53, 57, 58.

STAND. To cease from movement or progress; to pause, remain stationary or inactive. *Jagers v. Southeastern Greyhound Lines*, D.C.Tenn., 34 F.Supp. 667, 668.

To abide; to submit to; as "to *stand* a trial."

To remain as a thing is; to remain in force. Pleadings demurred to and held good are allowed to *stand*.

To appear in court.

STANDARD. Stability, general recognition, and conformity to established practice. *Standard Accident Ins. Co. v. Standard Surety & Casualty Co.*, D.C.N.Y., 53 F.2d 119, 120.

An ensign or flag used in war.

A type, model, or combination of elements accepted as correct or perfect. *Ashwell v. Miller*, 54 Ind.App. 381, 103 N.E. 37, 40.

STANDARD ESTABLISHED BY LAW. That of a reasonable man under like circumstances. *Gulf, C. & S. F. Ry. Co. v. Bell*, Tex.Civ.App., 101 S.W. 2d 363, 364.

STANDARD MORTGAGE CLAUSE. In fire policy. Clause providing that in case of loss policy shall be payable to mortgagee, and that his interest as payee shall not be invalidated by act of mortgagor. *Rhode Island Ins. Co. v. Wurtman*, 265 Ky. 835, 98 S.W.2d 29, 31.

Basic difference in effect between "loss payable clause" and "standard mortgage clause" is that the former is subject to such defenses as insurer may have against the mortgagor, while the latter is not. *Overholt v. Reliance Ins. Co. of Philadelphia*, 319 Pa. 340, 179 A. 554, 556.

STANDARD OF WEIGHT, or MEASURE. A weight or measure fixed and prescribed by law, to which all other weights and measures are required to correspond.

STANDING. One's place in the community in the estimation of others; his relative position and social, commercial, or moral relations; his repute, grade, or rank. *Gross v. State*, 186 Ind. 581, 117 N.E. 562, 564, 1 A.L.R. 1151.

STANDING ASIDE JURORS. A practice by which, on the drawing of a jury for a criminal trial, the prosecuting officer puts aside a juror, provisionally, until the panel is exhausted, without disclosing his reasons, instead of being required to challenge him and show cause. The statute 33 Edw. I. deprived the crown of the power to challenge jurors without showing cause, and the practice of standing aside jurors was adopted, in England, as a method of evading its provisions. A similar practice is in use in Pennsylvania. See *Warren v. Com.*, 37 Pa. 54; *Zell v. Com.*, 94 Pa. 272; *Haines v. Com.*, 100 Pa. 322. But in Missouri, it is said that the words "stand aside" are the usual formula, used in impaneling a jury, for rejecting a juror. *State v. Hultz*, 106 Mo. 41, 16 S.W. 940.

STANDING BY. Used in law as implying knowledge, under such circumstances as rendered it the duty of the possessor to communicate it; and it is such knowledge, and not the mere fact of "standing by," that lays the foundation of responsibility. The phrase does not import an actual presence, "but implies knowledge under such circumstances as to render it the duty of the possessor to communicate it." *Anderson v. Hubble*, 93 Ind. 573, 47 Am.Rep. 394; *Gatling v. Rodman*, 6 Ind. 292; *Richardson v. Chickering*, 41 N.H. 380, 77 Am.Dec. 769; *Morrison v. Morrison*, 2 Dana, Ky., 16; *Piqua State Bank v. Brannum*, 103 Kan. 25, 173 P. 1, 2.

STANDING MUTE. A prisoner, arraigned for treason or felony, was said to "stand mute," when he refused to plead, or answered foreign to the purpose, or, after a plea of not guilty, would not put himself upon the country.

STANDING IN LOCO PARENTIS. As required to entitle deceased employee's illegitimate child to compensation under Workmen's Compensation

Act for his death, is voluntary, not court directed, assumption of obligations of parental relation. *Smrekar v. Jones & Laughlin Steel Corporation*, 137 Pa.Super. 183, 8 A.2d 461, 464.

STANDING ORDERS. Rules and forms regulating the procedure of the two houses of parliament, each having its own. They are of equal force in every parliament, except so far as they are altered or suspended from time to time. *Cox*, Inst. 136; *May*, Parl. Pr. 185.

STANDING SEISED TO USES. A covenant to stand seised to uses is one by which the owner of an estate covenants to hold the same to the use of another person, usually a relative, and usually in consideration of blood or marriage. It is a species of conveyance depending for its effect on the statute of uses.

STANDING TO SUE DOCTRINE. Doctrine that in action in federal constitutional court by citizen against a government officer, complaining of alleged unlawful conduct there is no justiciable controversy unless citizen shows that such conduct invades or will invade a private substantive legally protected interest of plaintiff citizen. *Associated Industries of New York State v. Ickes*, C.C.A.2, 134 F.2d 694, 702.

STANNARIES. A district which includes all parts of Devon and Cornwall where some tin work is situate and in actual operation. The tin miners of the stannaries have certain peculiar customs and privileges.

STANNARY COURTS. Courts of Devonshire and Cornwall for the administration of justice among the miners and tanners. These courts were held before the lord warden and his deputies by virtue of a privilege granted to the workers of the tinmines there, to sue and be sued in their own courts only, in order that they might not be drawn away from their business by having to attend law-suits in distant courts. *Brown*.

STAPLE.

English Law

A mart or market. A place where the buying and selling of wool, lead, leather, and other articles were put under certain terms. 2 *Reeve*, Eng. Law, 393.

International Law

The right of staple, as exercised by a people upon foreign merchants, is defined to be that they may not allow them to set their merchandises and wares to sale but in a certain place. This practice is not in use in the United States. 1 *Chit. Com. Law*, 103.

General

Law of the staple. Law administered in the court of the mayor of the staple; the law-merchant. 4 *Inst.* 235. See *Staple*.

Staple inn. An inn of chancery. See *Inns of Chancery*.

Statute staple. The statute of the staple, 27 Ed. III. stat. 2, confined the sale of all commodities to

be exported to certain towns in England, called *estaple* or *staple*, where foreigners might resort. It authorized a security for money, commonly called statute staple, to be taken by traders for the benefit of commerce; the mayor of the place is entitled to take recognizance of a debt in proper form, which had the effect to convey the lands of the debtor to the creditor till out of the rents and profits of them he should be satisfied. 2 *Rolle*, Abr. 446; *Bac. Abr. Execution* (B. 1); *Co.* 4th Inst. 238. A security for a debt acknowledged to be due, so called from its being entered into before the mayor of the *staple*, that is to say, the grand mart for the principal commodities or manufactures of the kingdom, formerly held by act of parliament in certain trading towns. In other respects it resembled the *statute-merchant*, (*q. v.*) but like that has now fallen into disuse. 2 *Bl. Comm.* 160; 1 *Steph. Comm.* 287.

STAR-CHAMBER. A court which originally had jurisdiction in cases where the ordinary course of justice was so much obstructed by one party, through writs, combination of maintenance, or overawing influence that no inferior court would find its process obeyed. The court consisted of the privy council, the common-law judges, and (it seems) all peers of parliament. In the reign of Henry VIII. and his successors, the jurisdiction of the court was illegally extended to such a degree (especially in punishing disobedience to the king's arbitrary proclamations) that it became odious to the nation, and was abolished. 4 *Steph. Comm.* 310; *Sweet*.

STAR PAGE. The line and word at which the pages of the first edition of a law book began are frequently marked by a star in later editions, and always should be.

STARBOARD. In maritime law. The righthand side of a vessel when the observer faces forward. "Starboard tack," the course of vessel when she has the wind on her starboard bow. *Burrows v. Gower*, D.C.Mass., 119 F. 617.

STARE DECISIS. Lat. To abide by, or adhere to, decided cases.

Policy of courts to stand by precedent and not to disturb settled point. *Neff v. George*, 364 Ill. 306, 4 N.E.2d 338, 390, 391. Doctrine that, when court has once laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle, and apply it to all future cases, where facts are substantially the same. *Moore v. City of Albany*, 98 N.Y. 396, 410; Regardless of whether the parties and property are the same. *Horne v. Moody*, Tex.Civ.App., 146 S.W.2d 505, 509, 510. Under doctrine a deliberate or solemn decision of court made after argument on question of law fairly arising in the case, and necessary to its determination, is an authority, or binding precedent in the same court, or in other courts of equal or lower rank in subsequent cases where the very point is again in controversy. *State v. Meltenberger*, 163 Or. 233, 95 P.2d 709, 719, 720, 128 A.L.R. 1506. Doctrine is one of policy, grounded on theory that security and certainty require that

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accepted and established legal principle, under which rights may accrue, be recognized and followed, though later found to be not legally sound, but whether previous holding of court shall be adhered to, modified, or overruled is within court's discretion under circumstances of case before it. *Otter Tail Power Co. v. Von Bank*, 72 N.D. 497, 8 N.W.2d 599, 607, 145 A.L.R. 1343. Under doctrine, when point of law has been settled by decision, it forms precedent which is not afterwards to be departed from, and, while it should ordinarily be strictly adhered to, there are occasions when departure is rendered necessary to vindicate plain, obvious principles of law and remedy continued injustice. *McGregor v. Provident Trust Co. of Philadelphia*, 119 Fla. 718, 162 So. 323. The doctrine is a salutary one, and should not ordinarily be departed from where decision is of long standing and rights have been acquired under it, unless considerations of public policy demand it. *Colonial Trust Co. v. Flanagan*, 344 Pa. 556, 25 A.2d 728, 729.

The doctrine is limited to actual determinations in respect to litigated and necessarily decided questions, and is not applicable to dicta or obiter dicta. In *re Herle's Estate*, 165 Misc. 46, 300 N.Y.S. 103.

Federal courts should in all instances follow the law of the state with respect to the construction of state statutes, and where that law has been determined by the courts of last resort, their decisions are "stare decisis" and must be followed, irrespective of federal courts' opinions concerning what the law ought to be, but with respect to the pronouncement of other state courts, federal courts are not so bound and may conclude that the decision does not truly express the state law. *Kehaya v. Axton*, D.C.N.Y., 32 F.Supp. 266, 268.

STARE DECISIS ET NON QUIETA MOVERE. To adhere to precedents, and not to unsettle things which are established. 87 Pa. 286; *Ballard County v. Kentucky County Debt Commission*, 290 Ky. 770, 162 S.W.2d 771, 773. See *Stare Decisis*.

STARE IN JUDICIO. Lat. To appear before a tribunal, either as plaintiff or defendant.

STARR, or STARBA. The old term for contract or obligation among the Jews, being a corruption from the Hebrew word "shetar," a covenant, by an ordinance of Richard I., no starr was allowed to be valid, unless deposited in one of certain repositories established by law, the most considerable of which was in the king's exchequer at Westminster; and Blackstone conjectures that the room in which these chests were kept was thence called the "starr-chamber." 4 Bl. Comm. 266, 267, note a.

STAT PRO RATIONE VOLUNTAS. The will stands in place of a reason. *Sears v. Shafer*, 1 Barb. (N. Y.) 408, 411; *Farmers' Loan & Trust Co. v. Hunt*, 16 Barb. (N.Y.) 514, 525.

STAT PRO RATIONE VOLUNTAS POPULI. The will of the people stands in place of a reason. *People v. Draper*, 25 Barb. (N.Y.) 344, 376.

STATE, v. To express the particulars of a thing in writing or in words; to set down or set forth in detail; to aver, allege, or declare. *People v. Mercado*, 59 Cal.App. 69, 209 P. 1035, 1037.

To set down in gross; to mention in general terms, or by way of reference; to refer. *Utica v. Richardson*, 6 Hill (N.Y.) 300.

STATE, n. A people permanently occupying a fixed territory bound together by common-law habits and custom into one body politic exercising, through the medium of an organized government, independent sovereignty and control over all persons and things within its boundaries, capable of making war and peace and of entering into international relations with other communities of the globe. *United States v. Kusche*, D.C.Cal., 56 F. Supp. 201, 207, 208. The organization of social life which exercises sovereign power in behalf of the people. *Delany v. Moraitis*, C.C.A.Md., 136 F. 2d 129, 130.

One of the component commonwealths or states of the United States of America. The term is sometimes applied also to governmental agencies authorized by state, such as municipal corporations. *George v. City of Portland*, 114 Or. 418, 235 P. 681, 683, 39 A.L.R. 341.

The people of a state, in their collective capacity, considered as the party wronged by a criminal deed; the public; as in the title of a cause, "*The State vs. A. B.*"

The section of territory occupied by one of the United States.

The circumstances or condition of a being or thing at a given time. *State v. Inich*, 55 Mont. 1, 173 P. 230, 234.

Foreign State

A foreign country or nation. The several United States are considered "foreign" to each other except as regards their relations as common members of the Union.

State's Evidence

See Evidence.

State Offices

As used in Primary Election Law, offices to be filled by electorate of entire state. *Hamilton v. Monroe*, Tex.Civ.App., 287 S.W. 304, 305. See "Office."

State Officers

Those whose duties concern the state at large or the general public, or who are authorized to exercise their official functions throughout the entire state, without limitation to any political subdivision of the state. State ex rel. *Consolidated School Dist. No. 2 v. Ingram*, 317 Mo. 1141, 298 S.W. 37, 38; *Ramsay v. Van Meter*, 300 Ill. 193, 133 N.E. 193, 195; *State v. Jones*, 79 Fla. 56, 84 So. 84, 85; *McCullough v. Scott*, 182 N.C. 865, 109 S.E. 789, 793. In another sense, officers belonging to or exercising authority under one of the states of the Union, as distinguished from the officers of the United States. See In re *Police Com'rs*, 22 R.I. 654, 49 A. 36; *State v. Burns*, 38 Fla. 378, 21 So. 290; *People v. Nixon*, 158 N.Y. 221, 52 N.E. 1117.

State Paper

A document prepared by, or relating to, the political department of the government of a state or nation, and concerning or affecting the administration of its government or its political or international relations. Also, a newspaper, designated by public authority, as the organ for the publication of public statutes, resolutions, notices, and advertisements.

State Revenue

Current income of state from whatever source derived that is subject to appropriation for public uses. *State ex rel. McKinley Pub. Co. v. Hackmann*, 314 Mo. 33, 282 S.W. 1007, 1011.

State Tax

A tax the proceeds of which are to be devoted to the expenses of the state, as distinguished from taxation for local or municipal purposes. See *Youngblood v. Sexton*, 32 Mich. 413, 20 Am.Rep. 654; *State v. Auditor of State*, 15 Ohio St. 482; *Society for Establishing Useful Manufactures v. City of Paterson*, 89 N.J.Law, 208, 98 A. 440, 441.

State Trial

A trial for a political offense.

State Trials

A work in thirty-three volumes octavo, containing all English trials for offenses against the state and others partaking in some degree of that character, from the ninth year of Hen. II. to the first of Geo. IV.

STATE EXPERIENCE FACTOR. The term as used in Unemployment Compensation Law, means a factor based on factual experience of all employers and their employees operating within the state coming within influence of the act. *Broadway v. Alabama Dry Dock & Shipbuilding Co.*, 246 Ala. 201, 20 So.2d 41, 49.

STATE OF FACTS. Formerly, when a master in chancery was directed by the court of chancery to make an inquiry or investigation into any matter arising out of a suit, and which could not conveniently be brought before the court itself, each party in the suit carried in before the master a statement showing how the party bringing it in represented the matter in question to be; and this statement was technically termed a "state of facts," and formed the ground upon which the evidence was received, the evidence being, in fact, brought by one party or the other, to prove his own or disprove his opponent's state of facts. And so now, a state of facts means the statement made by any one of his version of the facts. Brown.

STATE OF FACTS AND PROPOSAL. In English lunacy practice, when a person has been found a lunatic, the next step is to submit to the master a scheme called a "state of facts and proposal," showing what is the position in life, property, and income of the lunatic, who are his next of kin

and heir at law, who are proposed as his committees, and what annual sum is proposed to be allowed for his maintenance, etc. From the state of facts and the evidence adduced in support of it, the master frames his report. *Elmer*, Lun. 22; *Pope*, Lun. 79; *Sweet*.

STATE OF THE CASE. A narrative of the facts upon which the plaintiff relies, substituted for a more formal declaration, in suits in the inferior courts. The phrase is used in New Jersey.

STATE PAPER OFFICE. An office established in London in 1578 for the custody of state papers. The head of it was the "Clerk of the Papers."

STATED. Determined, fixed, or settled. In re *McKeon's Estate*, 227 Iowa 1050, 289 N.W. 915, 919

Stated Meeting

A meeting of a board of directors, board of officers, etc., held at the time appointed therefor by law, ordinance, by-law, or other regulation; as distinguished from "special" meetings, which are held on call as the occasion may arise, rather than at a regularly appointed time, and from adjourned meetings. See *Zulich v. Bowman*, 42 Pa. 87; *Hanson v. Chicago, B. & Q. R. Co.*, 32 Wyo. 337, 232 P. 1101, 1104.

Stated Term

A regular or ordinary term or session of a court for the dispatch of its general business, held at the time fixed by law or rule; as distinguished from a *special* term, held out of the due order or for the transaction of particular business.

Stated Times

Occurring at regular intervals or given regularly; fixed, regular in operation or occurrence, not occasional or fluctuating. *Zangerle v. State*, 115 Ohio St. 168, 152 N.E. 658, 659.

STATEMENT. In a general sense, an allegation; a declaration of matters of fact. The term has come to be used of a variety of formal narratives of facts, required by law in various jurisdictions as the foundation of judicial or official proceedings and in a limited sense is a formal, exact, detailed presentation. *Southern Surety Co. v. Schmidt*, 117 Ohio St. 28, 158 N.E. 1, 3. For "False and Misleading Statement," and "Foreign Statement," see those titles.

STATEMENT OF AFFAIRS. In English bankruptcy practice, a bankrupt or debtor who has presented a petition for liquidation or composition must produce at the first meeting of creditors a statement of his affairs giving a list of his creditors, secured and unsecured, with the value of the securities, a list of bills discounted, and a statement of his property. *Sweet*.

STATEMENT OF CLAIM. A written or printed statement by the plaintiff in an action in the English high court, showing the facts on which he relies to support his claim against the defendant, and the relief which he claims. It is delivered to the defendant or his solicitor. The delivery of

STATEMENT

the statement of claim is usually the next step after appearance, and is the commencement of the pleadings. Sweet.

STATEMENT OF CONFESSION. Oftentimes referred to as a "power of attorney" is written authority of debtor and his direction to enter judgment against debtor as stated therein. *Blott v. Blott*, 227 Iowa 1108, 290 N.W. 74, 76.

STATEMENT OF DEFENSE. In the practice of the English high court, where the defendant in an action does not demur to the whole of the plaintiff's claim, he delivers a pleading called a "statement of defense." The statement of defense deals with the allegations contained in the statement of claim, (or the indorsement on the writ, if there is no statement of claim,) admitting or denying them, and, if necessary, stating fresh facts in explanation or avoidance of those alleged by the plaintiff. Sweet.

STATEMENT OF PARTICULARS. In English practice, when the plaintiff claims a debt or liquidated demand, but has not indorsed the writ specially, (*i. e.*, indorsed on it the particulars of his claim under Order iii. r. 6,) and the defendant fails to appear, the plaintiff may file a statement of the particulars of his claim, and after eight days enter judgment for the amount, as if the writ had been specially indorsed. Court Rules, xiii. 5; Sweet.

STATE'S EVIDENCE. A popular term for testimony given by an accomplice or joint participant in the commission of a crime tending to criminate or convict the others, and given under an actual or implied promise of immunity for himself.

STATESMAN. A freeholder and farmer in Cumberland. Wharton.

STATIM. Lat. Forthwith; immediately. In old English law, this term meant either "at once," or "within a legal time," *i. e.*, such time as permitted the legal and regular performance of the act in question.

STATING AN ACCOUNT. Exhibiting, or listing in their order, the items which make up an account.

STATING PART OF A BILL. That part of a bill in chancery in which the plaintiff states the facts of his case; it is distinguished from the *charging* part of the bill and from the *prayer*.

STATION. In the civil law. A place where ships may ride in safety. Dig. 50, 16, 59.

A place where military duty is performed or stores are kept or something connected with war is done. *McGowan v. United States*, 48 Ct.Cl. 95.

A place at which both freight and passengers are received for transportation or delivered after transportation. *Daniel v. Doyle*, 135 Ark. 547, 204 S.W. 210, 211; *Railroad Commission of Texas v. Pecos & N. T. Ry. Co.*, Tex.Civ.App., 212 S.W. 535, 537.

STATIONER'S COMPANY. A body formed in 1557 in London of 97 London stationers and their successors, to whom was entrusted, in the first instance, and, under Orders in Council, the censorship of the press.

STATIONERS' HALL. In English law. The hall of the stationers' company, at which every person claiming copyright in a book must register his title, in order to be able to bring actions against persons infringing it. 2 Steph.Comm. 37-39.

STATIONERY OFFICE. In English law. A government office established as a department of the treasury, for the purpose of supplying government offices with stationery and books, and of printing and publishing government papers.

STATIST. A statesman; a politician; one skilled in government.

STATISTICS. That part of political science which is concerned in collecting and arranging facts illustrative of the condition and resources of a state. The subject is sometimes divided into (1) historical statistics, or facts which illustrate the former condition of a state; (2) statistics of population; (3) of revenue; (4) of trade, commerce, and navigation; (5) of the moral, social, and physical condition of the people. Wharton.

STATU LIBER. Lat. In Roman law. One who is made free by will under a condition; one who has his liberty fixed and appointed at a certain time or on a certain condition. Dig. 40, 7.

STATU LIBERI. Lat. In Louisiana. Slaves for a time, who had acquired the right of being free at a time to come, or on a condition which was not fulfilled, or in a certain event which had not happened, but who in the meantime remained in a state of slavery. Civ.Code La.1838, art. 37.

STATUS. Standing, state or condition. *Reynolds v. Pennsylvania Oil Co.*, 150 Cal. 629, 89 P. 610, 612. The legal relation of individual to rest of the community. *Duryea v. Duryea*, 46 Idaho 512, 269 P. 987, 988. The rights, duties, capacities and incapacities which determine a person to a given class. Campb. Austin 137. A legal personal relationship, not temporary in its nature nor terminable at the mere will of the parties, with which third persons and the state are concerned. *Holzer v. Deutsche Reichsbahn Gesellschaft*, 159 Misc. 830, 290 N.Y.S. 181, 191. While term implies relation it is not a mere relation. *De La Montanya v. De La Montanya*, 112 Cal. 101, 115, 44 P. 345, 348, 32 L.R.A. 82, 53 Am.St.Rep. 165.

It also means *estate*, because it signifies the condition or circumstances in which one stands with regard to his property. In the Year Books, it was used in this sense; 2 Poll. & Maitl. Hist. E. L. 11.

STATUS DE MANERIO. The assembly of the tenants in the court of the lord of a manor, in order to do their customary suit.

STATUS OF IRREMOVABILITY. In English law. The right acquired by a pauper, after one year's residence in any parish, not to be removed therefrom.

STATUS QUO. The existing state of things at any given date. *Status quo ante bellum*, the state of things before the war.

Last actual, peaceable, noncontested condition which preceded pending controversy. *State ex rel. Pay Less Drug Stores v. Sutton*, 2 Wash.2d 523, 98 P.2d 680, 683, 684; *State on Inf. of McKittrick v. American Ins. Co.*, 351 Mo. 392, 173 S.W.2d 51, 52.

STATUTA PRO PUBLICO COMMODO LATE INTERPRETANTUR. Jenk.Cent. 21. Statutes made for the public good ought to be liberally construed.

STATUTA SUO CLUDUNTUR TERRITORIO, NEC ULTRA TERRITORIUM DISPONUNT. Statutes are confined to their own territory, and have no extraterritorial effect. *Woodworth v. Spring*, 4 Allen (Mass.) 324.

STATUTABLE, or STATUTORY. That which is introduced or governed by statute law, as opposed to the common law or equity. Thus, a court is said to have statutory jurisdiction when jurisdiction is given to it in certain matters by act of the legislature.

STATUTE, n. An act of the legislature declaring, commanding, or prohibiting something; a particular law enacted and established by the will of the legislative department of government; the written will of the legislature, solemnly expressed according to the forms necessary to constitute it the law of the state. *Federal Trust Co. v. East Hartford Fire Dist.*, C.C.A.Conn., 283 F. 95, 98; *In re Van Tassel's Will*, 119 Misc. 478, 196 N.Y.S. 491, 494; *Washington v. Dowling*, 92 Fla. 601, 109 So. 588, 591.

This word is used to designate the written law in contradistinction to the unwritten law. *Foster v. Brown*, 199 Ga. 444, 34 S.E.2d 530, 535. See *Common Law*.

Foreign and Civil Law

Any particular municipal law or usage, though resting for its authority on judicial decisions, or the practice of nations. 2 Kent, Comm. 456. The whole municipal law of a particular state, from whatever source arising. *Story, Conf. Laws*, § 12.

"Statute" also sometimes means a kind of bond or obligation of record, being an abbreviation for "statute merchant" or "statute staple." See *infra*. For mandatory and directory statutes see "Mandatory" and "Directory."

General

Affirmative statute. See *Affirmative*.

Criminal statute. An act of the Legislature as an organized body relating to crime or its punishment. *Washington v. Dowling*, 92 Fla. 601, 109 So. 588, 591.

Declaratory statute. See *Declaratory*.

Enabling statute. See that title.

Expository statute. See that title.

General statute. A statute relating to the whole community, or concerning all persons generally, as distinguished from a private or special statute. 1 Bl.Comm. 85, 86; 4 Coke 75a.

Local statute. See *Local Law*.

Negative statute. A statute expressed in negative terms; a statute which prohibits a thing from being done, or declares what shall not be done.

Penal statute. See *Penal*.

Perpetual statute. One which is to remain in force without limitation as to time; one which contains no provision for its repeal, abrogation, or expiration at any future time.

Personal statutes. In foreign and modern civil law. Those statutes which have principally for their object the *person*, and treat of property only incidentally. *Story, Conf. Laws*, § 13. A personal statute, in this sense of the term, is a law, ordinance, regulation, or custom, the disposition of which affects the person and clothes him with a capacity or incapacity, which he does not change with every change of abode, but which, upon principles of justice and policy, he is assumed to carry with him wherever he goes. 2 Kent, Comm. 456. The term is also applied to statutes which, instead of being general, are confined in their operation to one person or group of persons. *Bank of Columbia v. Walker*, 14 Lea (Tenn.) 308; *Saul v. Creditors*, 5 Mart. N.S. (La.) 591, 16 Am. Dec. 212.

Private statute. A statute which operates only upon particular persons, and private concerns. 1 Bl.Comm. 86. An act which relates to certain individuals, or to particular classes of men. *Dwar.St.* 629; *State v. Chambers*, 93 N.C. 600.

Public statute. A statute enacting a universal rule which regards the whole community, as distinguished from one which concerns only particular individuals and affects only their private rights. See *Code Civ.Proc.Cal.* § 1898.

Punitive statute. See that title.

Real statutes. In the civil law. Statutes which have principally for their object property, and which do not speak of persons, except in relation to property. *Story, Conf. Laws*, § 13; *Saul v. His Creditors*, 5 Mart. N.S. (La.) 582, 16 Am.Dec. 212.

Reference statutes. See that title.

Remedial statute. See *Remedial*.

Revised statutes. A body of statutes which have been revised, collected, arranged in order, and re-enacted as a whole; this is the legal title

STATUTE

of the collections of compiled laws of several of the states and also of the United States.

Special statute. One which operates only upon particular persons and private concerns. 1 Bl. Comm. 86. Distinguished from a general or public statute.

Statute fair. In English law. A fair at which laborers of both sexes stood and offered themselves for hire; sometimes called also "Mop."

Statute-merchant. In English law. A security for a debt acknowledged to be due, entered into before the chief magistrate of some trading town, pursuant to the statute 13 Edw. I. *De Mercatoribus*, by which not only the body of the debtor might be imprisoned, and his goods seized in satisfaction of the debt, but also his lands might be delivered to the creditor till out of the rents and profits of them the debt be satisfied. 2 Bl. Comm. 160. Now fallen into disuse. 1 Steph. Comm. 287. See *Yates v. People*, 6 Johns. (N.Y.) 404.

Statute of accumulations. In English law. The statute 39 & 40 Geo. III. c. 98, forbidding the accumulation, beyond a certain period, of property settled by deed or will.

Statute of allegiance de facto. An act of 11 Hen. VII. c. 1, requiring subjects to give their allegiance to the actual king for the time being, and protecting them in so doing.

Statute of distributions. See Distribution.

Statute of Elizabeth. In English law. The statute 13 Eliz. c. 5, against conveyances made in fraud of creditors.

Statute of frauds. See Frauds, Statute of.

Statute of Gloucester. In English law. The statute 6 Edw. I. c. 1, A.D. 1278. It takes its name from the place of its enactment, and was the first statute giving costs in actions. 3 Bl. Comm. 399.

Statute of laborers. See Laborer.

Statute of limitations. See Limitation.

Statute of uses. See Use.

Statute of wills. In English law. The statute 32 Hen. VIII. c. 1, which enacted that all persons being seised in fee-simple (except *femes covert*, infants, idiots, and persons of non-sane memory might, by will and testament in writing, devise to any other person, except to bodies corporate, two-thirds of their lands, tenements, and hereditaments, held in chivalry, and the whole of those held in socage. 2 Bl. Comm. 375.

Statute roll. A roll upon which an English statute, after receiving the royal assent, was formerly entered.

Statute staple. See Staple.

Statutes at large. Statutes printed in full and in the order of their enactment, in a collected

form, as distinguished from any digest, revision, abridgement, or compilation of them. Thus the volumes of "United States Statutes at Large," contain all the acts of congress in their order. The name is also given to an authentic collection of the various statutes which have been passed by the British parliament from very early times to the present day.

Statutes of amendments and jeofailes. Statutes whereby a pleader who perceives any slip in the form of his proceedings, and acknowledges the error (jeofaile), is permitted to amend. *State ex rel. Smith v. Trimble*, 315 Mo. 166, 285 S.W. 729, 731.

Temporary statute. One which is limited in its duration at the time of its enactment. It continues in force until the time of its limitation has expired, unless sooner repealed. A statute which by reason of its nature has only a single and temporary operation—*e. g.* an appropriation bill—is also called a temporary statute.

Validating statute. See that title.

STATUTE, v. In old Scotch law. To ordain, establish, or decree.

STATUTES IN DEROGATION OF COMMON LAW MUST BE STRICTLY CONSTRUED. *Coolley*, Const. Lim. 75, note; *Arthurs*, Appeal of, 1 Grant Cas. (Pa.) 57.

STATUTI. Lat. In Roman law. Licensed or registered advocates; members of the college of advocates. The number of these was limited, and they enjoyed special privileges from the time of Constantine to that of Justinian.

STATUTORY. Relating to a statute; created or defined by a statute; required by a statute; conforming to a statute.

STATUTORY BOND. One that either literally or substantially meets requirements of statute. *Southern Surety Co. v. United States Cast Iron Pipe & Foundry Co.*, C.C.A.Mo., 13 F.2d 833, 835.

STATUTORY CRIME. See Crime.

STATUTORY DEDICATION. See Dedication.

STATUTORY EXPOSITION. When the language of a statute is ambiguous, and any subsequent enactment involves a particular interpretation of the former act, it is said to contain a *statutory exposition* of the former act. Wharton.

STATUTORY FORECLOSURE. See Foreclosure.

STATUTORY OBLIGATION. An obligation—whether to pay money, perform certain acts, or discharge certain duties—which is created by or arises out of a statute, as distinguished from one founded upon acts between parties or jural relationships.

STATUTORY RELEASE. A conveyance which superseded the old compound assurance by lease and release. It was created by St. 4 & 5, Vict. c. 21, which abolished the lease for a year.

STATUTORY STAPLE. An ancient writ that lay to take the body of a person and seize the lands and goods of one who had forfeited a bond called statute staple. Reg. Orig. 151. See "Staple."

STATUTUM. Lat. Established; determined.

In the Civil law. A term applied to judicial action. Dig. 50, 16, 46, pr.

In old English law. A statute; an act of parliament.

STATUTUM AFFIRMATIVUM NON DEROGAT COMMUNI LEGI. Jenk. Cent. 24. An affirmative statute does not derogate from the common law.

STATUTUM DE MERCATORIBUS. The statute of Acton Burnell, (*q. v.*)

STATUTUM EX GRATIA REGIS DICITUR, QUANDO REX DIGNATUR CEDERE DE JURE SUO REGIO, PRO COMMODO ET QUIETE POPULI SUL. 2 Inst. 378. A statute is said to be by the grace of the king, when the king deigns to yield some portion of his royal rights for the good and quiet of his people.

STATUTUM GENERALITER EST INTELLIGENDUM QUANDO VERBA STATUTI SUNT SPECIALIA, RATIO AUTEM GENERALIS. When the words of a statute are special, but the reason of it general, the statute is to be understood generally. 10 Coke, 101.

STATUTUM HIBERNIÆ DE COHÆREDIBUS. The statute 14 Hen. III. The third public act in the statute-book. It has been pronounced not to be a statute. In the form of it, it appears to be an instruction given by the king to his justices in Ireland, directing them how to proceed in a certain point where they entertained a doubt. It seems the justices itinerant in that country had a doubt, when land descended to sisters, whether the younger sisters ought to hold of the eldest, and do homage to her for their several portions, or of the chief lord, and do homage to him; and certain knights had been sent over to know what the practice was in England in such a case. 1 Reeve, Eng. Law, 259.

STATUTUM SESSIONUM. In old English law. The statute session; a meeting in every hundred of constables and householders, by custom, for the ordering of servants, and debating of differences between masters and servants, rating of wages, etc. 5 Eliz. c. 4.

STATUTUM SPECIALE STATUTO SPECIALI NON DEROGAT. Jenk. Cent. 199. One special statute does not take from another special statute.

STATUTUM WALLIÆ. The statute of Wales. The title of a statute passed in the twelfth year of Edw. I., being a sort of constitution for the principality of Wales, which was thereby, in a great measure, put on the footing of England with respect to its laws and the administration of justice. 2 Reeve, Eng. Law, 93, 94.

STAURUM. In old records. A store, or stock of cattle. A term of common occurrence in the accounts of monastic establishments. Spelman; Cowell.

STAY, v. To stop, arrest, or forbear. State Founders v. Oliver, 165 Md. 360, 169 A. 59, 61.

To "stay" an order or decree means to hold it in abeyance, or refrain from enforcing it. State v. Draney, 57 Utah 14, 176 P. 767, 769.

STAY, n. A stopping; the act of arresting a judicial proceeding by the order of a court. In re Schwarz, D.C.N.Y., 14 F. 788.

Also that which holds, restrains, or supports. Armenti v. Brooklyn Union Gas Co., 142 N.Y.S. 420, 425, 157 App.Div. 276; Rookstool v. Cudahy Packing Co., 100 Neb. 118, 158 N.W. 440, 444.

Stay laws. Acts of the legislature prescribing a stay of execution in certain cases, or a stay of foreclosure of mortgages, or closing the courts for a limited period, or providing that suits shall not be instituted until a certain time after the cause of action arose, or otherwise suspending legal remedies; designed for the relief of debtors, in times of general distress or financial trouble.

Stay of execution. The stopping or arresting of execution on a judgment, that is, of the judgment-creditor's right to issue execution, for a limited period. This is given by statute in many jurisdictions, as a privilege to the debtor, usually on his furnishing bail for the debt, costs, and interest. Or it may take place by agreement of the parties. See National Docks, etc., Co. v. Pennsylvania R. Co., 54 N.J.Eq. 167, 33 A. 936; State ex rel. Gray v. Hennings, 194 Mo.App. 545, 185 S.W. 1153, 1154.

Stay of proceedings. The temporary suspension of the regular order of proceedings in a cause, by direction or order of the court, usually to await the action of one of the parties in regard to some omitted step or some act which the court has required him to perform as incidental to the suit; as where a nonresident plaintiff has been ruled to give security for costs. See Wallace v. Wallace, 13 Wis. 226; Lewton v. Hower, 18 Fla. 876; Rossiter v. Aetna L. Ins. Co., 96 Wis. 466, 71 N.W. 898.

"Stay of proceedings" and "abatement", though similar are not identical; abatement being a matter of right, while application for stay of proceedings is addressed to discretion of the court. Evans v. Evans, Tex.Civ.App., 186 S.W.2d 277, 279.

STEADY COURSE. A ship is on a "steady course," not only when her heading does not change, but whenever her future positions are certainly ascertainable from her present position and movements. Commonwealth & Dominion Line v. U. S., C.C.A.N.Y., 20 F.2d 729, 731.

STEAL. This term is commonly used in indictments for larceny, ("take, steal, and carry away,") and denotes the commission of theft, that is, the felonious taking and carrying away of the personal property of another, and without right and without leave or consent of owner, People v. Surace, 295 Ill. 604, 129 N.E. 504, 506; State v.

STEALING

Banoch, 193 Iowa 851, 186 N.W. 436; Alvarado v. State, 38 Okl.Cr. 360, 261 P. 983, 985; and with intent to keep or make use wrongfully. State v. Hillis, 145 Kan. 456, 65 P.2d 251, 252; or it may denote the criminal taking of personal property either by larceny, embezzlement, or false pretenses. Commonwealth v. Farmer, 218 Mass. 507, 106 N.E. 150, 151. But, in popular usage "stealing" may include the unlawful appropriation of things which are not technically the subject of larceny, *e. g.*, immovables. Barnhart v. State, 154 Ind. 177, 56 N.E. 212; Buxton v. International Indemnity Co., 47 Cal.App. 583, 191 P. 84, 86; State v. Blake, 95 W.Va. 467, 121 S.E. 488, 489.

STEALING CHILDREN. See Kidnapping.

STEALTH. Theft is so called by some ancient writers. "Stealth is the wrongful taking of goods without pretense of title." Finch, Law, b. 3, c. 17.

STEAM FITTER. A workman who installs steam pipes, their fittings, etc. Warburton-Beacham Supply Co. v. City of Jackson, 151 Miss. 503, 118 So. 606, 608.

STEAMSHIP. A vessel, the principal motive power of which is steam and not sails. L.R. 7 Q.B. 569. See Western Ins. Co. v. Cropper, 32 Pa. 352, 75 Am.Dec. 561.

STEELBOW GOODS. In Scotch law. Corn, cattle, straw, and implements of husbandry delivered by a landlord to his tenant, by which the tenant is enabled to stock and labor the farm; in consideration of which he becomes bound to return articles equal in quantity and quality, at the expiry of the lease. Bell.

STEERER. One who gains the confidence of the person intended to be fleeced and who may be said to steer or lead the victim to the place where the latter is to be robbed or swindled. Barron v. Board of Dental Examiners of California, 109 Cal. App. 382, 293 P. 144, 145.

STELLIONATAIRE. Fr. In French law. A party who fraudulently mortgages property to which he has no title.

STELLIONATE. In civil law. A name given generally to all species of frauds committed in making contracts but particularly to the crime of aliening the same subject to different persons. 2 Kames, Eq. 40.

STELLIONATUS. Lat. In the civil law. A general name for any kind of fraud not falling under any specific class. But the term is chiefly applied to fraud practiced in the sale or pledging of property; as, selling the same property to two different persons, selling another's property as one's own, placing a second mortgage on property without disclosing the existence of the first, etc.

STENOGRAPHER. One who is skilled in the art of short-hand writing; one whose business is to write in short-hand. See Rynerson v. Allison, 30

S.C. 534, 9 S.E. 656; In re Appropriations for Deputy State Officers, 25 Neb. 662, 41 N.W. 643; Chase v. Vandergrift, 88 Pa. 217.

STENOGRAPHY. Art of writing in shorthand. Harris v. Brockhurst, 119 N.J.L. 187, 194 A. 876, 877.

STEP. When used as prefix in conjunction with a degree of kinship, is repugnant to blood relationship, and is indicative of a relationship by affinity. Grossbacher v. State, 49 Ohio App. 451, 197 N.E. 382, 383.

STEP-CHILD. The child of one of the spouses by a former marriage. Dangerfield v. Indemnity Ins. Co., La.App., 19 So.2d 598, 600.

STEP-DOWN TRANSFORMER. An induction coil or a transformer so constructed that there is a higher voltage in the primary current than in the secondary current. General Electric Co. v. Butler Light, Heat & Motor Co., D.C.Pa., 205 F. 42, 44.

STEP-FATHER. The husband of one's mother by virtue of a marriage subsequent to that of which the person spoken of is the offspring. Larsen v. Harris Structural Steel Co., 230 App.Div. 280, 243 N.Y.S. 654, 655. The husband of one's mother by virtue of a marriage subsequent to that of which person spoken of is the offspring. Sharp v. Borough of Vineland, 14 N.J.Misc. 256, 183 A. 911, 912.

STEP-MOTHER. The wife of one's father by virtue of a marriage subsequent to that of which the person spoken of is the offspring. Sharp v. Borough of Vineland, 14 N.J.Misc. 256, 183 A. 911, 912.

STEP-SON. The son of one's wife by a former husband, or of one's husband by a former wife.

STEP-UP TRANSFORMER. An induction coil or a transformer so constructed that there is a higher voltage in the secondary current than in the primary current. General Electric Co. v. Butler Light, Heat & Motor Co., D.C.Pa., 205 F. 42, 44.

STERBRECHE, or STREBRICH. The breaking, obstructing, or straitening of a way. Termes de la Ley.

STÈRE. A French measure of solidity, used in measuring wood. It is a cubic meter.

STERILITY. Barrenness; unfruitfulness; incapacity to germinate or reproduce.

STERLING. In English law. Current or standard coin, especially silver coin; a standard of coinage.

STET BILLA. If the plaintiff in a plaint in the mayor's court of London has attached property belonging to the defendant and obtained execution against the garnishee, the defendant, if he wishes to contest the plaintiff's claim, and obtain restoration of his property, must issue a *scire facias ad disprobandum debitum*; if the only question

to be tried is the plaintiff's debt, the plaintiff in appearing to the *scire facias* prays *stet billa* "that his bill original," *i. e.*, his original plaint, "may stand, and that the defendant may plead thereto." The action then proceeds in the usual way as if the proceedings in attachment (which are founded on a fictitious default of the defendant in appearing to the plaint) had not taken place. Brand, F. Attachm. 115; Sweet.

STET PROCESSUS. An entry on the roll in the nature of a judgment of a direction that all further proceedings shall be stayed, (*i. e.*, that the process may stand,) and it is one of the ways by which a suit may be terminated by an act of the party, as distinguished from a termination of it by judgment, which is the act of the court. It was used by the plaintiff when he wished to suspend the action without suffering a nonsuit. Brown.

STEVEDORE. A person employed in loading and unloading vessels. The Senator, D.C. Ohio, 21 F. 191; Rankin v. Merchants' & M. Transp. Co., 73 Ga. 232, 54 Am.Rep. 874; Zampiere v. William Spencer & Son Corporation, 194 App.Div. 576, 185 N.Y.S. 639, 640.

STEWARD. A man appointed in the place or stead of another, also a principal officer within his jurisdiction. Brown.

Land Steward

See that title.

Steward of a Manor

An important officer who has the general management of all forensic matters connected with the manor of which he is steward. He stands in much the same relation to the lord of the manor as an under-sheriff does to the sheriff. Cowell.

Steward of all England

In old English law. An officer who was invested with various powers; among others, to preside on the trial of peers.

Steward of Scotland

An officer of the highest dignity and trust. He administered the crown revenues, superintended the affairs of the household, and possessed the privilege of holding the first place in the army, next to the king, in the day of battle. From this office the royal house of Stuart took its name. But the office was sunk on their advancement to the throne, and has never since been revived. Bell.

STEWARTRY. In Scotch law, equivalent to the English "county." See Brown.

STEWES. Certain brothels anciently permitted in England, suppressed by Henry VIII. Also, breeding places for tame pheasants.

STICK. In the old books. To stop; to hesitate; to accede with reluctance. "The court *stuck* a little at this exception." 2 Show. 491.

STICK UP. Rob at the point of a gun. White v. State, 219 Ind. 290, 37 N.E.2d 937, 940.

STICKER. A gummed slip or strip. Crosby v. Libby, 114 Me. 35, 95 A. 329, 330.

STICKLER. (1) An inferior officer who cuts wood within the royal parks of Clarendon. Cowell. (2) An arbitrator. (3) An obstinate contender about anything.

STIFLING A PROSECUTION. Agreeing, in consideration of receiving a pecuniary or other advantage, to abstain from prosecuting a person for an offense not giving rise to a civil remedy; *e. g.*, perjury. Sweet.

STILL. Any device used for separating alcoholic spirits from fermented substances. Moore v. State, 154 Ark. 13, 240 S.W. 1083, 1084; Davis v. State, 102 Tex.Cr.R. 546, 278 S.W. 848, 849. The word is sometimes applied to the whole apparatus for evaporation and condensation used in the manufacture of ardent spirits, but in the description of the parts of the apparatus it is applied merely to the vessel or retort used for boiling and evaporation of the liquid. Hodgkiss v. State, 156 Ark. 340, 246 S.W. 506, 507.

STILL COKE. Coke formed by the distillation of petroleum. Rodman Chemical Co. v. Steel Treating Equipment Co., C.C.A.Mich., 288 F. 471, 473.

STILL WORM. The tube or coil used for condensation of the vapor which is passed through it from boiling mash for the purpose of being distilled into whisky. Rosslot v. State, 162 Ark. 340, 258 S.W. 348.

STILLBORN CHILD. A child born dead or in such an early stage of pregnancy as to be incapable of living, though not actually dead at the time of birth. Children born within the first six months after conception are considered by the civil law as incapable of living, and therefore, though they are apparently born alive, if they do not in fact survive so long as to rebut this presumption of law, they cannot inherit, so as to transmit the property to others. Marsellis v. Thalhimier, 2 Paige (N.Y.) 41, 21 Am.Dec. 66.

STILLICIDIUM. Lat. In the civil law. The drip of water from the eaves of a house. The servitude *stillicidii* consists in the right to have the water drip from one's eaves upon the house or ground of another. The term "*flumen*" designated the rain-water collected from the roof, and carried off by the gutters, and there is a similar easement of having it discharged upon the adjoining estate. Mackeld. Rom. Law, § 317, par. 4.

STINT. In English law. Limit; a limited number. Used as descriptive of a species of common. See Common sans Nombre.

STIPEND. A salary; settled pay. Mangam v. Brooklyn, 98 N.Y. 597, 50 Am.Rep. 705.

In English and Scotch law. A provision made for the support of the clergy.

STIPENDIARY

STIPENDIARY ESTATES. Estates granted in return for services, generally of a military kind. 1 Steph.Comm. 174.

STIPENDIARY MAGISTRATES. In English law. Paid magistrates; appointed in London and some other cities and boroughs, and having in general the powers and jurisdiction of justices of the peace.

STIPENDIUM. Lat. In the civil law. The pay of a soldier; wages; stipend. Calvin.

STIPES. Lat. In old English law. Stock; a stock; a source of descent or title. *Communis stipes*, the common stock. Fleta, lib. 6, c. 2.

STIPITAL. Relating to *stirpes*, roots, or stocks. "Stipital distribution" of property is distribution *per stirpes*; that is, by right of representation.

STIPULATED DAMAGE. Liquidated damage, (q. v.).

STIPULATE. Arrange or settle definitely, as an agreement or covenant. *Mennen Co. v. Krauss Co.*, D.C.La., 37 F.Supp. 161, 163.

STIPULATIO. Lat. In the Roman law, *stipulatio* was the verbal contract, (*verbis obligatio*), and was the most solemn and formal of all the contracts in that system of jurisprudence. It was entered into by question and corresponding answer thereto, by the parties, both being present at the same time, and usually by such words as "*spondes? spondeo*," "*promittis? promitto*," and the like. Brown.

STIPULATIO AQUILIANA. A particular application of the *stipulatio*, which was used to collect together into one verbal contract all the liabilities of every kind and quality of the debtor, with a view to their being released or discharged by an *acceptilatio*, that mode of discharge being applicable only to the verbal contract. Brown.

STIPULATION. A material article in an agreement.

Practice

The name given to any agreement made by the attorneys engaged on opposite sides of a cause, (especially if in writing,) regulating any matter incidental to the proceedings or trial, which falls within their jurisdiction. Such, for instance, are agreements to extend the time for pleading, to take depositions, to waive objections, to admit certain facts, to continue the cause. See *Lewis v. Orpheus*, 15 F.Cas. 492; *Southern Colonization Co. v. Howard Cole & Co.*, 185 Wis. 469, 201 N.W. 817, 819.

Practice

An agreement between counsel respecting business before the court. It is not binding unless assented to by the parties or their representatives, and most stipulations are required to be in writing. *Holland Banking Co. v. Continental Nat. Bank of Jackson County, Kansas City, Mo.*, D.C. Mo., 9 F.Supp. 988, 989.

"Stipulations" are of two types: First, those relating to merely procedural matters; and, second, those which have all essential characteristics of mutual contract. *Paine v. Chicago & N. W. Ry. Co.*, 217 Wis. 601, 258 N.W. 846.

Admiralty Practice

A recognition of certain persons (called in the old law "*fide jussors*") in the nature of bail for the appearance of a defendant. 3 Bl.Comm. 108.

STIPULATOR. In the civil law. The party who asked the question in the contract of stipulation; the other party, or he who answered, being called the "promissor." But, in a more general sense, the term was applied to both the parties. Calvin.

STIRPES. Lat. Descents. The root-stem, or stock of a tree. Figuratively, it signifies in law that person from whom a family is descended, and also the kindred or family. Taking property by right of representation is called "succession *per stirpes*," in opposition to taking in one's own right, or as a principal, which is termed "taking *per capita*." *Rotmanskey v. Heiss*, 86 Md. 633, 39 A. 415. See, also, *Per Stirpes and Representation*.

STOCK.

Mercantile Law

The goods and wares of a merchant or tradesman, kept for sale and traffic. *Schnitzer v. Excelsior Powder Mfg. Co.*, Mo.App., 160 S.W. 282, 285.

In a larger sense. The capital of a merchant or other person, including his merchandise, money, and credits, or, in other words, the entire property employed in business.

Corporation Law

The term is used in various senses. It may mean the capital or principal fund of a corporation or joint-stock company, formed by the contributions of subscribers or the sale of shares; the aggregate of a certain number of shares severally owned by the members or stockholders of the corporation or the proportional share of an individual stockholder; also the incorporeal property which is represented by the holding of a certificate of stock; and in a wider and more remote sense, the right of a shareholder to participate in the general management of the company and to share proportionally in its net profits or earnings or in the distribution of assets on dissolution, the term "stock" has also been held to embrace not only capital stock of a corporation but all corporate wealth and resources, subject to all corporate liabilities and obligations. *Whitman v. Consolidated Gas, Electric Light & Power Co. of Baltimore*, 148 Md. 90, 129 A. 22, 27. See also *Thayer v. Wathen*, 17 Tex.Civ.App. 382, 44 S.W. 906; *Harrison v. Vines*, 46 Tex. 15; *Seawright v. Dickson*, 16 Ga.App. 436, 85 S.E. 625, 628; *Hood Rubber Co. v. Commonwealth*, 238 Mass. 369, 131 N.E. 201, 202.

"Stock" is distinguished from "bonds" and, ordinarily, from "debentures," in that it gives right of ownership in part of assets of corporation and right to interest in any surplus after payment of debt. *Carson, Pirie, Scott & Co. v. Duffy-Powers, Inc.*, D.C.N.Y., 9 F.Supp. 199, 201.

The capital stock of a corporation differs widely in legal import from the aggregate shares into which it is divided by its charter (*Farrington v. Tennessee*, 95 U.S. 686, 24 L.Ed. 558; *People v. Coleman*, 126 N.Y. 437, 27 N.E. 818, 12 L.R.A. 762); the former includes only the fund of money or other property derived by it from the sale or exchange of its shares of stock, while the latter represents the totality of the corporate assets and property; *Hamor v. Engineering Co.*, C.C.Del., 84 F. 396. See "Capital Stock."

The funded indebtedness of a state or government, also, is often represented by stocks, shares of which are held by its creditors at interest.

Classes of Corporate Stock

Preferred stock is a separate portion or class of the stock of a corporation, which is accorded, by the charter or by-laws, a preference or priority in respect to dividends, over the remainder of the stock of the corporation, which in that case is called *common stock*. That is, holders of the preferred stock are entitled to receive dividends at a fixed annual rate, out of the net earnings or profits of the corporation, before any distribution of earnings is made to the common stock. If the earnings applicable to the payment of dividends are not more than sufficient for such fixed annual dividend, they will be entirely absorbed by the preferred stock. If they are more than sufficient for the purpose, the remainder may be given entirely to the common stock (which is the more usual custom) or such remainder may be distributed pro rata to both classes of the stock, in which case the preferred stock is said to "participate" with the common. The fixed dividend on preferred stock may be "cumulative" or "non-cumulative." In the former case, if the stipulated dividend on preferred stock is not earned or paid in any one year, it becomes a charge upon the surplus earnings of the next and succeeding years, and all such accumulated and unpaid dividends on the preferred stock must be paid off before the common stock is entitled to receive dividends. In the case of "non-cumulative" preferred stock, its preference for any given year is extinguished by the failure to earn or pay its dividend in that year. If a corporation has no class of preferred stock, all its stock is common stock. The word "common" in this connection signifies that all the holders of such stock are entitled to an equal pro rata division of profits or net earnings, if any there be, without any preference or priority among themselves. *Deferred stock* is rarely issued by American corporations, though it is not uncommon in England. This kind of stock is distinguished by the fact that the payment of dividends upon it is expressly postponed until some other class of stock has received a dividend, or until some certain liability or obligation of the corporation is discharged. If there is a class of "preferred" stock, the common stock may in this sense be said to be "deferred," and the term is sometimes used as equivalent to "common" stock. But it is not impossible that a corporation should have three classes of stock: (1) Preferred, (2) common, and (3) deferred; the latter class being postponed, in respect to participation in profits, until both the preferred and the common stock had received dividends at a fixed rate. See Cook,

Corp. § 12; *Scott v. Railroad Co.*, 93 Md. 475, 49 A. 327; *Jones v. Railroad Co.*, 67 N.H. 234, 30 A. 614, 68 Am.St.Rep. 650; *General Inv. Co. v. Bethlehem Steel Corp.*, 87 N.J.Eq. 234, 100 A. 347, 349; *Day v. U. S. Cast Iron Pipe & Foundry Co.*, 96 N.J.Eq. 736, 126 A. 302, 304.

Law of Descent

The term is used, metaphorically, to denote the original progenitor of a family, or the ancestor from whom the persons in question are all descended; such descendants being called "branches." *Matter of Samson's Estate*, 139 Misc. 490, 249 N.Y.S. 79, 83.

General

Capital stock. See that title.

Certificate of stock. See Certificate.

Exchange of stock. See Exchange.

Guarantied stock. Stock of a corporation which is entitled to receive dividends at a fixed annual rate, the payment of which dividends is guaranteed by some outside person or corporation. *Field v. Lamson, etc.*, Mfg. Co., 162 Mass. 388, 38 N.E. 1126, 27 L.R.A. 136.

Public stocks. The funded or bonded debt of a government or state.

Special stock of a corporation, in Massachusetts, is authorized by statute. It is limited in amount to two-fifths of the actual capital. It is subject to redemption by the corporation at par after a fixed time. The corporation is bound to pay a fixed annual dividend on it as a debt. The holders of it are in no event liable for the debts of the corporation beyond their stock; and an issue of special stock makes all the general stockholders liable for all debts and contracts of the corporation until the special stock is fully redeemed. *American Tube Works v. Boston Mach. Co.*, 139 Mass. 5, 29 N.E. 63.

Stock association. A joint-stock company, (*q. v.*).

Stock broker. One who buys and sells stock as the agent of others. *Banta v. Chicago*, 172 Ill. 204, 50 N.E. 233, 40 L.R.A. 611; *Little Rock v. Barton*, 33 Ark. 436; *Gast v. Buckley, Ky.*, 64 S.W. 632.

Stock corporation. A corporation having a capital stock divided into shares, and which is authorized by law to distribute to the holders thereof dividends or shares of the surplus profits of the corporation. *Buker v. Steele, Co.Ct.*, 43 N. Y.S. 350.

Stock dividend. See Dividend.

Stock exchange. A voluntary association of persons (not usually a corporation) who, for convenience in the transaction of business with each other, have associated themselves to provide a common place for the transaction of their business; an association of stock-brokers. *Dos Pas-*

STOCK

sos, Stock-Brok. 14. The building or room used by an association of stock-brokers for meeting for the transaction of their common business.

Stock in trade. Merchandise or goods kept for sale or traffic, *Woodworth & Co. v. City of Concord*, 78 N.H. 54, 96 A. 296, 297; *Shasta Lumber Co. v. McCoy*, 85 Cal.App. 468, 259 P. 965, 967, also that form of property owned by a craftsman upon which he exercises his art, skill, or workmanship, and upon which he uses the tools of his trade or business. *Armstrong Turner Millinery Co. v. Round*, 106 Kan. 146, 186 P. 979, 9 A.L.R. 1255.

Stock jobber. A dealer in stock; one who buys and sells stock on his own account on speculation. *State v. Debenture Co.*, 51 La. Ann. 1874, 26 So. 600.

Stock law district. A district in which stock is by law prohibited from running at large. *Griffin v. Fowler*, 17 Ala.App. 44, 81 So. 426, 428.

Stock life insurance company. One in which capital stock investment is made by subscribers to stock, and business is thereafter conducted by board of directors elected by its stockholders, and, subject to statutes, distribution of earnings or profits, as between stockholders and policy holders, is determined by board of directors. *Atlantic Life Ins. Co. v. Moncure*, D.C.Va., 35 F.2d 360, 362.

Stock note. The term has no technical meaning, and may as well apply to a note given on the sale of stock which the bank had purchased or taken in the payment of doubtful debts as to a note given on account of an original subscription to stock. *Dunlap v. Smith*, 12 Ill. 402.

Stock of merchandise. Goods or chattels which a merchant holds for sale. *Swift & Co. v. Tempelos*, 178 N.C. 487, 101 S.E. 8, 7 A.L.R. 1581; *Meier Electric & Machine Co. v. Dixon*, 81 Ind. App. 400, 143 N.E. 363, 364; *Balter v. Crum*, 199 Mo.App. 380, 203 S.W. 506, 507.

Stock raising. The raising of domestic animals. *Krobitzsch v. Industrial Accident Commission of California*, 181 Cal. 541, 185 P. 396, 398.

Watered stock. See that title.

STOCKHOLDER. A person who owns shares of stock in a corporation or joint-stock company. *Ross v. Knapp, etc., Co.*, 77 Ill.App. 424; *Corwith v. Culver*, 69 Ill. 502; *Hirshfeld v. Bopp*, 145 N.Y. 84, 39 N.E. 817; *Ludden & Bates v. Watt*, 18 Ala. App. 652, 94 So. 239, 240; *Fuller v. Lockhart*, 209 N.C. 61, 182 S.E. 733.

Owner of shares in a corporation which has a capital stock. If a corporation has no capital stock, the corporators and their successors are called "members." Civ.Code Dak. § 392 (Comp. Laws N.D. 1913, § 4515; Rev.Code 1919, § 247).

STOCKHOLDER'S DERIVATIVE SUIT. An equity proceeding by a stockholder for purpose of sustaining in his own name a right of action existing in corporation itself, where corporation

would be an appropriate plaintiff. *Felsenheld v. Bloch Bros. Tobacco Co.*, 119 W.Va. 167, 192 S.E. 545, 546, 123 A.L.R. 334. It is based upon two distinct wrongs: The act whereby corporation was caused to suffer damage, and act of corporation itself in refusing to redress such act. *Druckerman v. Harbord*, 174 Misc. 1077, 22 N.Y.S.2d 595, 597.

STOCKHOLDER'S LIABILITY. Phrase is frequently employed to denote stockholder's statutory, added or double liability for corporation's debts, notwithstanding full payment for stock, but is often employed where stockholder, agreeing to pay full par value of stock, obtained stock certificate before complete payment or where stock, only partly paid for, is intentionally issued by corporation as fully paid up and all or part of purported consideration therefor is entirely fictitious. *Gray Const. Co. v. Fantle*, 62 S.D. 345, 253 N.W. 464.

STOCKHOLDERS' REPRESENTATIVE ACTION. An action brought or maintained by a stockholder in behalf of himself and all others similarly situated. *New York Cent. R. Co. v. New York & Harlem R. Co.*, 193 Misc. 795, 85 N.Y.S.2d 112, 115.

STOCKHOLDER'S SUIT. One by the corporation conducted by stockholder as its representative, and the stockholder is only a nominal plaintiff and the corporation is the real party in interest. *Rettinger v. Pierpont*, 145 Neb. 161, 15 N.W.2d 393, 397. See, also, *Derivative Stockholders' Suit*.

STOCKS. A machine consisting of two pieces of timber, arranged to be fastened together, and holding fast the legs of a person placed in it. This was an ancient method of punishment.

STOP. Within a statute requiring a motorist striking a person with automobile to stop requires a definite cessation of movement for a sufficient length of time for a person of ordinary powers of observation to fully understand the surroundings of the accident. *Moore v. State*, 140 Tex.Cr. R. 482, 145 S.W.2d 887, 888.

STOP ORDER. The name of an order grantable in English chancery practice, to prevent drawing out a fund in court to the prejudice of an assignee or lienholder.

A direction by customer to his broker that, if commodity touches price named, broker shall close trade at best available price. *Alexas v. Post & Flagg*, 129 S.C. 53, 123 S.E. 769, 35 A.L.R. 969; *Richter v. Poe*, 109 Md. 20, 71 A. 420, 22 L.R.A., N.S., 174.

STOP SIGN. A legally erected and maintained traffic signal requiring all traffic to stop before entering into or crossing an intersection. *Sweet v. Awtrey*, 70 Ga.App. 334, 28 S.E.2d 154, 161.

STOPPAGE. In the civil law. Compensation or set-off.

STOPPAGE IN TRANSITU. The act by which the unpaid vendor of goods stops their progress and resumes possession of them, while they are

in course of transit from him to the purchaser, and not yet actually delivered to the latter.

The right of stoppage *in transitu* is that which the vendor has, when he sells goods on credit to another, of resuming the possession of the goods while they are in the possession of a carrier or middle-man, in the transit to the consignee or vendee, and before they arrive into his actual possession, or the destination he has appointed for them on his becoming bankrupt and insolvent. 2 Kent, Comm. 702.

The right which arises to an unpaid vendor to resume the possession, with which he has parted, of goods sold upon credit, before they come into the possession of a buyer who has become insolvent, bankrupt, or pecuniarily embarrassed. *In-slee v. Lane*, 57 N.H. 454.

The right of stoppage *in transitu* continues during the transitus, that is, until the goods are delivered by the carrier to the buyer, or possession, actual or constructive, is taken by the buyer. *M. Degaro Co. v. Cleveland, C., & St. L. Ry. Co.*, 123 Ohio St. 179, 174 N.E. 587, 590.

STOPPAGE OF WORK. Within unemployment compensation law denying workman benefits, if his unemployment was due to stoppage of work because of labor dispute in which workman participated means strike. *Board of Review v. Mid-Continent Petroleum Corporation*, 193 Okl. 36, 141 P.2d 69, 71 72.

STORAGE. Safekeeping of goods in a warehouse or other depository. *Lincoln Sav. Bank of Brooklyn v. Brown*, Em.App., 137 F.2d 228, 230, 231.

STORE, v. To keep merchandise for safe custody, to be delivered in the same condition as when received, where the safe-keeping is the principal object of deposit, and not the consumption or sale. *O'Neil v. Buffalo F. Ins. Co.*, 3 N.Y. 122. *Town of Newberry v. Dorrah*, 105 S.C. 28, 89 S.E. 402, 403.

STORE, n. Any place where goods are deposited and sold by one engaged in buying and selling them. *Warburton-Beacham Supply Co. v. City of Jackson*, 151 Miss. 503, 118 So. 606, 608. A shop. *Midwestern Petroleum Corporation v. State Board of Tax Com'rs*, 206 Ind. 688, 187 N.E. 882, 888, 191 N.E. 153. Also Storehouse. Webster; *De Wolfe v. Pierce*, 196 Ill.App. 360, 361.

Public Store

A government warehouse, maintained for certain administrative purposes, such as the keeping of military supplies, the storing of imported goods under bonds to pay duty, etc.

Stores

The supplies of different articles provided for the subsistence and accommodation of a ship's crew and passengers.

STOREHOUSE. A house in which things are stored; a building for the storing of grain, food-stuffs, or goods of any kind; a magazine; a repository; a warehouse; a store. *Moss v. Commonwealth*, 271 Ky. 283, 111 S.W.2d 628, 630.

STOREROOM. A room in an apartment or flat house set apart and having conveniences such as shelves, hooks, etc., for storage purposes, and is not, for instance, a bedroom used by the tenant in part for storing his goods. *Gardner v. Roosevelt Hotel*, 175 Misc. 610, 24 N.Y.S.2d 261, 263.

STORM. Wind outburst of tumultuous force. *Schaeffer v. Northern Assur. Co.*, Mo.App., 177 S.W.2d 688, 691.

STORY OF BUILDING. A habitable space between two floors or a set of rooms on the same floor or level. *Biber v. O'Brien*, 138 Cal.App. 353, 32 P.2d 425, 429.

STOUTHRIEFF. In Scotch law. Formerly this word included every species of theft accompanied with violence to the person, but of late years it has become the *vox signata* for forcible and masterful depredation within or near the dwelling-house; while robbery has been more particularly applied to violent depredation on the highway, or accompanied by house-breaking. *Alis. Prin. Scotch Law*, 227.

STOWAGE. In maritime law. The storing, packing, or arranging of the cargo in a ship, in such a manner as to protect the goods from friction, bruising, or damage from leakage.

Money paid for a room where goods are laid; housage. *Wharton*.

STOWAWAY. One who conceals himself aboard an out-going vessel for the purpose of obtaining free passage. *U. S. ex rel. Candreva v. Smith*, C. C.A.Ill., 27 F.2d 642, 644.

STOWE. In old English law. A valley. *Co.Litt. 4b*.

STRADDLE. In stock-brokers' parlance the term means the double privilege of a "put" and a "call," and secures to the holder the right to demand of the seller at a certain price within a certain time a certain number of shares of specified stock, or to require him to take, at the same price within the same time, the same shares of stock. *Harris v. Tumbridge*, 83 N.Y. 95, 38 Am.Rep. 398; *Henderson v. Usher*, 125 Fla. 709, 170 So. 846, 852. It is not per se a gaming contract, unless intended as a mere cover for a bet or wager on the future price of the stock or commodity. *Palmer v. Love*, 18 Tenn.App. 579, 80 S.W.2d 100, 106.

STRAGGLER. In Navy Department regulations. One absent without leave, with the probability that he does not intend to desert, but, if his absence continues for 10 days, he becomes a deserter. *Reed v. U. S.*, C.C.A.N.Y., 252 F. 21, 22.

STRAIGHT LINE. The shortest distance between two points. *Reed v. Iowa State Highway Commission*, 221 Iowa 500, 266 N.W. 47, 50.

STRAIGHT-LINE DEPRECIATION. Division of original cost into as many years as the property would remain in service and deduction of that fraction of the cost for every past year. *United*

STRAIGHT-LINE

States Industrial Alcohol Co. v. Helvering, C.C.A. 2, 137 F.2d 511, 516.

In estimating deterioration in a plant. Calculation from examination and experience in like constructions the total life period of the constituent parts of the plant, and then deducting from their value that proportion of decrease represented by the ratio of the years which it has been in use in relation to the entire life period as distinguished from the "sinking-fund method" which consists in charging for depreciation an annual sum, which, with compounding interest thereon, will at the termination of the estimated life of the investment replace the original cost, and if cut off at any given period the accumulation will represent the depreciated value to that date. Pacific Gas & Electric Co. v. Devlin, 188 Cal. 33, 203 P. 1058, 1062; People ex rel. Central Hudson Gas & Electric Co. v. State Tax Commission, 218 App.Div. 44, 217 N.Y.S. 707, 712.

STRAMINEUS HOMO. L. Lat. A man of straw, one of no substance, put forward as bail or surety.

STRAND. A shore or bank of the sea or a river. Bell v. Hayes, 60 App.Div. 382, 69 N.Y.S. 898; Harris v. City of St. Helens, 72 Or. 377, 143 P. 941, 944, Ann.Cas.1916D, 1073.

STRANDING. In maritime law. The drifting, driving, or running aground of a ship on a shore or strand. *Accidental* stranding takes place where the ship is driven on shore by the winds and waves. *Voluntary* stranding takes place where the ship is run on shore either to preserve her from a worse fate or for some fraudulent purpose. Marsh. Ins. bk. 1, c. 12, § 1. See Barrow v. Bell, 4 Barn. & C. 736; Strong v. Sun Mut. Ins. Co., 31 N.Y. 106, 88 Am.Dec. 242; London Assur. Co. v. Companhia de Moagens, 17 S.Ct. 785, 167 U.S. 149, 42 L.Ed. 113; Washington Iron Works v. St. Paul Fire & Marine Ins. Co., 128 Wash. 349, 222 P. 487, 489; Lehigh & Wilkes-Barre Coal Co. v. Globe & Rutgers Fire Ins. Co., C.C.A., 6 F.2d 736, 738, 43 A.L.R. 215.

STRANGER. As used with reference to the subject of subrogation, one who, in no event resulting from the existing state of affairs, can become liable for the debt, and whose property is not charged with the payment thereof and cannot be sold therefor. McBride v. McBride, 148 Or. 478, 36 P.2d 175, 177; Home Owners' Loan Corporation v. Crouse, 151 Pa.Super. 259, 30 A.2d 330, 331, 332. See, also, Strangers.

STRANGER IN BLOOD. Any person not within the consideration of natural love and affection arising from relationship.

STRANGERS. By this term is intended third persons generally. Thus the persons bound by a fine are parties, privies, and strangers; the parties are either the cognizors or cognizees; the privies are such as are in any way related to those who levy the fine, and claim under them by any right of blood, or other right of representation; the strangers are all other persons in the world, except only the parties and privies. In its general legal signification the term is opposed to the word "privity." Those who are in no way parties to a covenant, nor bound by it, are also said to be strangers to the covenant. Brown. See Robbins v. Chicago, 4 Wall. 672, 18 L.Ed. 427; Wilson v. Smith, 213 Ky. 836, 281 S.W. 1008,

1010; State v. Mills, 23 N.M. 549, 169 P. 1171, 1173; Gronewold v. Gronewold, 304 Ill. 11, 136 N.E. 489, 490. See, also, Stranger.

STRATAGEM. A deception either by words or actions, in times of war, in order to obtain an advantage over an enemy.

STRATOCRACY. A military government; government by military chiefs of an army.

STRATOR. In old English law. A surveyor of the highways.

STRAW BAIL. See Bail.

STRAY. See Estray.

STREAM. A water course having a source and terminus, banks, and channel, through which waters flow at least periodically, and it usually empties into other streams, lakes, or the ocean, but it does not lose its character as a water course even though it may break up and disappear. Mogle v. Moore, 16 Cal.2d 1, 104 P.2d 785, 789; Everett v. Davis, Cal.App., 107 P.2d 650, 655; Southern Pac. Co. v. Proebstel, 61 Ariz. 412, 150 P.2d 81, 83. A river, brook, or rivulet; anything in fact that is liquid and flows in a line or course. French v. Carhart, 1 N.Y. (1 Comst.) 96, 107. A current of water. A body of water having a continuous flow in one direction. Vandalia R. Co. v. Yeager, 60 Ind.App. 118, 110 N.E. 230, 232. It consists of a bed, banks, and water course. St. Paul Fire & Marine Ins. Co. v. Carroll, Tex.Civ.App., 106 S.W. 2d 757, 758.

Private Stream

A non-navigable creek or water-course, the bed or channel of which is exclusively owned by a private individual. See Adams v. Pease, 2 Conn. 484; Reynolds v. Com, 93 Pa. 461.

STREAMING FOR TIN. The process of working tin in Cornwall and Devon. The right to stream must not be exercised so as to interfere with the rights of other private individuals; *e. g.*, either by withdrawing or by polluting or choking up the water-courses or waters of others; and the statutes 23 Hen. VIII. c. 8, and 27 Hen. VIII. c. 23, impose a penalty of £20 for the offense. Brown.

STREET. An urban way or thoroughfare; a road or public way in a city, town, or village, generally paved, and lined or intended to be lined by houses on each side. U. S. v. Bain, 24 Fed.Cas. 943; Brace v. New York Cent. R. Co., 27 N.Y. 271; Home Laundry Co. v. City of Louisville, 168 Ky. 499, 182 S.W. 645, 648; Chicago, R. I. & P. Ry. Co. v. Redding, 124 Ark. 368, 187 S.W. 651, 652, Ann.Cas.1918D, 183. It includes all urban ways which can be and are generally used for travel. Department of Public Works and Buildings v. Ryan, 357 Ill. 150, 191 N.E. 259, 262. Including sidewalks. Snow v. Johnston, 197 Ga. 146, 28 S.E.2d 270, 276. But does not mean square. Weber v. Chrisamalis, 177 Misc. 772, 30 N.Y.S.2d 874, 875, and normally does not include service entrances or driveways leading off from the street

onto adjoining premises. *Hill & Combs v. First Nat. Bank of San Angelo, Tex., C.C.A.Tex., 139 F.2d 740, 743.*

STREET RAILWAY. See Railway.

STREIGHTEN. In the old books. To narrow or restrict. "The *habendum* should not *streighten* the devise." 1 Leon. 58.

STREPITUS. In old records. Estreperment or strip; a species of waste or destruction of property. Spelman.

STREPITUS JUDICIALIS. Turbulent conduct in a court of justice. Jacob.

STRIA. Curved, crooked and intermitten gouges, of irregular depth and width and rough definition, of certain rock surface, sometimes due to abrasions by icebergs. *Imperial Machine & Foundry Corp. v. G. S. Blakeslee & Co., C.C.A.N.Y., 262 F. 419, 421.* A furrow, channel or hollow; depression, rut, wrinkle, concave, cup, pocket, dimple. *Maxim Mfg. Co. v. Imperial Mach. Co., C.C.A.Ill., 286 F. 79, 83.*

STRICT. Exact; accurate; precise; undivating; governed or governing by exact rules.

As to strict "Construction," "Foreclosure," and "Settlement," see those titles.

STRICT LIABILITY. Liability without fault. Case is one of "strict liability" when neither care nor negligence, neither good nor bad faith, neither knowledge nor ignorance will save defendant. *Fresno Air Service v. Wood, 43 Cal.Rptr. 276, 279, 232 C.A.2d 801; Anslem v. Travelers Ins. Co., La. App., 192 So.2d 599, 600.*

STRICTI JURIS. Lat. Of strict right or law; according to strict law. "A license is a thing *stricti juris*; a privilege which a man does not possess by his own right, but it is conceded to him as an indulgence, and therefore it is to be strictly observed." 2 Rob.Adm. 117.

STRICTISSIMI JURIS. Lat. Of the strictest right or law. "Licenses being matter of special indulgence, the application of them was formerly *strictissimi juris*." 1 Edw.Adm. 328.

STRICTLY. A strict manner; closely, precisely, rigorously; stringently; positively. *Union Ice & Coal Co. v. Town of Ruston, 135 La. 898, 66 So. 262, 263, L.R.A.1915B. 859.*

STRICTLY CONSTRUED. Requirement that a penal statute be strictly construed means that the court will not extend punishment to cases not plainly within the language used, but at the same time such statutes are to be fairly and reasonably construed, and will not be given such a narrow and strained construction as to exclude from their operation cases plainly within their scope and meaning. *State v. Fleming, 173 Md. 192, 195 A. 392, 393.*

STRICTLY MINISTERIAL DUTY. One that is absolute and imperative, requiring neither the exercise of official discretion nor judgment. *State ex rel. Heller v. Thornhill, 174 Mo.App. 469, 160 S.W. 558, 559.*

STRICTO JURE. Lat. In strict law. 1 Kent, Comm. 65.

STRICTUM JUS. Lat. Strict right or law; the rigor of the law as distinguished from equity.

STRIKE. The act of quitting work by a body of workmen for the purpose of coercing their employer to accede to some demand they have made upon him, and which he has refused. *Jeffery-De Witt Insulator Co. v. N. L. R. B., C.C.A.4, 91 F.2d 134, 138.* A combination to obtain higher wages, shorter hours of employment, better working conditions or some other concession from employer by the employees stopping work at a preconcerted time, and it involves a combination of persons and not a single individual. *Moreland Theatres Corp. v. Portland Moving Picture Mach. Operators' Protective Union, 140 Or. 35, 12 P.2d 333, 338.* A cessation of work as a means of enforcing compliance with some demand upon the employer. *People v. Tepel, Mag.Ct., 3 N.Y.S.2d 779, 781.* A combined effort among workmen to compel the master to the concession of a certain demand, by preventing the conduct of his business until compliance with the demand. *Keith Theatre v. Vachon. 134 Me. 392, 187 A. 692, 694.*

Mining Law

The strike of a vein or lode is its extension in the horizontal plane, or its lengthwise trend or course with reference to the points of the compass; distinguished from its "dip," which is its slope or slant, away from the perpendicular, as it goes downward into the earth, or the angle of its deviation from the vertical plane. *Empire Star Mines Co. v. Butler, 62 Cal.App.2d 49, 145 P.2d 49, 58.*

STRIKE OFF. In common parlance, and in the language of the auction-room, property is understood to be "struck off" or "knocked down," when the auctioneer, by the fall of his hammer, or by any other audible or visible announcement, signifies to the bidder that he is entitled to the property on paying the amount of his bid, according to the terms of the sale. *Sherwood v. Reade, 7 Hill, N. Y., 439.*

A court is said to "strike off" a case when it directs the removal of the case from the record or docket, as being one over which it has no jurisdiction and no power to hear and determine it.

STRIKE SUITS. Shareholder derivative actions begun with hope of winning large attorney fees or private settlements, and with no intention of benefiting corporation on behalf of which suit it theoretically brought. *Shapiro v. Magaziner, 210 A.2d 890, 894, 418 Pa. 278.*

STRIKEBREAKER. One who takes the place of workman who has left his work in an effort to force the employer to agree to demands made. *People, on Complaint of Siegel, v. Kaye, 165 Misc. 663, 1 N.Y.S.2d 354, 355.*

STRIKING A DOCKET. In English practice. The first step in the proceedings in bankruptcy, which consists in making affidavit of the debt, and giving a bond to follow up the proceedings with effect. 2 Steph. Comm. 199. When the affi-

STRIKING

davit and bond are delivered at the bankrupt office, an entry is made in what is called the "docket-book," upon which the petitioning creditor is said to have *struck a docket*. Eden, Bankr. 51, 52.

STRIKING A JURY. The selecting or nominating a jury of twelve men out of the whole number returned as jurors on the panel. It is especially used of the selection of a *special* jury, where a panel of forty-eight is prepared by the proper officer, and the parties, in turn, strike off a certain number of names, until the list is reduced to twelve. A jury thus chosen is called a "struck jury." Wallace v. Railroad Co., 8 Houst., Del., 529, 18 A. 818; Cook v. State, 24 N.J.L. 843.

STRIKING OFF THE ROLL. The disbaring of an attorney or solicitor.

STRIP. The act of spoiling or unlawfully taking away anything from the land, by the tenant for life or years, or by one holding an estate in the land less than the entire fee. Pub.St.Mass.1882, p. 1295.

STRIPPING A MINE. In iron mining. Removal of the earth from the underlying body of iron ore. Bartnes v. Pittsburg Iron Ore Co., 123 Minn. 131, 143 N.W. 117.

STRONG. Cogent, powerful, forcible. Wright v. Austin, Tex.Civ.App., 175 S.W.2d 281, 283.

STRONG HAND. The words "with strong hand" imply a degree of criminal force, whereas the words *vi et armis* ("with force and arms") are mere formal words in the action of trespass, and the plaintiff is not bound to prove any force. The statutes relating to forcible entries use the words "with a strong hand" as describing that degree of force which makes an entry or detainer of lands criminal. Brown.

STRONGLY CORROBORATED. A degree of corroboration amounting to corroboration from independent facts and circumstances which is clear and satisfactory to the court and jury. Wright v. Austin, Tex.Civ.App., 175 S.W.2d 281, 283.

STRUCK. In pleading. A word essential in an indictment for murder, when the death arises from any wounding, beating, or bruising. 1 Bulst. 184; 5 Coke, 122; 3 Mod. 202.

STRUCK JURY. See Striking a Jury.

STRUCTURAL ALTERATION OR CHANGE. One that affects a vital and substantial portion of a thing; that changes its characteristic appearance, the fundamental purpose of its erection, the uses contemplated, one that is extraordinary in scope and effect, or unusual in expenditure. Pross v. Excelsior Cleaning & Dyeing Co., 110 Misc. 195, 179 N.Y.S. 176, 179; Paye v. City of Grosse Pointe, 279 Mich. 254, 271 N.W. 826, 827.

STRUCTURE. Any construction, or any production or piece of work artificially built up or composed of parts joined together in some definite manner. C. K. Eddy & Sons v. Tierney, 276 Mich. 333, 267 N.W. 852, 855. That which is built or

constructed; an edifice or building of any kind. Poles connected by wires for the transmission of electricity. Forbes v. Electric Co., 19 Or. 61, 23 P. 670, 20 Am.St.Rep. 793; a mine or pit, Helm v. Chapman, 66 Cal. 291, 5 P. 352; a railroad track, Lee v. Barkhampsted, 46 Conn. 213. Swings or seats are not, McCormack v. Bertschinger, 115 Or. 250, 237 P. 363, 365; Barnes v. Montana Lumber & Hardware Co., 67 Mont. 481, 216 P. 335, 336; Deiner v. Sutermeister, 266 Mo. 505, 178 S.W. 757, 759; Armitage v. Bernheim, 32 Idaho, 594, 187 P. 938, 939.

STRUMPET. A whore, harlot, or courtesan. This word was anciently used for an addition. It occurs as an addition to the name of a woman in a return made by a jury in the sixth year of Henry V. Wharton.

STUFF GOWN. The professional robe worn by barristers of the outer bar; viz., those who have not been admitted to the rank of king's counsel. Brown.

STULTIFY. To make one out mentally incapacitated for the performance of an act.

STULTILOQUIUM. Lat. In old English law. Vicious pleading, for which a fine was imposed by King John, supposed to be the origin of the fines for *beau-pleader*. Crabb, Eng. Law, 135.

STUMP. As respects coal mining operations is the base or remains of a worked-out pillar left after previous mining operations to support the surface. McCormack v. Jermyn, 351 Pa. 161, 40 A. 2d 477, 478.

STUMPAGE. The sum agreed to be paid to an owner of land for trees standing (or lying) upon his land, the purchaser being permitted to enter upon the land and to cut down and remove the trees; in other words, it is the price paid for a license to cut. Blood v. Drummond, 67 Me. 478.

STUPRUM. Lat. In the Roman and civil law. Unlawful sexual intercourse between a man and an unmarried woman;—distinguished from adultery by being committed with a virgin or widow. Inst. 4, 18, 4; Dig. 48, 5, 6; 50, 16, 101.

Any sexual intercourse between a man and an unmarried woman (not a slave), otherwise than in concubinage; illicit intercourse. Webster.

Any union of the sexes forbidden by morality. Cent. Dict.

STURGEON. A royal fish which, when either thrown ashore or caught near the coast, is the property of the sovereign. 2 Steph.Comm. 19n, 540.

STYLE. As a verb, to call, name, or entitle one; as a noun, the title or appellation of a person.

SUA SPONTE. Lat. Of his or its own will or motion; voluntarily; without prompting or suggestion.

SUABLE. Capable of being, or liable to be, sued. A suable cause of action is the matured cause of action.

SUAPTE NATURA. Lat. In its own nature. *Suapte natura sterilis*, barren in its own nature and quality; intrinsically barren. 5 Maule & S. 170.

SUB. Lat. Under; upon.

SUB COLORE JURIS. Under color of right; under a show or appearance of right or rightful power.

SUB CONDITIO. Upon condition. The proper words to express a condition in a conveyance, and to create an estate upon condition. *Graves v. Deterling*, 120 N.Y. 447, 24 N.E. 655.

SUB CURIA. Lat. Under law.

SUB DISJUNCTIONE. In the alternative. *Fleta*, lib. 2, c. 60, § 21.

SUB JUDICE. Under or before a judge or court; under judicial consideration; undetermined. 12 East, 409.

SUB MODO. Under a qualification; subject to a restriction or condition.

SUB NOMINE. Under the name; in the name of; under the title of.

SUB PEDE SIGILLI. Under the foot of the seal; under seal. 1 Strange, 521.

SUB POTESTATE. Under, or subject to, the power of another; used of a wife, child, slave, or other person not *sui juris*.

SUB SALVO ET SECURO CONDUCTU. Under safe and secure conduct. 1 Strange, 430. Words in the old writ of *habeas corpus*.

SUB SILENTIO. Under silence; without any notice being taken. Passing a thing *sub silentio* may be evidence of consent.

SUB SPE RECONCILIATIONIS. Under the hope of reconciliation. 2 Kent, Comm. 127.

SUB SUO PERICULO. At his own risk. *Fleta*, lib. 2, c. 5, § 5.

SUBAGENT. An under-agent; a substituted agent; an agent appointed by one who is himself an agent. 2 Kent, Comm. 633. A person appointed by an agent to perform some duty, or the whole of the business, relating to his agency. A person employed by an agent to assist him in transacting the affairs of his principal. But a mere servant of an agent is not a "subagent." *Gulf Refining Co. v. Shirley*, Tex.Civ.App., 99 S.W.2d 613, 615.

SUBALTERN. An inferior or subordinate officer. An officer who exercises his authority under the superintendence and control of a superior.

SUB-BALLIVUS. In old English law. An under-bailiff; a sheriff's deputy. *Fleta*, lib. 2, c. 68, § 2.

SUB-BOIS. Coppice-wood. 2 Inst. 642.

SUBCONTRACT. See Contract.

SUBCONTRACTOR. One who takes portion of a contract from principal contractor or another subcontractor. *Hardware Mut. Casualty Co. v. Hilderbrandt*, C.C.A.Okl., 119 F.2d 291, 297, 299. One who has entered into a contract, express or implied, for the performance of an act with the person who has already contracted for its performance. *Phill. Mech. Liens* § 44; *Lester v. Houston*, 101 N.C. 611, 8 S.E. 366; *Gerber v. Sherman*, 120 N.J.L. 237, 198 A. 762, 764.

SUBDITUS. Lat. In old English law. A vassal; a dependent; any one under the power of another. *Spelman*.

SUBDIVIDE. To divide a part into smaller parts; to separate into smaller divisions. As, where an estate is to be taken by some of the heirs *per stirpes*, it is divided and subdivided according to the number of takers in the nearest degree and those in the more remote degree respectively.

SUBDIVISION. Division into smaller parts of the same thing or subject-matter. *Kansas City v. Neal*, 122 Mo. 232, 26 S.W. 695, 696.

SUBDUCT. In English probate practice, to subduct a *caveat* is to withdraw it.

SUBFLOW. Those waters which slowly find their way through sand and gravel constituting bed of a stream, or lands under or immediately adjacent to stream. *Maricopa County Municipal Water Conservation Dist. No. 1 v. Southwest Cotton Co.*, 39 Ariz. 65, 4 P.2d 369, 380.

SUBHASTARE. Lat. In the civil law. To sell at public auction, which was done *sub hasta*, under a spear; to put or sell under the spear. *Calvin*.

SUBHASTATIO. Lat. In the civil law. A sale by public auction, which was done *under a spear*, fixed up at the place of sale as a public sign of it. *Calvin*.

SUBINFEUDATION. The system which the feudal tenants introduced of granting smaller estates out of those which they held of their lord, to be held of themselves as inferior lords. As this system was proceeding downward *ad infinitum*, and depriving the lords of their feudal profits, it was entirely suppressed by the statute *Quia Emptores*, 18 Edw. I. c. 1, and instead of it alienation in the modern sense was introduced, so that thenceforth the alienee held of the same chief lord and by the same services that his alienor before him held. *Brown*.

SUBIRRIGATE. To irrigate below the surface, as by a system of underground porous pipes, or by natural percolation through the soil. *Morrow v. Farmers' Irr. Dist.*, 117 Neb. 424, 220 N.W. 680, 682.

SUBJACENT SUPPORT. The right of land to be supported by the land which lies under it. See, also, Support.

SUBJECT

SUBJECT.

Constitutional Law

One that owes allegiance to a sovereign and is governed by his laws. The natives of Great Britain are *subjects* of the British government. Men in free governments are subjects as well as *citizens*; as citizens they enjoy rights and franchises; as subjects they are bound to obey the laws. Webster. The term is little used, in this sense, in countries enjoying a republican form of government. The Pizarro, 2 Wheat. 245, 4 L.Ed. 226; Swiss Nat. Ins. Co. v. Miller, 267 U.S. 42, 45 S.Ct. 213, 214, 69 L.Ed. 504.

Legislation

The matter of public or private concern for which law is enacted. State ex rel. Jensen v. Kelly, 65 S.D. 345, 274 N.W. 319, 323. Thing legislated about or matters on which Legislature operates to accomplish a definite object or objects reasonably related one to the other. Crouch v. Benet, 198 S.C. 185, 17 S.E.2d 320, 322. The matter or thing forming the groundwork of the act. McCombs v. Dallas County, Tex.Civ.App., 136 S.W.2d 975, 982.

The constitutions of several of the states require that every act of the legislature shall relate to but one *subject*, which shall be expressed in the title of the statute. Ex parte Thomas, 113 Ala. 1, 21 So. 369; In re Mayer, 50 N.Y. 504; State v. County Treasurer, 4 S.C. 528; State v. Laundry, 103 Or. 443, 204 P. 958, 963; Roark v. Prideaux, Tex. Civ.App., 284 S.W. 624, 627; Hoyne v. Ling, 264 Ill. 506, 106 N.E. 349. But term "subject" within such constitutional provisions is to be given a broad and extensive meaning so as to allow legislature full scope to include in one act all matters having a logical or natural connection. Shaw v. State, 76 Okl.Cr. 271, 134 P.2d 999, 1006; Jaffee v. State, 76 Okl.Cr. 95, 134 P.2d 1027, 1032.

Logic

That concerning which the affirmation in a proposition is made; the first word in a proposition. State v. Armstrong, 31 N.M. 220, 243 P. 333, 337.

Scotch Law

The thing which is the object of an agreement.

SUBJECT-MATTER. The subject, or matter presented for consideration; the thing in dispute; the right which one party claims as against the other, as the right to divorce; of ejectment; to recover money; to have foreclosure. Flower Hospital v. Hart, 178 Okl. 447, 62 P.2d 1248, 1252. Nature of cause of action, and of relief sought. Moffatt v. Cassimus, 238 Ala. 99, 190 So. 299, 300.

SUBJECT TO. Liable, subordinate, subservient, inferior, obedient to; governed or affected by; provided that; provided; answerable for. American Mfg. Co. v. Commonwealth, 251 Mass. 329, 146 N.E. 801; Hannibal Trust Co. v. Elzea, 315 Mo. 485, 286 S.W. 371, 377; Allen v. Simmons, 97 W. Va. 318, 125 S.E. 86, 88; Middleton v. Findla, 25 Cal. 76; Manning v. Sams, 143 Ga. 205, 84 S.E. 451; Homan v. Employers Reinsurance Corporation, 345 Mo. 650, 136 S.W.2d 289, 302, 127 A.L.R. 163.

SUBJECTION. The obligation of one or more persons to act at the discretion or according to the judgment and will of others.

SUBLATA CAUSA TOLLITUR EFFECTUS. Co. Litt. 303. The cause being removed the effect ceases.

SUBLATA VENERATIONE MAGISTRATUUM, RES PUBLICA RUIT. When respect for magistrates is taken away, the commonwealth falls. Jenk. Cent. p. 43, case 81.

SUBLATO FUNDAMENTO CADIT OPUS. Jenk. Cent. 106. The foundation being removed, the superstructure falls.

SUBLATO PRINCIPALI, TOLLITUR ADJUNCTUM. When the principal is taken away, the incident is taken also. Co. Litt. 389a.

SUBLEASE. See Lease.

SUBLETTING. A leasing by lessee of a whole or part of premises during a portion of unexpired balance of his term. O'Neil v. A. F. Oys & Sons, 216 Minn. 391, 13 N.W.2d 8, 11. See, also, Sublease.

SUBMARINE BASE. See Base.

SUBMERGENCE. As it concerns the proprietorship of land, consists in the disappearance of land under water and the formation of a more or less navigable body over it. Michelsen v. Leskiewicz, 269 App.Div. 693, 55 N.Y.S.2d 831, 838.

SUBMISSION. A yielding to authority. A citizen is bound to submit to the laws; a child to his parents.

Maritime Law

Submission on the part of the vanquished, and complete possession on the part of the victor, transfer property as between belligerents. The Alexander, 1 Gall. 532, Fed.Cas.No.164.

Practice

A contract between two or more parties whereby they agree to refer the subject in dispute to others and to be bound by their award. District of Columbia v. Bailey, 171 U.S. 161, 18 S.Ct. 868, 872, 43 L.Ed. 118. Schoolnick v. Finman, 108 Conn. 478, 144 A. 41, 42.

The submission itself implies an agreement to abide the result, even if no such agreement were expressed. Whitcher v. Whitcher, 49 N.H. 176, 180, 6 Am.Rep. 486.

SUBMISSION BOND. The bond by which the parties agree to submit their matters to arbitration, and by which they bind themselves to abide by the award of the arbitrator. Brown.

SUBMIT. To commit to the discretion of another. Board of Education of Cherokee County v. Board of Com'rs of Cherokee County, 150 N.C. 116, 63 S.E. 724, 729. To propound; to present for determination; as an advocate *submits* a proposition for the approval of the court. MacDermot v. Grant, 181 Cal. 332, 184 P. 396; Noland v. Hay-

ward, 69 Colo. 181, 192 P. 657, 658; *People ex rel. Kerner v. Huls*, 355 Ill. 412, 189 N.E. 346, 348.

SUBMORTGAGE. When a person who holds a mortgage as security for a loan which he has made, procures a loan to himself from a third person, and pledges his mortgage as security, he effects what is called a "submortgage."

SUBNERVARE. To ham-string by cutting the sinews of the legs and thighs.

It was an old custom *meretrices et impudicas mulieres subnervare*. Wharton.

SUBNOTATIONS. In the civil law. The answers of the prince to questions which had been put to him respecting some obscure or doubtful point of law.

SUBORDINATE. Placed in a lower order, class, or rank; occupying a lower position in a regular descending series; inferior in order, nature, dignity, power, importance, or the like; belonging to an inferior order in classification, and having a lower position in a recognized scale; secondary, minor. In *re Fidelity Union Title & Mortgage Guaranty Co.*, 118 N.J.Eq. 155, 177 A. 449, 452.

SUBORDINATE OFFICER. One who performs duties imposed on him under direction of a principal or superior officer or he may be an independent officer subject only to such directions as the statute lays on him. *State ex rel. Landis v. Blake*, 110 Fla. 178, 148 So. 566, 570.

SUBORN. To prepare, provide, or procure especially in a secret or underhand manner. *United States v. Silverman*, C.C.A.Pa., 106 F.2d 750, 751.

In criminal law. To procure another to commit perjury. *Steph.Crim.Law*, 74.

SUBORNATION OF PERJURY. In criminal law. The offense of procuring another to take such a false oath as would constitute perjury in the principal. *Stone v. State*, 118 Ga. 705, 45 S.E. 630, 98 Am.St.Rep. 145; *State v. Fahey*, 3 Pennewill, Del., 594, 54 A. 690; *State v. Richardson*, 248 Mo. 563, 154 S.W. 735, 737, 44 L.R.A.,N.S., 307.

SUBORNER. One who suborns or procures another to commit any crime, particularly to commit perjury.

SUBPOENA. (Lat. Sub, under, poena, penalty). A process to cause a witness to appear and give testimony, commanding him to lay aside all pretenses and excuses, and appear before a court or magistrate therein named at a time therein mentioned to testify for the party named under a penalty therein mentioned. *Alexander v. Harrison*, 2 Ind.App. 47, 28 N.E. 119, 121.

This is called distinctively a subpoena ad testificandum.

Chancery Practice

A mandatory writ or process directed to and requiring one or more persons to appear at a time to come and answer the matters charged against him or them. *Gondas v. Gondas*, 99 N.J.Eq. 473, 134 A. 615, 618.

The writ of subpoena was originally proceeding in courts of common law to enforce attendance of witness, but was used in chancery for same purpose as citation in courts of civil and canon law, to compel appearance of defendant and to require him to answer plaintiff's allegations on oath. *Gondas v. Gondas*, 99 N.J.Eq. 473, 134 A. 615, 618.

SUBPOENA AD TESTIFICANDUM. Lat. Subpoena to testify. A technical and descriptive term for the ordinary subpoena. *Catty v. Brockelbank*, 124 N.J.Law 360, 12 A.2d 128, 129. See Subpoena.

SUBPOENA DUCES TECUM. A process by which the court, at the instances of a suitor, commands a witness who has in his possession or control some document or paper that is pertinent to the issues of a pending controversy, to produce it at the trial. *State ex rel. Everglades Cypress Co. v. Smith*, 104 Fla. 91, 139 So. 794; *Ex parte Hart*, 240 Ala. 642, 200 So. 783, 785.

SUBREPTIO. Lat. In the civil law. Obtaining gifts of escheat, etc., from the king by concealing the truth. Bell; Calvin.

SUBREPTION. In French law. The fraud committed to obtain a pardon, title, or grant, by alleging facts contrary to truth.

SUBROGATION. The substitution of one person in the place of another with reference to a lawful claim, demand or right, *Whyel v. Smith*, 101 Fla. 971, 134 So. 552, 554; so that he who is substituted succeeds to the rights of the other in relation to the debt or claim, and its rights, remedies, or securities. *Home Owners' Loan Corporation v. Baker*, 299 Mass. 158, 12 N.E.2d 199, 201; *Gerken v. Davidson Grocery Co.*, 57 Idaho 670, 69 P.2d 122, 126. A legal fiction through which a person who, not as a volunteer or in his own wrong, and in absence of outstanding and superior equities, pays debt of another, is substituted to all rights and remedies of the other, and the debt is treated in equity as still existing for his benefit, and the doctrine is broad enough to include every instance in which one party pays the debt for which another is primarily answerable, and which in equity and good conscience should have been discharged by such other. *Home Owners' Loan Corporation v. Sears, Roebuck & Co.*, 123 Conn. 232, 193 A. 769, 772. The principle which lies at the bottom of the doctrine is that the person seeking it must have paid the debt under grave necessity to save himself a loss. The right is never accorded to a volunteer. *Callan Court Co. v. Citizens & Southern Nat. Bank*, 184 Ga. 87, 190 S.E. 831, 856.

"Subrogation" is equitable remedy borrowed from civil law. *Ierardi v. Farmers' Trust Co. of Newark*, 4 W.W. Harr. Del., 246, 151 A. 822, 825. And as a matter of right, independently of agreement, takes place only for the benefit of insurers; or of one who, being himself a creditor, has satisfied the lien of a prior creditor; or for the benefit of a purchaser who has extinguished an incumbrance upon the estate which he has purchased; or of a co-obligor or surety who has paid the debt which ought, in whole or in part, to have been met by another. The doctrine of "subrogation" is not applied for the mere stranger or volunteer who has paid the debt of another without any assignment or agreement for subrogation, without being under any legal obligation to make the payment, and without being compelled to do so for the preservation of any

SUBROGATION

rights or property of his own. *Harford Bank of Bel Air v. Hopper's Estate*, 169 Md. 314, 181 A. 751, 755.

It is also said that its elements are: (1) That party claiming it shall have paid debt; (2) that he was not a volunteer, but had a direct interest in discharge of debt or lien; (3) that he was secondarily liable for debt or discharge of lien; (4) that no injustice would be done to the other party by allowance of the equity. *Hampton Loan & Exchange Bank v. Lightsey*, 155 S.C. 222, 152 S.E. 425, 427.

Subrogation is of two kinds, either *conventional* or *legal*; the former being where the subrogation is express, by the acts of the creditor and the third person; the latter being (as in the case of sureties) where the subrogation is effected or implied by the operation of the law. *Gordon v. Stewart*, 4 Neb., Unof., 852, 96 N.W. 628; *Connecticut Mut. L. Ins. Co. v. Cornwell*, 72 Hun, 199, 25 N.Y.S. 348; *French v. Grand Beach Co.*, 239 Mich. 575, 215 N.W. 13, 14; *Meyer v. Florida Home Finders*, 90 Fla. 128, 105 So. 267, 268; *Combs v. Agee*, 148 Va. 471, 139 S.E. 265, 266.

SUBROGEE. A person who is subrogated; one who succeeds to the rights of another by subrogation.

SUBSCRIBE. Literally to write underneath, as one's name; sub, under; scribere, to write; or, to write below a documentary statement, and in its popular meaning is usually limited to a signature at the end of a printed or written instrument. Corporation Commission of North Carolina v. *Wilkinson*, 201 N.C. 344, 160 S.E. 292, 294. In re *Arcowsky's Will*, 171 Misc. 41, 11 N.Y.S.2d 853, 854. Also to agree in writing to furnish money or its equivalent. *Jefferson County Farm Bureau v. Sherman*, 208 Iowa 614, 226 N.W. 182, 185.

SUBSCRIBER. One who writes his name under a written instrument; one who affixes his signature to any document, whether for the purpose of authenticating or attesting it, of adopting its terms as his own expressions, or of binding himself by an engagement which it contains.

One who becomes bound by a subscription to the capital stock of a corporation. *Latimer v. Bennett*, 37 Ga.App. 246, 139 S.E. 570, 572. A "subscriber" is one who has agreed to take stock from the corporation on the original issue of such stock. *Jones v. Rankin*, 19 N.M. 56, 140 P. 1120, 1121. "Subscriber," as used in the Workmen's Compensation Act, means an employer who has become a member of the association or insured under the act. In re *Cox*, 225 Mass. 220, 114 N.E. 281, 283.

SUBSCRIBING WITNESS. He who witnesses or attests the signature of a party to an instrument, and in testimony thereof subscribes his own name to the document.

One who sees a writing executed, or hears it acknowledged, and at the request of the party thereupon signs his name as a witness.

SUBSCRIPTIO. Lat. In the civil law. A writing under, or under-writing; a writing of the name under or at the bottom of an instrument by way of attestation or ratification; subscription.

That kind of imperial constitution which was granted in answer to the prayer of a petitioner who was present. Calvin.

SUBSCRIPTION. The act of writing one's name under a written instrument; the affixing one's signature to any document, whether for the purpose of authenticating or attesting it, of adopting its terms as one's own expressions, or of binding one's self by an engagement which it contains.

Subscription is the act of the hand, while attestation is the act of the senses. To subscribe a paper published as a will is only to write on the same paper the name of the witness; to attest a will is to know that it was published as such, and to certify the facts required to constitute an actual and legal publication. In re *Downie's Will*, 42 Wis. 66, 76.

A written contract by which one engages to take and pay for capital stock of a corporation, or to contribute a sum of money for a designated purpose, either gratuitously, as in the case of subscribing to a charity, or in consideration of an equivalent to be rendered, as a subscription to a periodical, a forthcoming book, a series of entertainments, or the like. *Davis v. Rolley*, 124 Kan. 132, 257 P. 746, 747; *First Caldwell Oil Co. v. Hunt*, 100 N.J.L. 308, 127 A. 209, 210.

SUBSCRIPTION LIST. A list of subscribers to some agreement with each other or a third person.

SUBSELLIA. Lat. In Roman law. Lower seats or benches, occupied by the *judices* and by inferior magistrates when they sat in judgment, as distinguished from the *tribunal* of the *prætor*. Calvin.

SUBSEQUENS MATRIMONIUM TOLLIT PEC-CATUM PRÆCEDENS. A subsequent marriage [of the parties] removes a previous fault, *i. e.*, previous illicit intercourse, and legitimates the offspring. A rule of Roman law.

SUBSEQUENT. Following in time; coming or being later than something else; succeeding. *Commonwealth v. Ellett*, 174 Va. 403, 4 S.E.2d 762, 765.

SUBSEQUENT CONDITION. See Condition.

SUBSEQUENT CREDITOR. One who becomes a creditor after a transfer sought to be impeached as fraudulent is made. *Edwards v. Monning*, 63 Ohio App. 449, 27 N.E.2d 156, 158.

SUBSIDIARY CORPORATION. One in which another corporation owns at least a majority of the shares, and thus has control. *Wheeler v. New York, N. H. & H. R. Co.*, 112 Conn. 510, 153 A. 159, 160.

See, also, Corporation.

SUBSIDY. Something, usually money, donated or given or appropriated by the government through its proper agencies, in this country by the Congress. *Kennecott Copper Corp. v. State Tax Commission*, D.C.Utah, 60 F.Supp. 181, 182.

In American law. A grant of money made by government in aid of the promoters of any enter-

prise, work, or improvement in which the government desires to participate, or which is considered a proper subject for state aid, because likely to be of benefit to the public.

In English law. An aid, tax, or tribute granted by parliament to the king for the urgent occasions of the kingdom, to be levied on every subject of ability, according to the value of his lands or goods. Jacob.

In international law. The assistance given in money by one nation to another to enable it the better to carry on a war, when such nation does not join directly in the war. Vattel, bk. 3, § 82.

SUBSISTENCE. Support. *Majors v. Lewis and Clark County*, 60 Mont. 698, 201 P. 268, 269. Means of support, provisions, or that which procures provisions or livelihood. *Dyer v. Dyer*, 212 N.C. 620, 194 S.E. 278.

SUBSOIL. The word includes, *prima facie*, all that is below the actual surface, down to the center of the earth. 17 L.J.C.P. 162. It is a wider term than mines, quarries, or minerals. 2 L.R. Ir. 339.

SUBSTANCE. Essence; the material or essential part of a thing, as distinguished from "form." *State v. Burgoerfer*, 107 Mo. 1, 17 S.W. 646, 14 L.R.A. 846; *Pierson v. Insurance Co.*, 7 Houst., Del., 307, 31 A. 966; *Metzroth v. City of New York*, 241 N.Y. 470, 150 N.E. 519, 520; *State v. Gregory*, 198 Iowa 316, 198 N.W. 58, 60. That which is essential. *Rose v. Osborne*, 136 Me. 15, 1 A.2d 225, 226.

It means not merely subject of act, but an intelligible abstract or synopsis of its material and substantial elements, though the "substance" may be stated without recital of any details. *State, on Inf. of Murphy, v. Brooks*, 241 Ala. 55, 1 So.2d 370, 371.

SUBSTANTIAL. Of real worth and importance; of considerable value; valuable. Tax Commission of Ohio *v. American Humane Education Soc.*, 42 Ohio App. 4, 181 N.E. 557. Belonging to substance; actually existing; real; not seeming or imaginary; not illusive; solid; true; veritable. *Seglem v. Skelly Oil Co.*, 145 Kan. 216, 65 P.2d 553, 554. Something worth while as distinguished from something without value or merely nominal. In re *Krause's Estate*, 173 Wash. 1, 21 P.2d 268. Synonymous with material. *Lewandoski v. Finkel*, 129 Conn. 526, 29 A.2d 762, 764.

A claim to bankrupt's property is "substantial" so as to preclude summary proceeding if there are probable facts or circumstances sufficient to support a reasonable legal hypothesis upon which it should be allowed. *Atlanta Flooring & Insulation Co. v. Russell*, C.C.A.Ga., 146 F.2d 884, 886, 888.

SUBSTANTIAL COMPLIANCE RULE. In like insurance law is that where insured has done substantially all he is required to do under policy to effect change in beneficiary and mere ministerial acts of insurer's officers and agents only remain to be done, change will take effect. *Inter-Southern Life Ins. Co. v. Cochran*, 259 Ky. 677, 83 S.W. 2d 11, 14.

SUBSTANTIAL DAMAGES. See Damages.

SUBSTANTIAL EQUIVALENT OF PATENTED DEVICE. Same as thing itself, so that if two devices do same work in substantially same way, and accomplish substantially same results, they are equivalent, even though differing in name, form, or shape. *Bedell v. Dictograph Products Co.*, 251 App.Div. 243, 296 N.Y.S. 25, 32; *Freeman v. Altwater*, C.C.A.Mo., 66 F.2d 506, 511.

SUBSTANTIAL JUSTICE. Justice administered according to the rules of substantive law, notwithstanding errors of procedure. *Interstate Bankers Corporation v. Kennedy*, D.C.Mun.App., 33 A.2d 165, 166.

SUBSTANTIAL PERFORMANCE. Exists where there has been no willful departure from the terms of the contract, and no omission in essential points, and the contract has been honestly and faithfully performed in its material and substantial particulars, and the only variance from the strict and literal performance consists of technical or unimportant omissions or defects. *Cotterman v. Oriental Oil Co.*, Tex.Civ.App., 272 S.W. 616, 619; *Brown v. Aguilar*, 202 Cal. 143, 259 P. 735, 737; *Cramer v. Esswein*, 220 App.Div. 10, 220 N.Y.S. 634; *Connell v. Higgins*, 170 Cal. 541, 150 P. 769, 774. Performance except as to unsubstantial omissions with compensation therefor. *Cassino v. Yacevich*, 261 App.Div. 685, 27 N.Y.S. 2d 95, 97, 99.

Equitable doctrine of "substantial performance", protects against forfeiture, for technical inadvertence or trivial variations or omissions in performance. *Sgarlat v. Griffith*, 349 Pa. 42, 36 A.2d 330, 332.

SUBSTANTIALLY. Essentially; without material qualification; in the main; in substance; materially; in a substantial manner. *Kirkpatrick v. Journal Pub. Co.*, 210 Ala. 10, 97 So. 58, 59; *Gibson v. Glos*, 271 Ill. 368, 111 N.E. 123, 124; *McEwen v. New York Life Ins. Co.*, 23 Cal.App. 694, 139 P. 242, 243. About, actually, competently, and essentially. *Gilmore v. Red Top Cab Co. of Washington*, 171 Wash. 346, 17 P.2d 886, 887.

SUBSTANTIATE. To establish the existence or truth of, by true or competent evidence, or to verify. *State v. Lock*, 302 Mo. 400, 259 S.W. 116, 120; *Graves v. School Committee of Wellesley*, 299 Mass. 80, 12 N.E.2d 176, 179.

SUBSTANTIVE. An essential part or constituent or relating to what is essential. *Stewart-Warner Corporation v. Le Vally*, D.C.Ill., 15 F.Supp. 571, 576.

SUBSTANTIVE EVIDENCE. That adduced for the purpose of proving a fact in issue, as opposed to evidence given for the purpose of discrediting a witness, (i. e., showing that he is unworthy of belief,) or of corroborating his testimony. Best, Ev. 246, 773, 803.

SUBSTANTIVE FELONY. An independent felony; one not dependent upon the conviction of another person for another crime. *Karakutza v. State*, 163 Wis. 293, 156 N.W. 965, 966; *Johnson v. State*, 68 Fla. 528, 67 So. 100, 103.

SUBSTANTIVE

SUBSTANTIVE LAW. That part of law which creates, defines, and regulates rights, as opposed to "adjective or remedial law," which prescribes method of enforcing the rights or obtaining redress for their invasion. *Maurizi v. Western Coal & Mining Co.*, 321 Mo. 378, 11 S.W.2d 268, 272; *Mix v. Board of Com'rs of Nez Perce County*, 18 Idaho, 695, 112 P. 215, 220, 32 L.R.A.,N.S., 534.

SUBSTITUTE, n. One who or that which stands in the place of another; that which stands in lieu of something else. *State v. Fargo Bottling Works Co.*, 19 N.D. 396, 124 N.W. 387, 391, 26 L.R.A.,N.S., 872. A person hired by one who has been drafted into the military service of the country, to go to the front and serve in the army in his stead.

SUBSTITUTE, v. To put in the place of another person or thing; to exchange. *State ex rel. Woolsey v. Morgan*, 138 Neb. 635, 294 N.W. 436, 438; *Toledo Edison Co. v. McMaken*, C.C.A.Ohio, 103 F. 2d 72, 75.

SUBSTITUTE DEFENDANT. One who takes the place of another in the same suit or controversy and not one who is sued upon an entirely different cause of action. *McCann v. Bentley Stores Corporation*, D.C.Mo., 34 F.Supp. 231, 233.

SUBSTITUTED EXECUTOR. One appointed to act in the place of another executor upon the happening of a certain event; *e. g.*, if the latter should refuse the office.

SUBSTITUTED SERVICE. In American law. Service of process upon a defendant in any manner, authorized by statute, other than personal service within the jurisdiction; as by publication, by mailing a copy to his last known address, or by personal service in another state. See *Ruhle v. Caffrey*, 115 N.J.L. 517, 180 A. 834, 835.

In English practice. Service of process made under authorization of the court upon some other person, when the person who should be served cannot be found or cannot be reached.

SUBSTITUTES. In Scotch law. The person first called or nominated in a tailzie (entailment of an estate upon a number of heirs in succession) is called the "institute" or "heir-institute;" the rest are called "substitutes."

SUBSTITUTIO HÆREDIS. Lat. In Roman law, is was competent for a testator after instituting a *hæres* (called the "*hæres institutus*") to substitute another (called the "*hæres substitutus*") in his place in a certain event. If the event upon which the substitution was to take effect was the refusal of the instituted heir to accept the inheritance at all, then the substitution was called "*vulgaris*," (or common;) but if the event was the death of the infant (*pupillus*) after acceptance, and before attaining his majority, (of fourteen years if a male, and of twelve years if a female,) then the substitution was called "*pupillaris*," (or for minors.) Brown.

SUBSTITUTION. Putting in place of another thing, change of one thing for another, serving in

lieu of another, having some of its parts replaced. In *re Cooke's Estate*, 147 Misc. 528, 264 N.Y.S. 336.

In the civil law. The putting one person in place of another; particularly, the act of a testator in naming a second devisee or legatee who is to take the bequest either on failure of the original devisee or legatee or after him.

"Substitution," with respect to wills, and in view of Civ. Code, art. 1520, prohibiting substitution, is the putting of one person in the place of another so that he may, in default of ability in the former, or after him, have the benefit of the devise or legacy, particularly the act of testator in naming a second devisee or legatee who is to take the bequest on failure of the original devisee or legatee, or after him. In *re Courtin*, 144 La. 971, 81 So. 457, 459.

In Scotch law. The enumeration or designation of the heirs in a settlement of property. Substitutes in an entail are those heirs who are appointed in succession on failure of others.

SUBSTITUTIONAL, SUBSTITUTIONARY. Where a will contains a gift of property to a class of persons, with a clause providing that on the death of a member of the class before the period of distribution his share is to go to his issue, (if any,) so as to substitute them for him, the gift to the issue is said to be substitutional or substitutionary. A bequest to such of the children of A. as shall be living at the testator's death, with a direction that the issue of such as shall have died shall take the shares which their parents would have taken, if living at the testator's death, is an example. *Sweet. Acken v. Osborn*, 45 N.J.Eq. 377, 17 A. 767; In *re De Laveaga's Estate*, 119 Cal. 651, 51 P. 1074.

SUBSTITUTIONARY EVIDENCE. Such as is admitted as a substitute for what would be the original or primary instrument of evidence; as where a witness is permitted to testify to the contents of a lost document.

SUBSTITUTIONARY EXECUTOR. See Executor.

SUBSTRACTION. In French law. The fraudulent appropriation of any property, but particularly of the goods of a decedent's estate.

SUBTENANT. An under-tenant; one who leases all or a part of the rented premises from the original lessee for a term less than that held by the latter. *Forrest v. Durnell*, 86 Tex. 647, 26 S.W. 481; *Peak v. Gaddy*, 152 Okl. 138, 3 P.2d 1042, 1043.

SUBTERFUGE. That to which one resorts for escape or concealment. *Los Angeles Fisheries v. Crook*, C.C.A.Cal., 47 F.2d 1031, 1035.

SUBTERRANEAN WATERS. See Water.

SUBTRACTION. The offense of withholding or withdrawing from another man what by law he is entitled to. There are various descriptions of this offense, of which the principal are as follows: (1) Subtraction of suit and services, which is a species of injury affecting a man's real property, and consists of a withdrawal of (or a neglect to perform or pay) the fealty, suit of court, rent, or

services reserved by the lessor of the land. (2) Subtraction of tithes is the withholding from the parson or vicar the tithes to which he is entitled, and this is cognizable in the ecclesiastical courts. (3) Subtraction of conjugal rights is the withdrawing or withholding by a husband or wife of those rights and privileges which the law allows to either party. (4) Subtraction of legacies is the withholding or detaining of legacies by an executor. (5) Subtraction of church rates, in English law, consists in the refusal to pay the amount of rate at which any individual parishioner has been assessed for the necessary repairs of the parish church. Brown.

SUBTRACTION OF CONJUGAL RIGHTS. The act of a husband or wife living separately from the other without a lawful cause. 3 Bl.Comm. 94. See, also, Subtraction.

SUBURBANI. Lat. In old English law. Husbandmen.

SUBVASSORES. In old Scotch law. Base holders; inferior holders; they who held their lands of knights. Skene.

SUCCESSIO. Lat. In the civil law. A coming in place of another, on his decease; a coming into the estate which a deceased person had at the time of his death. This was either by virtue of an express appointment of the deceased person by his will, (*ex testamento*;) or by the general appointment of law in case of *intestacy*, (*ab intestato*.) Inst. 2, 9, 7; Heinecc. Elem. lib. 2, tit. 10.

SUCCESSION. The devolution of title to property under the law of descent and distribution. State ex rel. Walker v. Payne, 129 Mo. 468, 31 S.W. 797, 798, 3 L.R.A. 576. The act or right of legal or official investment with a predecessor's office, dignity, possession, or functions; also the legal or actual order of so succeeding from that which is or is to be vested or taken. Glascott v. Bragg, 111 Wis. 605, 87 N.W. 853, 854, 56 L.R.A. 258.

The word when applied to realty denotes persons who take by will or inheritance and excludes those who take by deed, grant, gift, or any form of purchase or contract. Olsan Bros. v. Miller, Tex.Civ.App., 108 S.W.2d 856, 857.

The right by which one set of men may, by succeeding another set, acquire a property, in all the goods, movables, and other chattels of a corporation. 2 Bl.Comm. 430. The power of perpetual *succession* is one of the peculiar properties of a corporation. 2 Kent, Comm. 267. See Perpetual.

Civil Law and Louisiana

The *fact* of the transmission of the rights, estate, obligations, and charges of a deceased person to his heir or heirs.

The *right* by which the heir can take possession of the decedent's estate. The right of the heir to step into the place of the deceased, with respect to the possession, control, enjoyment, administration, and settlement of all the latter's property, rights, obligations, charges, etc.

The *estate* of a deceased person, comprising all kinds of property owned or claimed by him, as

well as his debts and obligations, and considered as a legal entity (according to the notion of the Roman law) for certain purposes, such as collecting assets and paying debts. Davenport v. Adler, 52 La. Ann. 263, 26 So. 836; Succession of Blumberg, 148 La. 1030, 88 So. 297, 299.

The transmission of the rights and obligations of the deceased to the heirs, also the estates, rights, and charges which a person leaves after his death, whether the property exceeds the charges or the charges exceed the property, or whether he has only left charges without any property. Delaneville v. Duhe, 114 La. 62, 38 So. 20, 22.

The succession not only includes the rights and obligations of the deceased as they exist at the time of his death, but all that has accrued thereto since the opening of the succession, as also the new charges to which it becomes subject.

The coming in of another to take the property of one who dies without disposing of it by will.

General

Artificial succession. That attribute of a corporation by which, in contemplation of law, the company itself remains always the same though its constituent members or stockholders may change from time to time. See Thomas v. Dakin, 22 Wend., N.Y., 100.

Hereditary succession. Descent or title, by descent at common law; the title whereby a man on the death of his ancestor acquires his estate by right of representation as his heir at law. See In re Donahue's Estate, 36 Cal. 332; Barclay v. Cameron, 25 Tex. 241.

Intestate succession. The succession of an heir at law to the property and estate of his ancestor when the latter has died intestate, or leaving a will which has been annulled or set aside.

Irregular succession. That which is established by law in favor of certain persons, or of the state, in default of heirs, either legal or instituted by testament.

Legal succession. That which the law establishes in favor of the nearest relation of a deceased person.

Natural succession. Succession taking place between natural persons, for example, in descent on the death of an ancestor. Thomas v. Dakin, 22 Wend., N.Y., 100.

SUCCESSION DUTY. An American law. A tax placed on the gratuitous acquisition of property passing on the death of any person by transfer from one person to another. Wachovia Bank & Trust Co. v. Maxwell, 221 N.C. 528, 20 S.E.2d 840, 842.

In English law. A duty, (varying from one to ten per cent.,) payable under the statute 16 & 17 Vict. c. 51, in respect chiefly of real estate and leaseholds, but generally in respect of all property (not already chargeable with legacy duty) devolving upon any one in consequence of any death. Brown.

Succession tax. A tax imposed upon the privilege of receiving property from a decedent by de-

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wise or inheritance. See *Scholey v. Rew*, 23 Wall. 346, 23 L.Ed. 99; *State v. Switzler*, 143 Mo. 287, 45 S.W. 245, 40 L.R.A. 280; *Wonderly v. Tax Commission of Ohio*, 112 Ohio St. 233, 147 N.E. 509, 512; *Shepard v. State*, 184 Wis. 88, 197 N.W. 344, 345; *Bankers' Trust Co. v. State*, 96 Conn. 361, 114 A. 104, 106.

It is tax on right of succession to property, and not on property itself. *Reynolds v. Reynolds*, 208 N.C. 578, 182 S.E. 341.

Testamentary succession. In the civil law, that which results from the institution of an heir in a testament executed in the form prescribed by law.

Vacant succession. When no one claims it, or when all the heirs are unknown, or when all the known heirs to it have renounced it. Civ.Code La. art. 1095. *Simmons v. Saul*, 11 S.Ct. 369, 138 U.S. 439, 34 L.Ed. 1054.

SUCCESSIVE. Following one after another in a line or series. In re *Buchholtz*, Cust. & Pat.App., 54 F.2d 965, 966.

SUCCESSOR. One that succeeds or follows; one who takes the place that another has left, and sustains the like part or character; one who takes the place of another by succession. *Thompson v. North Texas Nat. Bank*, Tex.Com.App., 37 S.W.2d 735, 740; *Wawak Co. v. Kaiser*, C.C.A.Ill., 90 F.2d 694, 697.

One who has been appointed or elected to hold an office after the term of the present incumbent.

Term with reference to corporations, generally means another corporation which, through amalgamation, consolidation, or other legal succession, becomes invested with rights and assumes burdens of first corporation. *Schmoele v. Atlantic City R. Co.*, 110 N.J.Eq. 597, 160 A. 524, 526.

Singular Successor

A term borrowed from the civil law, denoting a person who succeeds to the rights of a former owner in a single article of property, (as by purchase,) as distinguished from a *universal* successor, who succeeds to all the rights and powers of a former owner, as in the case of a bankrupt or intestate estate.

SUCCINCT. Brief, precise, exact. *Logan v. Hite*, 214 Ind. 233, 13 N.E.2d 702, 703.

SUCCURRITUR MINORI; FACILIS EST LAP-SUS JUVENTUTIS. A minor is [to be] aided; a mistake of youth is easy, [youth is liable to err.] *Jenk. Cent. p. 47, case 89.*

SUCH. Of that kind, having particular quality or character specified. In re *Brock*, 312 Pa. 92, 166 A. 785, 787. Identical with, being the same as what has been mentioned. In re *Watson's Will*, 144 Misc. 213, 258 N.Y.S. 755. Alike, similar, of the like kind; "such" represents the object as already particularized in terms which are not mentioned, and is a descriptive and relative word, referring to the last antecedent. *Strawberry Hill Land*

Corporation v. Starbuck, 124 Va. 71, 97 S.E. 362, 366; *People ex rel. Kelly v. Public Service Commission*, 171 App.Div. 810, 157 N.Y.S. 703, 705.

SUCKEN, SUCHEN. In Scotch law. The whole lands astricted to a mill; that is, the lands of which the tenants are obliged to send their grain to that mill. *Bell.*

SUDDEN. Happening without previous notice or with very brief notice; coming or occurring unexpectedly; unforeseen; unprepared for. *Hagaman v. Manley*, 141 Kan. 647, 42 P.2d 946, 949.

SUDDEN AFFRAY. A difficulty or fight suddenly resulting from the mutual agreement of two or more parties. *Cavanaugh v. Commonwealth*, 172 Ky. 799, 190 S.W. 123, 126; *Gibbons v. Commonwealth*, 253 Ky. 72, 68 S.W.2d 753.

SUDDEN HEAT OF PASSION. In the common-law definition of manslaughter, this phrase means an access of rage or anger, suddenly arising from a contemporary provocation. It means that the provocation must arise at the time of the killing, and that the passion is not the result of a former provocation, and the act must be directly caused by the passion arising out of the provocation at the time of the homicide. *Stell v. State*, Tex.Cr. App., 58 S.W. 75; *Farrar v. State*, 29 Tex.App. 250, 15 S.W. 719; *Violett v. Com.*, 24 Ky.Law Rep. 1720, 72 S.W. 1.

SUDDEN OR VIOLENT INJURY. Injury occurring unexpectedly and not naturally or in the ordinary course of events. *State v. District Court of St. Louis County*, 138 Minn. 131, 164 N.W. 585, L.R.A.1918C, 116.

SUDDEN PERIL RULE. Under this rule, a defendant who is guilty of primary negligence is not liable in case of sudden peril where the peril or alarm was caused by the negligence of the opposite party, apprehension of peril from the standpoint of defendant seeking to excuse his primary negligence was reasonable, appearance of danger was so imminent as to leave no time for deliberation. *White v. Munson*, Tex.Civ.App., 162 S.W.2d 429, 432.

But rule cannot be invoked by one bringing emergency on or not using due care, to avoid it. *McClelland v. Interstate Transit Lines*, 142 Neb. 439, 6 N.W.2d 384, 391.

SUDDER. In Hindu law. The best; the fore-court of a house; the chief seat of government, contradistinguished from "*mofussil*," or interior of the country; the presidency. *Wharton.*

SUE. To commence or to continue legal proceedings for recovery of a right; to proceed with as an action, and follow it up to its proper termination; to gain by legal process. *Lervold v. Republic Mut. Fire Ins. Co.*, 142 Kan. 43, 45 P.2d 839, 843, 106 A.L.R. 673. Word includes a proceeding instituted by confession of judgment. *Commonwealth ex rel. Bradford County v. Lynch*, 146 Pa. Super. 469, 23 A.2d 77, 78.

SUE OUT. To obtain by application; to petition for and take out. Properly the term is applied only to the obtaining and issuing of such process as is only accorded upon an application first made; but conventionally it is also used of the taking out of process which issues of course. The term is occasionally used of instruments other than writs. Thus, we speak of "suing out" a pardon. See *South Missouri Lumber Co. v. Wright*, 114 Mo. 326, 21 S.W. 811; *Kelley v. Vincent*, 8 Ohio St. 420; *U. S. v. American Lumber Co.*, 29 C.C.A. 431, 85 F. 830.

SUERTE. In Spanish law. A small lot of ground. Particularly, such a lot within the limits of a city or town used for cultivation or planting as a garden, vineyard or orchard. Building lots in towns and cities are called "solares." *Hart v. Burnett*, 15 Cal. 554.

SUFFER. To allow, to admit, or to permit. *Gregory v. Marks*, C.C.Ill., Fed.Cas.No.5,802; 10 Fed.Cas. 1194, 1198; *Osborne v. Winter*, 133 Cal. App. 664, 24 P.2d 892. It includes knowledge of what is to be done under sufferance. *First Nat. Bank & Trust Co. of Port Chester v. New York Title Ins. Co.*, 171 Misc. 854, 12 N.Y.S.2d 703, 709.

Also to have the feeling or sensation that arises from the action of something painful, distressing or the like; to feel or endure pain; to endure or undergo without sinking; to support; to bear up under; to be affected by; to sustain; to experience; to feel pain, physical or mental. The customary use of the word indicates some experience of conscious pain. *New York Life Ins. Co. v. Calhoun*, C.C.A.Mo., 97 F.2d 896, 898.

To suffer an act to be done or a condition to exist is to permit or consent to it; to approve of it, and not to hinder it. It implies knowledge, a willingness of the mind and responsible control or ability to prevent. *Wilson v. Nelson*, 183 U.S. 191, 22 S.Ct. 74, 46 L.Ed. 147; *Selleck v. Selleck*, 19 Conn. 505; *Gregory v. U. S.*, C.C.N.Y., Fed.Cas. No.5,803; 10 Fed.Cas. 1197; *In re Thomas*, D.C.Pa., 103 F. 272, 274; *Allison v. Commonwealth*, 221 Ky. 205, 298 S.W. 680.

SUFFERANCE. Toleration; negative permission by not forbidding; passive consent; license implied from the omission or neglect to enforce an adverse right. See *People on Inf. of Price v. Sheffield Farms-Slawson-Decker Co.*, 225 N.Y. 25, 121 N.E. 474, 476.

SUFFERANCE WHARVES. In English law. Wharves in which goods may be landed before any duty is paid. They are appointed for the purpose by the commissioners of the customs. 2 Steph. Comm. 500, note.

SUFFERENTIA PACIS. Lat. A grant or sufferance of peace or truce.

SUFFERING A RECOVERY. A recovery was effected by the party wishing to convey the land suffering a fictitious action to be brought against him by the party to whom the land was to be conveyed, (the demandant,) and allowing the demandant to recover a judgment against him for the land in question. The vendor, or conveying party, in thus assisting or permitting the demand-

ant so to recover a judgment against him, was thence technically said to "suffer a recovery." *Brown*.

SUFFICIENT. Adequate, enough, as much as may be necessary, equal or fit for end proposed, and that which may be necessary to accomplish an object. *Brittain v. Industrial Commission of Ohio*, 95 Ohio St. 391, 115 N.E. 110; *Galveston, H. & S. A. Ry. Co. v. Enderle*, Tex.Civ.App., 170 S.W. 276, 277; *Commissioners of Sinking Fund of Louisville v. Anderson*, D.C.Ky., 20 F.Supp. 217, 220. Of such quality, number, force, or value as to serve a need or purpose. *Nissen v. Miller*, 44 N.M. 487, 105 P.2d 324, 326. As to sufficient "Consideration" see that title.

SUFFICIENT CAUSE. With respect to right to remove officers does not mean any cause which removing officer may deem sufficient, but means legal cause, specifically relating to and affecting administration of office, of substantial nature directly affecting public's rights and interests, touching officer's qualifications or his performance of duties, and showing that he is not fit or proper to hold office. *Sausbier v. Wheeler*, 252 App.Div. 267, 299 N.Y.S. 466, 472; *Zurich General Accident & Liability Ins. Co. v. Kinsler*, 12 Cal.2d 98, 81 P.2d 913, 915.

SUFFICIENT EVIDENCE. Adequate evidence; such evidence, in character, weight, or amount, as will legally justify the judicial or official action demanded; according to circumstances, it may be "prima facie" or "satisfactory" evidence, according to the definitions of those terms given above. *People v. Stern*, 33 Misc.Rep. 455, 68 N. Y.S. 732; *Mallery v. Young*, 94 Ga. 804, 22 S.E. 142; *Parker v. Overman*, 18 How. 141, 15 L.Ed. 318; *State v. Newton*, 33 Ark. 284.

Sufficient evidence is that which is satisfactory for the purpose; *Mallery v. Young*, 94 Ga. 804, 22 S.E. 142, 143; that amount of proof which ordinarily satisfies an unprejudiced mind, beyond a reasonable doubt; *Cole v. McClure*, 88 Ohio St. 1, 102 N.E. 264, 266. The term is not synonymous with "conclusive." *Pensacola & A. R. Co. v. State*, 5 So. 833, 835, 25 Fla. 310, 3 L.R.A. 661. But it may be used interchangeably with the term "weight of evidence." *Waldron v. New York Cent. Ry. Co.*, 106 Ohio St. 371, 140 N.E. 161, 163. See, also, Satisfactory Evidence.

SUFFOCATE. To kill by stopping respiration, as by strangling or asphyxiation. *Stone v. Physicians Casualty Ass'n of America*, 130 Neb. 769, 266 N.W. 605, 607.

SUFFRAGAN. Bishops who in former times were appointed to supply the place of others during their absence on embassies or other business were so termed. They were consecrated as other bishops were, and were anciently called "*chorepiscopi*," or "bishops of the county," in contradistinction to the regular bishops of the city or see. The practice of creating *suffragan* bishops, after having long been discontinued, was recently revived; and such bishops are now permanently "assistant" to the bishops. *Brown*.

A suffragan is a titular bishop ordained to aid and assist the bishop of the diocese in his spiritual function; or one who supplieth the place instead of the bishop, by whose suffrage ecclesiastical causes or matters committed to him

SUFFRAGE

are to be adjudged, acted on, or determined. Some writers call these suffragans by the name of "subsidiary bishops." Tomlins.

SUFFRAGE. A vote; the act of voting; the right or privilege of casting a vote at public elections. The last is the meaning of the term in such phrases as "the extension of the suffrage," "universal suffrage," etc. *Spitzer v. Fulton*, 33 Misc. 257, 68 N.Y.S. 660; *Cofield v. Farrell*, 38 Okl. 608, 134 P. 407, 409.

Participation in the suffrage is not of right, but is granted by the state on a consideration of what is most for the interest of the state, *Cooley, Const.*, 2d Ed. 752; *Spencer v. Board of Registration*, 8 D.C. 169, 29 Am.Rep. 582; *U. S. v. Anthony*, 11 Blatchf. 200, Fed.Cas.No.14,459. The grant of suffrage makes it a legal right until it is recalled, and it is protected by the law as property is.

SUFFRAGIUM. Lat. In Roman law. A vote; the right of voting in the assemblies of the people.

Aid or influence used or promised to obtain some honor or office; the purchase of office. *Cod.* 4, 3.

SUGGEST. To introduce indirectly to the thought; to propose with diffidence or modesty; to hint; to intimate. *Sims v. Ratcliff*, 62 Ind.App. 184, 110 N. E. 122, 123.

SUGGESTIO FALSI. Lat. Suggestion or representation of that which is false; false representation. To recite in a deed that a will was duly executed, when it was not, is *suggestio falsi*; and to conceal from the heir that the will was not duly executed is *suppressio veri*. 1 P. Wms. 240, and see *Turney v. Avery*, 92 N.J.Eq. 473, 113 A. 710.

SUGGESTION. A suggesting, presentation of an idea especially indirectly, as through association of ideas, bringing before the mind for consideration, action, solution, or the like. *Artificial Ice & Cold Storage Co. v. Martin*, 102 Ind.App. 74, 198 N.E. 446, 449.

It is in the nature of a hint or insinuation, and lacks the element of probability. Facts which merely suggest do not raise an inference of the existence of the fact suggested, and therefore a suggestion is much less than an inference or presumption. *Lopa v. Smith*, 37 Ohio App. 346, 174 N.E. 258, 259.

In practice. A statement, formally entered on the record, of some fact or circumstance which will materially affect the further proceedings in the cause, or which is necessary to be brought to the knowledge of the court in order to its right disposition of the action, but which, for some reason, cannot be pleaded. Thus, if one of the parties dies after issue and before trial, his death may be *suggested* on the record. *C. J. Huebel Co. v. Mackinnon*, 186 Mich. 617, 152 N.W. 1098, 1100.

SUGGESTION OF ERROR. Request for rehearing. *White v. State*, 190 Miss. 589, 195 So. 479, 482.

SUGGESTIVE INTERROGATION. A phrase used by some writers to signify "leading question." 2 Benth. *Jud. Ev.* b. 3, c. 3. It is used in the French law.

SUI GENERIS. Lat. Of its own kind or class; *i. e.*, the *only one* of its own kind; peculiar.

SUI HÆREDES. Lat. In the civil law. One's own heirs; proper heirs. *Inst.* 2, 19, 2.

SUI JURIS. Lat. Of his own right; possessing full social and civil rights; not under any legal disability, or the power of another, or guardianship.

Having capacity to manage one's own affairs; not under legal disability to act for one's self. *Story, Ag.* § 2.

SUICIDE. Self-destruction; the deliberate termination of one's existence, while in the possession and enjoyment of his mental faculties. See *Insurance Co. v. Moore*, 34 Mich. 41; *Weber v. Supreme Tent*, 172 N.Y. 490, 65 N.E. 258, 92 Am.St. Rep. 753; *Daniels v. Railroad Co.*, 183 Mass. 393, 67 N.E. 424, 62 L.R.A. 751.

The term "suicide," as used in insurance policies, has been held to mean death by one's own hand, irrespective of mental condition. *Great Southern Life Ins. Co. v. Campbell*, 148 Miss. 173, 114 So. 262, 263, 56 A.L.R. 681. But other cases hold that intent is essential. *Benard v. Protected Home Circle*, 161 App.Div. 59, 146 N.Y.S. 232, 233; *American Nat. Ins. Co. v. Anderson*, 42 Ga.App. 624, 157 S.E. 112.

SUICIDE, SANE OR INSANE. An exemption from liability for death by "suicide, sane or insane," in a life policy includes self-destruction irrespective of the assured's mental condition at the time of the act. *United States Fidelity & Guaranty Co. v. Blum*, C.C.A.Wash., 258 F. 897, 899; *Power v. Modern Brotherhood of America*, 98 Kan. 487, 158 P. 870, 872.

SUING AND LABORING CLAUSE. A clause in an English policy of marine insurance, generally in the following form: "In case of any loss or misfortune, it shall be lawful for the assured, their factors, servants and assigns, to sue, labor, and travel for, in, and about the defense, safeguard, and recovery of the" property insured, "without prejudice to this insurance; to the charges whereof we, the assurers, will contribute." The object of the clause is to encourage the assured to exert themselves in preserving the property from loss. *Sweet.*

SUIT.

Old English Law

The witnesses or followers of the plaintiff. 3 Bl. *Comm.* 255. See *Secta.*

Old books mention the word in many connections which are now disused,—at least, in the United States. Thus, "suit" was used of following any one, or in the sense of pursuit; as in the phrase "making fresh suit." It was also used of a petition to the king or lord. "Suit of court" was the attendance which a tenant owed at the court of his lord. "Suit covenant" and "suit custom" seem to have signified a right to one's attendance, or one's obligation to attend, at the lord's court, founded upon a known covenant, or an immemorial usage or practice of ancestors. "Suit regal" was attendance at the sheriff's tourn or leet, (his court.) "Suit of the king's peace" was pursuing an offender,—one charged with breach of the peace, while "suihold" was a tenure in consideration of certain services to the superior lord. *Abbott.*

Modern Law

A generic term, of comprehensive signification, and applies to any proceeding by one person or persons against another or others in a court of justice in which the plaintiff pursues, in such court, the remedy which the law affords him for the redress of an injury or the enforcement of a right, whether at law or in equity. See Kohl v. U. S., 91 U.S. 375, 23 L.Ed. 449; Weston v. Charleston, 2 Pet. 464, 7 L.Ed. 481; Syracuse Plaster Co. v. Agostini Bros. Bldg. Corporation, 169 Misc. 564, 7 N.Y.S.2d 897. It is, however, seldom applied to a criminal prosecution. And it is sometimes restricted to the designation of a proceeding in equity, to distinguish such proceeding from an action at law. Patterson v. Standard Accident Ins. Co., 178 Mich. 288, 144 N.W. 491, 492, 51 L.R.A., N.S., 583. For "Ancillary" suit and suit "In Rem" see those titles.

General

Class suits. See Class or Representative Action.

Suit against state. Suit in which relief against the state is sought. Louisville & N. R. Co. v. Bosworth, D.C.Ky., 209 F. 380, 401.

Within rule of state immunity from suit without its consent, one in which the subject matter must be an interest of value in a material sense to the state as a distinct entity. American Federation of Labor v. Mann, Tex.Civ. App., 188 S.W.2d 276, 279, 280. And in the determination of whether a suit is one against the state, it is not necessary that the state appear on the record as a party; but, if the state is the real party against which the relief is sought, the suit is a "suit against the state" although nominally it appears on the record as a suit against one of its officers. McKamey v. Aikin, Tex.Civ.App., 118 S.W.2d 482, 483, 484.

Suit money. An allowance, in the nature of temporary alimony, authorized by statute in some states to be made to a wife on the institution of her suit for divorce, intended to cover the reasonable expenses of the suit and to provide her with means for the efficient preparation and trial of her case. See Yost v. Yost, 141 Ind. 584, 41 N.E. 11.

Suit of a civil nature. A suit for the remedy of a private wrong, the test being whether the law is penal in the strict and primary sense, and whether the wrong is to the public or to the individual. City of Montgomery, Ala., v. Postal Telegraph-Cable Co., D.C.Ala., 218 F. 471, 474.

Suit of court. This phrase denoted the duty of attending the lord's court, and, in common with fealty, was one of the incidents of a feudal holding. Brown.

Suit of the king's peace. The pursuing a man for breach of the king's peace by treasons, insurrections, or trespasses. Cowell.

Suits or proceedings at law or in chancery. Suits instituted and carried on in substantial conformity with the forms and modes prescribed by the common law or by the rules in chancery excluding cases instituted and carried on solely in accordance with statutory provisions. Lavin v. Wells Bros. Co., 272 Ill. 609, 112 N.E. 271, 272.

Suit silver. A small sum of money paid in lieu of attendance at the court-baron. Cowell.

SUITABLE. Fit and appropriate for the end in view. U. S. v. American & Patterson, 9 Ct.Cust. App. 244, 245.

SUITAS. Lat. In the civil law. The condition or quality of a *suus hæres*, or proper heir. Hallifax, Civil Law, b. 2, c. 9, no. 11; Calvin.

SUITE. Those persons who by his authority follow or attend an ambassador or other public minister.

SUITOR. A party to a suit or action in court. In its ancient sense, "suitor" meant one who was bound to attend the county court; also one who formed part of the *secta*.

SUITORS' DEPOSIT ACCOUNT. Formerly suitors in the English court of chancery derived no income from their cash paid into court, unless it was invested at their request and risk. Now, however, it is provided by the court of chancery (funds) act, 1872, that all money paid into court, and not required by the suitor to be invested, shall be placed on deposit and shall bear interest at two per cent. per annum for the benefit of the suitor entitled to it. Sweet.

SUITORS' FEE FUND. A fund in the English court of chancery into which the fees of suitors in that court were paid, and out of which the salaries of various officers of the court were defrayed. Wharton.

SUITORS' FUND IN CHANCERY. In England. A fund consisting of moneys which, having been paid into the court of chancery, are placed out for the benefit and better security of the suitors, including interest from the same. By St. 32 & 33 Vict. c. 91, § 4, the principal of this fund, amounting to over £3,000,000, was transferred to the commissioners for the reduction of the national debt. Mozley & Whitley.

SULCUS. In old English law. A small brook or stream of water. Cowell.

SULLERY. In old English law. A plowland. 1 Inst. 5.

SUM. In English law. A summary or abstract; a compendium; a collection. Several of the old law treatises are called "sums." Lord Hale applies the term to summaries of statute law. Burrell.

The sense in which the term is most commonly used is "money"; a quantity of money or currency; any amount indefinitely, a sum of money, a small sum, or a large sum. U. S. v. Van Auken, 96 U.S. 368, 24 L.Ed. 852; Donovan v. Jenkins, 52 Mont. 124, 155 P. 972, 973.

SUM IN GROSS. See In Gross.

SUM PAYABLE. As used within Negotiable Instruments Law is the amount for which, by the terms of the instrument, the maker becomes liable, and which he might tender and pay in full

SUMAGE

satisfaction of his obligation. First Nat. Bank of Iowa City, Iowa, v. Watson, 56 Okl. 495, 155 P. 1152.

SUMAGE. Toll for carriage on horseback. Cowell.

SUMMA CARITAS EST FACERE JUSTITIAM SINGULIS, ET OMNI TEMPORE QUANDO NECESSE FUERIT. The greatest charity is to do justice to every one, and at any time whenever it may be necessary. 11 Coke, 70.

SUMMA EST LEX QUÆ PRO RELIGIONE FACIT. That is the highest law which favors religion. 10 Mod. 117, 119; Broom, Max. 19.

SUMMA RATIO EST QUÆ PRO RELIGIONE FACIT. That consideration is strongest which determines in favor of religion. Co. Litt. 341a; Broom, Max. 19.

SUMMARILY. Without ceremony or delay, short or concise. In re Gabelmann, 136 Misc. 641, 241 N.Y.S. 405, 408.

SUMMARY, n. An abridgment; brief; compendium; also a short application to a court or judge, without the formality of a full proceeding. Wharton.

SUMMARY, adj. Short, concise. State v. Bettman, 124 Ohio St. 24, 176 N.E. 664, 665. Immediate, peremptory; off-hand; without a jury; provisional; statutory. The term used in connection with legal proceedings means a short, concise, and immediate proceeding. Vance v. Noel, 143 La. 477, 78 So. 741, 742; and trial of a "summary" character is a trial without a jury. State v. King, 137 Tenn. 17, 191 S.W. 352, 354; City of St. Paul v. Robinson, 129 Minn. 383, 152 N.W. 777, Ann.Cas. 1916E, 845.

Summary actions. In Scotch law. Those which are brought into court not by summons, but by petition, corresponding to summary proceedings in English courts. Bell; Brown.

Summary conviction. See Conviction.

Summary jurisdiction. The jurisdiction of a court to give a judgment or make an order itself forthwith; *e. g.*, to commit to prison for contempt; to punish malpractice in a solicitor; or, in the case of justices of the peace, a jurisdiction to convict an offender themselves instead of committing him for trial by a jury. Wharton.

Summary procedure on bills of exchange. This phrase refers to the statute 18 & 19 Vict. c. 67, passed in 1855, for the purpose of facilitating the remedies on bills and notes by the prevention of frivolous or fictitious defenses. By this statute, a defendant in an action on a bill or note, brought within six months after it has become payable, is prohibited from defending the action without the leave of the court or a judge. See 2 Steph. Comm. 118, note; Lush. Pr. 1027.

Summary proceeding. See Proceeding.

SUMMARY PROCESS. See Process.

SUMMER FALLOWING. Plowing and harrowing of grounds preparatory to cropping during next season. Farmers' & Merchants' Bank of Walla Walla v. Small, 131 Wash. 197, 229 P. 531, 533.

SUMMER-HUS SILVER. A payment to the lords of the wood on the Wealds of Kent, who used to visit those places in summer, when their under-tenants were bound to prepare little summer-houses for their reception, or else pay a composition in money. Cowell.

SUMMING UP. On the trial of an action by a jury, a recapitulation of the evidence adduced, in order to draw the attention of the jury to the salient points. The counsel for each party has the right of summing up his evidence, if he has adduced any, and the judge sometimes sums up the whole in his charge to the jury. Smith, Act. 157. State v. Ezzard, 40 S.C. 312, 18 S.E. 1025.

SUMMON. In practice. To serve a summons; to cite a defendant to appear in court to answer a suit which has been begun against him; to notify the defendant that an action has been instituted against him, and that he is required to answer to it at a time and place named.

SUMMONEAS. L. Lat. In old practice. A writ of summons; a writ by which a party was summoned to appear in court.

SUMMONERS. Petty officers, who cite and warn persons to appear in any court. Fleta, lib. 9.

SUMMONITIO. L. Lat. In old English practice. A summoning or summons; a writ by which a party was summoned to appear in court, of which there were various kinds. Spelman.

SUMMONITIONES AUT CITATIONES NULLÆ LICEANT FIERI INTRA PALATIUM REGIS. 3 Inst. 141. Let no summonses or citations be served within the king's palace.

SUMMONITORES SCACCARIL. Officers who assisted in collecting the revenues by citing the defaulters therein into the court of exchequer.

SUMMONS.

Practice

A writ, directed to the sheriff or other proper officer, requiring him to notify the person named that an action has been commenced against him in the court whence the writ issues, and that he is required to appear, on a day named, and answer the complaint in such action. See Whitney v. Blackburn, 17 Or. 564, 21 P. 874, 11 Am.St.Rep. 857; Horton v. Railway Co., 26 Mo.App. 358.

Under code procedure a summons is not process, but is a notice to defendant that an action against him has been commenced and that judgment will be taken against him if he fails to answer the complaint. Flanary v. Kusha, 143 Minn. 308, 173 N.W. 652; United States v. Van Dusen, C.C. A.Minn., 78 F.2d 121, 124.

Scotch Law

A writ passing under the royal signet, signed by a writer to the signet, and containing the grounds and conclusions of the action, with the warrant for citing the defender. This writ corresponds to the writ of summons in English procedure. Bell; Paters. Comp.

SUMMONS AD RESPONDENDUM. Process issuing in a civil case at law notifying defendant therein named that he must appear on day designated and thereupon make answer to plaintiff's statement of his cause of action. Walker Fertilizer Co. v. Race, 123 Fla. 84, 166 So. 283, 285, 105 A.L.R. 341.

SUMMONS AND ORDER. In English practice. The summons is the application to a common-law judge at chambers in reference to a pending action, and upon it the judge or master makes the order. Mozley & Whitley.

SUMMONS AND SEVERANCE. The proper name of what is distinguished in the books by the name of "summons and severance" is "severance;" for the summons is only a process which must, in certain cases, issue before judgment of severance can be given; while severance is a judgment by which one or more of parties joined in action is enabled to proceed without the other or others. Jacob.

SUMMUM JUS. Lat. Strict right; extreme right. The extremity or rigor of the law. See "Apex Juris."

SUMMUM JUS, SUMMA INJURIA; SUMMA LEX, SUMMA CRUX. Extreme law (rigor of law) is the greatest injury; strict law is great punishment. Hob. 125. That is, insistence upon the full measure of a man's strict legal rights may work the greatest injury to others, unless equity can aid.

SUMNER. See Sompnour.

SUMPTUARY LAWS. Laws made for the purpose of restraining luxury or extravagance, particularly against inordinate expenditures in the matter of apparel, food, furniture, etc.

SUNDAY. The first day of the week is designated by this name; also as the "Lord's Day," and as the "Sabbath." State v. Reade, 98 N.J.L. 596, 121 A. 288, 289.

For Work of Necessity see "Necessity."

SUNDAY SCHOOL. School for religious instruction. Dougherty v. Kentucky Alcoholic Beverage Control Board, 279 Ky. 262, 130 S.W.2d 756, 759; Stubbs v. Texas Liquor Control Board, Tex.Civ. App., 166 S.W.2d 178, 180.

SUNDRIES. Miscellaneous or various items which may be considered together, without being separately specified or identified. People v. Bernstein, 237 App.Div. 270, 261 N.Y.S. 381.

SUNDRY. Separate, divers, or various. Hammond v. State, 173 Ark. 674, 293 S.W. 714, 717.

SUNSTROKE. An inflammatory disease of the brain, brought on by exposure to the too intense heat of the sun's rays, or to overheated air. Mather v. London Guarantee & Accident Co., 125 Minn. 186, 145 N.W. 963; Continental Casualty Co. v. Clark, 70 Okl. 187, 173 P. 453, L.R.A. 1918F, 1007. Though "sunstroke," strictly speaking, is a disease, suddenness of its approach and its catastrophic nature have caused it to be classified as an accident. Lurye v. Stern Bros. Department Store, 275 N.Y. 182, 9 N.E.2d 828, 829.

SUO NOMINE. Lat. In his own name.

SUO PERICULO. Lat. At his own peril or risk.

SUPELLEX. Lat. In Roman law. Household furniture. Dig. 33, 10.

SUPER. Lat. Upon; above; over; higher, as in quantity, quality and degree; more than; as in super-essential, super-natural or super-standard. Fricke v. Braden, 55 Cal.App.2d 266, 130 P.2d 727, 729.

SUPER ALTUM MARE. On the high sea. Hob. 212; 2 Ld. Raym. 1453.

SUPER FIDEM CHARTARUM, MORTUIS TESTIBUS, ERIT AD PATRIAM DE NECESSITATE RECURRENDUM. Co. Litt. 6. The truth of charters is necessarily to be referred to a jury, when the witnesses are dead.

SUPER PRÆROGATIVA REGIS. A writ which formerly lay against the king's tenant's widow for marrying without the royal license. Fitzh. Nat. Brev. 174.

SUPER STATUTO. A writ, upon the statute 1 Edw. III. c. 12, that lay against the king's tenant holding in chief, who aliened the king's land without his license.

SUPER STATUTO DE ARTICULIS CLERI. A writ which lay against a sheriff or other officer who distrained in the king's highway, or on lands anciently belonging to the church.

SUPER STATUTO FACTO POUR SENESCHAL ET MARSHAL DE ROY, ETC. A writ which lay against a steward or marshal for holding plea in his court, or for trespass or contracts not made or arising within the king's household. Wharton.

SUPER STATUTO VERSUS SERVANTES ET LABORATORES. A writ which lay against him who kept any servants who had left the service of another contrary to law.

SUPER VISUM CORPORIS. Upon view of the body. When an inquest is held over a body found dead, it must be *super visum corporis*.

SUPERARE RATIONES. In old Scotch law. To have a balance of account due to one; to have one's expenses exceed the receipts.

SUPERCARGO. In maritime law. A person specially employed by the owner of a cargo to take

SUPERFICIARIUS

charge of and sell to the best advantage merchandise which has been shipped, and to purchase returning cargoes and to receive freight, as he may be authorized.

SUPERFICIARIUS. Lat. In the civil law. He who has built upon the soil of another, which he has hired for a number of years or forever, yielding a yearly rent. Dig. 43, 18, 1. In other words, a tenant on ground-rent.

SUPERFICIES. Lat. In the civil law. The alienation by the owner of the surface of the soil of all rights necessary for building on the surface, a yearly rent being generally reserved; also a building or erection. Sandars' Just. Inst. 5th Ed. 133.

SUPERFICIES SOLO CEDIT. Whatever is attached to the land forms part of it. Gaius 2, 73.

SUPERFLUA NON NOCENT. Superfluities do not prejudice. Jenk. Cent. 184. Surplusage does not vitiate.

SUPERFLUOUS LANDS. In English law, lands acquired by a railway company under its statutory powers, and not required for the purposes of its undertaking. The company is bound within a certain time to sell such lands, and, if it does not, they vest in and become the property of the owners of the adjoining lands. Sweet.

SUPERFETATION. In medical jurisprudence. The conception of a second embryo during the gestation of the first, or the conception of a child by a woman already pregnant with another, during the time of such pregnancy.

SUPERINDUCTIO. Lat. In the civil law. A species of obliteration. Dig. 28, 4, 1, 1.

SUPERINSTITUTION. The institution of one in an office to which another has been previously instituted; as where A. is admitted and instituted to a benefice upon one title, and B. is admitted and instituted on the title or presentment of another. 2 Cro. Eliz. 463.

A church being full by institution, if a second institution is granted to the same church this is a superinstitution. Wharton.

SUPERINTEND. To have charge and direction of; to direct the course and oversee the details; to regulate with authority; to manage; to oversee with the power of direction; to take care of with authority. Burrell Engineering & Construction Co. v. Grisier, 111 Tex. 477, 240 S.W. 899, 900; State v. First State Bank of Jud, 52 N.D. 231, 202 N.W. 391, 402.

SUPERINTENDENT. One who superintends or has the oversight and charge of something with the power of direction; a manager. Indiana Fibre Products Co. v. Cyclone Mfg. Co., 81 Ind. App. 682, 143 N.E. 169, 171.

SUPERINTENDENT OF SCHOOLS. Officer having the highest authority under the board of edu-

cation. *Eelkema v. Board of Education of City of Duluth*, 215 Minn. 590, 11 N.W.2d 76, 77.

SUPERINTENDENT REGISTRAR. In English law. An officer who superintends the registers of births, deaths, and marriages. There is one in every poor-law union in England and Wales.

SUPERIOR, n. One who has a right to command; one who holds a superior rank.

SUPERIOR, adj. Higher; belonging to a higher grade. *People ex rel. McCoy v. McCahey*, 296 Ill. App. 310, 15 N.E.2d 988, 993. More elevated in rank or office. Possessing larger power. Entitled to command, influence, or control over another.

In estates, some are superior to others. An estate entitled to a servitude or easement over another estate is called the "superior" or "dominant," and the other, the "inferior" or "servient," estate. 1 Bouv.Inst. no. 1612.

In the feudal law, until the statute *quia emptores* precluded subinfeudations, (*q. v.*) the tenant who granted part of his estate to be held of and from himself as lord was called a "superior."

Superior and vassal. In Scotch law. A feudal relation corresponding with the English "lord and tenant." Bell.

Superior courts. In English law. The courts of the highest and most extensive jurisdiction, viz., the court of chancery and the three courts of common law, *i. e.*, the King's bench, the common pleas, and the exchequer, which sit at Westminster, were commonly thus denominated. But these courts are now united in the supreme court of judicature. In American law. Courts of general or extensive jurisdiction, as distinguished from the inferior courts. As the *official style* of a tribunal, the term "superior court" bears a different meaning in different states. In some it is a court of intermediate jurisdiction between the trial courts and the chief appellate court; elsewhere it is the designation of the ordinary *nisi prius* courts.

Superior fellow servant. A term introduced into the law of negligence, and meaning one higher in authority than another, and whose commands and directions his inferiors are bound to respect and obey, though engaged at the same manual work. *Illinois Cent. R. Co. v. Coleman*, 22 Ky.Law Rep. 878, 59 S.W. 14; *Knutter v. Telephone Co.*, 67 N.J.L. 646, 52 A. 565, 58 L.R.A. 808.

Superior force. In the law of bailments and of negligence, an uncontrollable and irresistible force, of human agency, producing results which the person in question could not avoid; equivalent to the Latin phrase "*vis major*." See *Vis*.

SUPERIORITY. In Scotch law. The *dominium directum* of lands, without the profit. 1 Forb. Inst. pt. 2, p. 97.

SUPER-JURARE. Over-swearing. A term anciently used when a criminal endeavored to excuse himself by his own oath or the oath of one or two witnesses, and the crime objected against him was so plain and notorious that he was convicted on the oaths of many more witnesses. Wharton.

SUPERNUMERARIJ. Lat. In Roman law. Advocates who were not registered or enrolled and did not belong to the college of advocates. They were not attached to any local jurisdiction. See Statuti.

SUPERONERATIO. Lat. Surcharging a common; *i. e.*, putting in beasts of a number or kind other than the right of common allows.

SUPERONERATIONE PASTURÆ. A judicial writ that lay against him who was impleaded in the county court for the surcharge of a common with his cattle, in a case where he was formerly impleaded for it in the same court, and the cause was removed into one of the superior courts.

SUPERPLUSAGIUM. In old English law. Overplus; surplus; residue or balance. Bract. fol. 301; Spelman.

SUPERSEDE. Obliterate, set aside, annul, replace, make void, inefficacious or useless, repeal. *City of Los Angeles v. Gurdane*, C.C.A.Cal., 59 F. 2d 161, 163. To set aside, render unnecessary, suspend, or stay. *Taylor v. New York Telephone Co.*, 97 Misc. 160, 160 N.Y.S. 865; *Dick v. King*, 73 Mont. 456, 236 P. 1093, 1095.

SUPERSEDEAS. In Practice. The name of a writ containing a command to stay the proceedings at law.

A suspension of the power of a trial court to issue an execution on judgment appealed from, or if writ of execution has issued, it is a prohibition emanating from court of appeal against execution of writ. *Stewart v. Hurt*, 9 Cal.2d 39, 68 P.2d 726, 727.

An auxiliary process designed to supersede enforcement of trial court's judgment brought up for review, and its application is limited to the judgment from which an appeal is taken. *Mascot Pictures Corporation v. Municipal Court of City of Los Angeles*, 3 Cal.App.2d 559, 40 P.2d 272.

Originally it was a writ directed to an officer, commanding him to desist from enforcing the execution of another writ which he was about to execute, or which might come in his hands. In modern times the term is often used synonymously with a "stay of proceedings," and is employed to designate the effect of an act or proceeding which of itself suspends the enforcement of a judgment. *Dulin v. Coal Co.*, 98 Cal. 306, 33 P. 123.

SUPERSEDING CAUSE. An act of a third person or other force which by its intervention prevents the actor from being liable for harm to another which his antecedent negligence is a substantial factor in bringing about. *Superior Oil Co. v. Richmond*, 172 Miss. 407, 159 So. 850, 852. *Shuster v. Vecchi*, 203 Minn. 76, 279 N.W. 841, 844.

SUPERSTITIOUS USE. In English law. When lands, tenements, rents, goods, or chattels are given, secured, or appointed for and towards the maintenance of a priest or chaplain to say mass, for the maintenance of a priest or other man to pray for the soul of any dead man in such a church or elsewhere, to have and maintain perpetual obits, lamps, torches, etc., to be used at certain times to help to save the souls of men out of purgatory,—in such cases the king, by force

of several statutes, is authorized to direct and appoint all such uses to such purposes as are truly charitable. Bac. Abr. "Charitable Uses." The doctrine has no recognition in this country; Appeal of Seibert, 18 Wkly. Notes Cas., Pa., 276; and a bequest to support a Catholic priest, and perhaps other uses void in England, would not be considered as superstitious uses. *Harrison v. Brophy*, 59 Kan. 1, 51 P. 883, 40 L.R.A. 721.

SUPERVENING CAUSE. A new effective cause which, operating independently of anything else, becomes proximate cause of accident. *Chesapeake & O. Ry. Co. v. Crum*, 140 Va. 333, 125 S.E. 301, 304.

SUPERVENING NEGLIGENCE. That situations may come within the doctrine of last clear chance or supervening negligence, four conditions must coexist, to wit: (1) That the injured party has already come into a position of peril; (2) that the injuring party then or thereafter becomes, or in the exercise of ordinary prudence ought to have become, aware, not only of that fact, but also that the party in peril either reasonably cannot escape from it or apparently will not avail himself of opportunities open to him for doing so; (3) that the injuring party subsequently has the opportunity by the exercise of reasonable care to save the other from harm; and (4) that he fails to exercise such care. *Emmons v. New York and S. R. Co.*, 108 Conn. 133, 142 A. 676, 677.

See Last Clear Chance.

SUPERVISE. To have general oversight over, to superintend or to inspect. *State v. Manning*, 220 Iowa 525, 259 N.W. 213.

SUPERVISION. An act of occupation of supervising; inspection. *Kemp v. Stanley*, 204 La. 110, 15 So.2d 1, 11.

SUPERVISOR. A surveyor or overseer; a highway officer. Also, in some states, the chief officer of a town; one of a board of county officers.

In a broad sense, one having authority over others, to superintend and direct. *Cafferty v. Southern Tier Pub. Co.*, 226 N.Y. 87, 123 N.E. 76, 77.

SUPERVISORS OF ELECTION. Persons appointed and commissioned by the United States circuit judges to supervise the registration of voters and the holding of elections for representatives in congress under Rev. St. §§ 2011-2031; repealed by the act of Feb. 8, 1894, 28 Stat. 36.

SUPERVISORY CONTROL. Control exercised by courts to compel inferior tribunals to act within their jurisdiction, to prohibit them from acting outside their jurisdiction, and to reverse their extrajudicial acts. *State v. Superior Court of Dane County*, 170 Wis. 385, 175 N.W. 927, 928.

SUPPLEMENT, LETTERS OF. In Scotch practice. A process by which a party not residing within the jurisdiction of an inferior court may be cited to appear before it. Bell,

SUPPLEMENTAL

SUPPLEMENTAL. That which is added to a thing to complete it. *State v. Day*, 189 Ind. 243, 123 N.E. 402, 403; *People ex rel. Astor Trust Co. v. State Tax Commission*, 174 App.Div. 320, 160 N.Y.S. 854, 858.

SUPPLEMENTAL ACT. That which supplies a deficiency, adds to or completes, or extends that which is already in existence without changing or modifying the original; Act designed to improve an existing statute by adding something thereto without changing the original text. *Swanson v. State*, 132 Neb. 82, 271 N.W. 264, 268.

SUPPLEMENTAL AFFIDAVIT. An affidavit made in addition to a previous one, in order to supply some deficiency in it. *Callan v. Lukens*, 89 Pa. 136.

SUPPLEMENTAL ANSWER. One which was filed in chancery for the purpose of correcting, adding to, and explaining an answer already filed. *Smith*, Ch. Pr. 334. *French v. Edwards*, 9 Fed. Cas. 780; *Yeatman v. Patrician*, 144 Wash. 241, 257 P. 622, 624.

SUPPLEMENTAL BILL. In equity pleading. A bill filed in addition to an original bill, in order to supply some defect in its original frame or structure which cannot be supplied by amendment. *Story*, Eq. Pl. §§ 332-338; *Bloxham v. Railroad Co.*, 39 Fla. 243, 22 So. 697; *Thompson v. Schenectady Railroad Co.*, C.C.N.Y., 119 F. 634; *Bartee v. Matthews*, 212 Ala. 667, 103 So. 874, 876; *Pantaleo v. Colt's Patent Fire Arms Mfg. Co.*, D.C.N.Y., 13 F.Supp. 989, 990. Also for purpose of bringing into controversy matter occurring after original bill was filed. *Snellings v. Builders' Supply Co.*, 228 Ala. 47, 152 So. 459, 461.

SUPPLEMENTAL BILL IN NATURE OF BILL OF REVIEW. Employed to invoke jurisdiction of court of chancery to recall one of its adjudications made while some fact existed which, if before court, would have prevented rendition of final decree, and which, without negligence of party presenting it, was not earlier presented to chancellor. *Brown v. Oehler*, 114 Fla. 57, 152 So. 862.

SUPPLEMENTAL CLAIM. A further claim which was filed when further relief was sought after the bringing of a claim. *Smith*, Ch. Pr. 655.

SUPPLEMENTAL COMPLAINT. Under the codes of practice obtaining in many of the states, a complaint filed in an action to bring to the notice of the court and the opposite party matters occurring after the commencement of action and which may affect the rights asserted. *Pouder v. Tate*, 132 Ind. 327, 30 N.E. 880; *Plumer v. McDonald Lumber Co.*, 74 Wis. 137, 42 N.W. 250; *Title and Trust Co. v. U. S. Fidelity and Guaranty Co.*, 138 Or. 467, 7 P.2d 805, 812.

It is distinguished from an "amended complaint," in that an "amended complaint" is one which corrects merely faults and errors of a pleading. *Pantaleo v. Colt's Patent Fire Arms Mfg. Co.*, D.C.N.Y., 13 F.Supp. 989, 990.

SUPPLEMENTAL PLEADING. One consisting of facts arising since filing of the original, *State*

v. Patten, 209 Ind. 482, 199 N.E. 577, 579; or of which pleader at time of serving of original pleading had no notice. *Fisher v. Bullock*, 204 App. Div. 523, 198 N.Y.S. 538, 540.

SUPPLEMENTARY. Added as a supplement; additional; being, or serving as, a supplement. *Swanson v. State*, 132 Neb. 82, 271 N.W. 264, 268.

SUPPLEMENTARY PROCEEDINGS. Proceedings supplementary to an execution, directed to the discovery of the debtor's property and its application to the debt for which the execution is issued. They are purely statutory, they are in the nature of a creditor's bill for the collection of a judgment or tax, and are proceedings in personam and not in rem. *In re Maltbie*, 119 N.E. 389, 391, 223 N.Y. 227; *Walker v. Staley*, 89 Colo. 292, 1 P.2d 924, 925.

SUPPLETORY OATH. See Oath.

SUPPLIANT. The actor in, or party preferring, a petition of right.

SUPPLICATIO. Lat. In the civil law. A petition for pardon of a first offense; also a petition for reversal of judgment; also equivalent to "*duplicatio*," which corresponds to the common law rejoinder. *Calvin*.

SUPPLICAVIT. In English law. A writ issuing out of the king's bench or chancery for taking sureties of the peace. It is commonly directed to the justices of the peace, when they are averse to acting in the affair in their judicial capacity. 4 Bl.Comm. 253.

SUPPLICIUM. Lat. In the civil law. Punishment; corporal punishment for crime. Death was called "*ultimum supplicium*," the last or extreme penalty.

SUPPLIES. In English law. In parliamentary proceedings the sums of money which are annually voted by the house of commons for the maintenance of the crown and the various public services. *Jacob*; *Brown*.

Means of provision or relief; stores; available aggregate of things needed or demanded in amount sufficient for a given use or purpose; accumulated stores reserved for distribution; sufficiency for use or need; a quantity of something supplied or on hand. *Northern Pac. Ry. Co. v. Sanders County*, 66 Mont. 608, 214 P. 596, 599.

In connection with building contracts, things other than labor, which are consumed in, but do not become a physical part of, the structure and is distinguished from the word "materials," which are things becoming a physical part of the structure. *Hurley-Mason Co. v. American Bonding Co.*, 79 Wash. 564, 140 P. 575, 576, L.R.A.1915B, 1131.

SUPPLY. To furnish with what is wanted; available aggregate of things needed or demanded; anything yielded or afforded to meet a want; and the act of furnishing with what is wanted. *Clayton v. Bridgeport Mach. Co.*, Tex.Civ.App., 33 S.W. 2d 787, 789.

SUPPLY, COMMISSIONERS OF. Persons appointed to levy the land-tax in Scotland, and to cause a valuation roll to be annually made up, and to perform other duties in their respective counties. Bell.

SUPPLY, COMMITTEE OF. In English law. All bills which relate to the public income or expenditure must originate with the house of commons, and all bills authorizing expenditure of the public money are based upon resolutions moved in a committee of supply, which is always a committee of the whole house. Wharton.

SUPPORT, v. Furnishing funds or means for maintenance; to maintain; to provide for; to enable to continue; to carry on. *State v. Hinkle*, 161 Wash. 652, 297 P. 1071, 1075. To provide a means of livelihood. *Board of Com'rs of Logan County v. State*, 122 Okl. 268, 254 P. 710, 711. To vindicate, to maintain, to defend, to uphold with aid or countenance. *U. S. v. Schulze*, D.C.Cal., 253 F. 377, 379.

To *support a rule or order* is to argue in answer to the arguments of the party who has shown cause against a rule or order *nisi*.

SUPPORT, n. That which furnishes a livelihood; a source or means of living; subsistence, sustenance, or living. *Great Western Power Co. of California v. Industrial Accident Commission of California*, 191 Cal. 424, 218 P. 1009, 1014.

In a broad sense the term includes all such means of living as would enable one to live in the degree of comfort suitable and becoming to his station of life. *Benjamin F. Shaw Co. v. Palmatory*, 7 Boyce, Del., 197, 105 A. 417, 419. For "Family," see that title.

It is said to include anything requisite to housing, feeding, clothing, health, proper recreation, vacation, traveling expense, or other proper cognate purposes. In *re Vanderbilt's Estate*, 223 N.Y.S. 314, 316, 129 Misc. 605; and proper care, nursing, and medical attendance in sickness, and suitable burial at death. *McKnight v. McKnight*, 212 Mich. 318, 180 N.W. 437, 442.

Support also signifies the right to have one's ground supported so that it will not cave in, when an adjoining owner makes an excavation. This support is of two kinds, *lateral* and *subjacent*. Lateral support is the right of land to be supported by the land which lies next to it. Subjacent support is the right of land to be supported by the land which lies under it.

SUPPOSITION. A conjecture based upon possibility or probability that a thing could or may have occurred, without proof that it did occur. *Mitchell's Adm'x v. Harlan Central Coal Co.*, 263 Ky. 702, 93 S.W.2d 347, 348; *Louisville and N. R. Co. v. Mann's Adm'r*, 227 Ky. 399, 13 S.W.2d 257, 258.

SUPPRESS. To put a stop to a thing actually existing; to prohibit, put down, to prevent, subdue, or end by force. *State v. Mustachia*, 152 La. 821, 94 So. 408, 409; *State ex rel. Hamilton v. Martin*, 173 Wash. 249, 23 P.2d 1.

SUPPRESSIO VERI. Lat. Suppression or concealment of the truth. It is a rule of equity, as well as of law, that a *suppressio veri* is equivalent to a *suggestio falsi*; and where either the

suppression of the truth or the suggestion of what is false can be proved, in a fact material to the contract, the party injured may have relief against the contract. *Fleming v. Slocum*, 18 Johns., N.Y., 405, 9 Am.Dec. 224; *Turney v. Avery*, 92 N.J.Eq. 473, 113 A. 710.

SUPPRESSIO VERI, EXPRESSIO FALSI. Suppression of the truth is [equivalent to] the expression of what is false. *Addington v. Allen*, 11 Wend., N.Y., 374, 417.

SUPPRESSIO VERI, SUGGESTIO FALSI. Suppression of the truth is [equivalent to] the suggestion of what is false. *Paul v. Hadley*, 23 Barb. N.Y. 521, 525.

SUPRA: Lat. Above; upon. This word occurring by itself in a book refers the reader to a previous part of the book, like "*ante*;" it is also the initial word of several Latin phrases.

SUPRA PROTEST. See Protest.

SUPRA-RIPARIAN. Upper riparian; higher up the stream. This term is applied to the estate, rights, or duties of a riparian proprietor whose land is situated at a point nearer the source of the stream than the estate with which it is compared.

SUPREMA POTESTAS SEIPSAM DISSOLVERE POTEST. Supreme power can dissolve itself. Bac. Max.

SUPREMACY. The state of being supreme, or in the highest station of power; paramount authority; sovereignty; sovereign power.

Act of Supremacy

The English statute 1 Eliz. c. 1, whereby the supremacy and autonomy of the crown in spiritual or ecclesiastical matters was declared and established.

Oath of Supremacy

An oath to uphold the supreme power of the kingdom of England in the person of the reigning sovereign.

SUPREME. Superior to all other things.

SUPREME COURT. A court of high powers and extensive jurisdiction, existing in most of the states. In some it is the official style of the chief appellate court or court of last resort. In others (such as New York) the supreme court is a court of general original jurisdiction, possessing also (in New York) some appellate jurisdiction, but not the court of last resort.

Supreme court of errors. In American law. An appellate tribunal, and the court of last resort, in the state of Connecticut.

Supreme court of the United States. The court of last resort in the federal judicial system. It is vested by the constitution with original jurisdiction in all cases affecting ambassadors, public ministers, and consuls, and those in which a state is a party, and appellate jurisdiction over all other

cases within the judicial power of the United States, both as to law and fact, with such exceptions and under such regulations as congress may make. Its appellate powers extend to the subordinate federal courts, and also (in certain cases) to the supreme courts of the several states. The court is composed of a chief justice and eight associate justices.

Supreme judicial court. In American law. An appellate tribunal, and the court of last resort, in the states of Maine and Massachusetts.

SUPREME COURT OF JUDICATURE. The court formed by the English judicature act, 1873, (as modified by the judicature act, 1875, the appellate jurisdiction act, 1876, and the judicature acts of 1877, 1879, and 1881,) in substitution for the various superior courts of law, equity, admiralty, probate, and divorce, existing when the act was passed, including the court of appeal in chancery and bankruptcy, and the exchequer chamber. It consists of two permanent divisions, viz., a court of original jurisdiction, called the "high court of justice," and a court of appellate jurisdiction, called the "court of appeal." Its title of "supreme" is now a misnomer, as the superior appellate jurisdiction of the house of lords and privy council, which was originally intended to be transferred to it, has been allowed to remain. Sweet.

High Court of Justice

That branch of the English supreme court of judicature (*q. v.*) which exercises (1) the original jurisdiction formerly exercised by the court of chancery, the courts of queen's bench, common pleas, and exchequer, the courts of probate, divorce, and admiralty, the court of common pleas at Lancaster, the court of pleas at Durham, and the courts of the judges or commissioners of assize; and (2) the appellate jurisdiction of such of those courts as heard appeals from inferior courts. Judicature act, 1873, § 16.

SUPREME POWER. The highest authority in a state, all other powers in it being inferior thereto. *State ex rel. Hartley v. Clausen*, 146 Wash. 588, 264 P. 403, 405.

SUPREMUS. Lat. Last; the last.

SUPREMUS EST QUEM NEMO SEQUITUR. He is last whom no one follows. Dig. 50, 16, 92.

SUR. Fr. On; upon; over. In the titles of real actions "*sur*" was used to point out what the writ was founded upon. Thus, a real action brought by the owner of a reversion or seignior, in certain cases where his tenant repudiated his tenure, was called "a writ of right *sur disclaimer*." So, a writ of entry *sur disseisin* was a real action to recover the possession of land from a disseisor. Sweet.

SUR CUI ANTE DIVORTIUM. See *Cui Ante Divortium*.

SUR CUI IN VITA. A writ that lay for the heir of a woman whose husband had aliened her land in fee, and she had omitted to bring the writ of

cui in vita for the recovery thereof; in which case her heir might have this writ against the tenant after her decease. Cowell. See *Cui in Vita*.

SUR DISCLAIMER. A writ in the nature of a writ of right brought by the lord against a tenant who had disclaimed his tenure, to recover the land.

SUR MORTGAGE. Upon a mortgage. In some states the method of enforcing the security of a mortgage, upon default, is by a writ of "*scire facias sur mortgage*," which requires the defendant (mortgagor) to show cause why it should not be foreclosed.

SURCHARGE, n. An overcharge; an exaction, impost, or incumbrance beyond what is just and right, or beyond one's authority or power. "Surcharge" may mean a second or further mortgage. Wharton.

SURCHARGE, v. To put more cattle upon a common than the herbage will sustain or than the party has a right to do. 3 Bl. Comm. 237.

Equity Practice

To show that a particular item, in favor of the party surcharging, ought to have been included, but was not, in an account which is alleged to be settled or complete. To prove the omission of an item from an account which is before the court as complete, which should be inserted to the credit of the party surcharging. *Story, Eq. Jur.* § 525; 2 Ves. 565; *Perkins v. Hart*, 24 U.S. 237, 11 Wheat. 237, 6 L.Ed. 463; *Dempsey v. McGinnis*, 203 Mo.App. 494, 219 S.W. 148, 150.

General

Second surcharge. In English law. The surcharge of a common a second time, by the same defendant against whom the common was before admeasured, and for which the *writ of second surcharge* was given by the statute of Westminster, 2. 3 Bl. Comm. 239.

Surcharge and falsify. This phrase, as used in the courts of chancery, denotes the liberty which these courts will occasionally grant to a plaintiff, who disputes an account which the defendant alleges to be settled, to scrutinize particular items therein without opening the entire account. The showing an item for which credit ought to have been given, but was not, is to surcharge the account; the proving an item to have been inserted wrongly is to falsify the account. *Brown*. See *Philips v. Belden*, 2 Edw. Ch., N.Y., 23; *Rehill v. McTague*, 114 Pa. 82, 7 A. 224, 60 Am.Rep. 341; *Shores-Mueller Co. v. Bell*, 21 Ga.App. 194, 94 S.E. 83, 84.

SURDUS. Lat. In the civil law. Deaf; a deaf person. Inst. 2, 12, 3. *Surdus et mutus*, a deaf and dumb person.

SURENCHÈRE. In French law. A party desirous of repurchasing property at auction before the court, can, by offering one-tenth or one-sixth,

according to the case, in addition to the price realized at the sale, oblige the property to be put up once more at auction. This bid upon a bid is called a "surenchère." Arg. Fr. Merc. Law, 575.

SURETY. One who undertakes to pay money or to do any other act in event that his principal fails therein. In re Brock, 312 Pa. 92, 166 A. 778, 781. One bound with his principal for the payment of a sum of money or for the performance of some duty or promise and who is entitled to be indemnified by some one who ought to have paid or performed if payment or performance be enforced against him. Anderson v. Trueman, 100 Fla. 727, 130 So. 12, 13. Everyone who incurs a liability in person or estate, for the benefit of another, without sharing in the consideration, stands in the position of a "surety," whatever may be the form of his obligation. Howell v. War Finance Corporation, C.C.A.Ariz., 71 F.2d 237, 243.

A surety and guarantor have this in common, that they are both bound for another person; yet there are points of difference between them. A surety is usually bound with his principal by the same instrument, executed at the same time and on the same consideration. He is an original promisor and debtor from the beginning, and is held ordinarily to every known default of his principal. On the other hand, the contract of guarantor is his own separate undertaking, in which the principal does not join. It is usually entered into before or after that of the principal, and is often founded on a separate consideration from that supporting the contract of the principal. The original contract of the principal is not the guarantor's contract, and the guarantor is not bound to take notice of its non-performance. The surety joins in the same promise as his principal and is primarily liable; the guarantor makes a separate and individual promise and is only secondarily liable. His liability is contingent on the default of his principal, and he only becomes absolutely liable when such default takes place and he is notified thereof. Georgia Casualty Co. v. Dixie Trust & Security Co., 23 Ga.App. 447, 98 S.E. 414, 416; Stifel Estate Co. v. Cella, 220 Mo.App. 657, 291 S.W. 515, 518; Ricketson v. Lizotte, 90 Vt. 386, 98 A. 801. "Surety" and "guarantor" are both answerable for debt, default, or miscarriage of another, but liability of guarantor is, strictly speaking, secondary and collateral, while that of surety is original, primary, and direct. In case of suretyship there is but one contract, and surety is bound by the same agreement which binds his principal, while in case of guaranty there are two contracts, and guarantor is bound by independent undertaking. Howell v. Commissioner of Internal Revenue, C.C.A.8, 69 F.2d 447, 450.

A surety is an insurer of the debt or obligation; a guarantor is an insurer of the solvency of the principal debtor or of his ability to pay. McClain v. Georgian Co., 17 Ga. App. 648, 87 S.E. 1090; Bishop v. Currie-McGraw Co., 133 Miss. 517, 97 So. 886, 889.

SURETY COMPANY. A company, usually incorporated, whose business is to assume the responsibility of a surety on the bonds of officers, trustees, executors, guardians, etc., in consideration of a fee proportioned to the amount of the security required. See State ex rel. Travelers' Indemnity Co. v. Knott, 114 Fla. 820, 153 So. 304.

SURETY INSURANCE. This phrase is generally used as synonymous with "guaranty insurance." People v. Potts, 264 Ill. 522, 106 N.E. 524, 528.

SURETY OF THE PEACE. A species of preventive justice, and consists in obliging those persons whom there is a probable ground to suspect of future misbehavior, to stipulate with, and to give

full assurance to, the public that such offense as is apprehended shall not take place, by finding pledges or securities for keeping the peace, or for their good behavior. Brown. See Hyde v. Greuch, 62 Md. 582.

SURETYSHIP, CONTRACT OF. Contract whereby one party engages to be answerable for debt, default, or miscarriage of another and arises when one is liable to pay debt or discharge obligation, and party is entitled to indemnity from person who should have made the payment in the first instance before surety was so compelled. Bradley v. Bentley, 163 So. 351, 231 Ala. 28. A contract whereby one person engages to be answerable for the debt, default, or miscarriage of another. Pitm. Princ. & Sur. 1, 2; Scandinavian-American Bank of Fargo v. Westby, 41 N.D. 276, 172 N.W. 665, 670. An accessory promise by which a person binds himself for another already bound, and agrees with the creditor to satisfy the obligation, if the debtor does not. Hope v. Board, 43 La. Ann. 738, 9 So. 754. A lending of credit to aid a principal having insufficient credit of his own; the one expected to pay, having the primary obligation, being the "principal," and the one bound to pay, if the principal does not, being the "surety." Rollings v. Gunter, 211 Ala. 671, 101 So. 446, 448.

See Surety.

In contracts of "indemnity" against liability, the engagement is to indemnify another against liability on some obligation which he has incurred, or is about to incur, to a third person, and is not, as in "suretyship," a promise to one to whom another is answerable; in the former there is direct privity between the promisor and promisee and no debt owing by the third person to the promisee and the promisee has no remedy against the third person, whereas in the latter both principal and surety are bound to answer to the promisee. McManus v. Tralles, Mo.App., 253 S.W. 406, 409.

SURFACE. This term, when used in law, is seldom, if ever, limited to mere geometrical superficies, Clinchfield Coal Corporation v. Compton, 148 Va. 437, 139 S.E. 308, 312, 55 A.L.R. 1376; although when used without any qualifying phrase in a deed, it ordinarily signifies only the superficial part of land, Drummond v. White Oak Fuel Co., 104 W.Va. 368, 140 S.E. 57, 58, 56 A.L.R. 303. And when employed in connection with mining, it usually means that part of the earth or geologic section lying over the minerals in question, unless the contract or conveyance otherwise defines it. Marquette Cement Mining Co. v. Oglesby Coal Co., D.C.Ill., 253 F. 107, 111. Thus, where the surface is granted to one and the underlying coal to another, the "surface" includes the soil and waters which lie above and are superincumbent on the coal. Clinchfield Coal Corporation v. Compton, 148 Va. 437, 139 S.E. 308, 312, 55 A.L.R. 1376. Nevertheless, a conveyance of the "surface," except the oil and gas rights in the land, may be deemed, under certain circumstances, to constitute a conveyance of all the land (including coal deposits), except only the oil and gas rights specifically reserved. Ramage v. South Penn Oil Co., 94 W.Va. 81, 118 S.E. 162, 171, 31 A.L.R. 1509.

The term "surface," when used as the subject of a conveyance, is not a definite one capable of a definition of universal application, but is susceptible of limitation ac-

SURFACE

ording to the intention of the parties using it; and in determining its meaning, regard may be had, not only to the language of the deed in which it occurs, but, also to the situation of the parties, the business in which they were engaged, and to the substance of the transaction. *Ramage v. South Penn Oil Co.*, 94 W.Va. 81, 118 S.E. 162, 171, 31 A.L.R. 1509.

SURFACE WATERS. See *Water*.

SURGEON. One whose profession or occupation is to cure diseases or injuries of the body by manual operation; one who practices surgery, Webster; which is therapy of a distinctly operative kind, such as cutting operations, the reduction and putting up of fractures and dislocations and similar manual forms of treatment; *Napier v. Greenzweig*, C.C.A.N.Y., 256 F. 196, 197.

Popularly, one possessing particular knowledge and skill to correct and relieve some unnatural condition of the human body. *Maupin v. Southern Surety Co.*, 205 Mo.App. 81, 220 S.W. 20, 21. One whose occupation is to cure local injuries or disorders, whether by manual operation, or by medication and constitutional treatment. *Stewart v. Raab*, 55 Minn. 20, 56 N.W. 256; *Nelson v. State Board of Health*, 108 Ky. 769, 57 S.W. 501, 50 L.R. A. 383; *Surgery*.

SURGERY. The art or practice of healing by manual operation; that branch of medical science which treats of mechanical or operative measures for healing diseases, deformities or injuries. *State v. Eustace*, 117 Kan. 746, 233 P. 109, 110; *Maryland Casualty Co. v. McCallum*, 200 Ala. 154, 75 So. 902, 904. Therapy of a distinctly operative kind, such as cutting operations, the reduction and putting up of fractures and dislocations and similar manual forms of treatment. *Napier v. Greenzweig*, C.C.A.N.Y., 256 F. 196, 197. As used in statutes, the term does not include osteopathy. *Mo. R.S.A. § 10042*. *Le Grand v. Security Benefit Ass'n*, 210 Mo.App. 700, 240 S.W. 852, 853. *State v. Eustace*, 117 Kan. 746, 233 P. 109, 110.

Greek words signifying the hand and work. Originally, it was part of the profession of barbers, but later was taken up by physicians and now is recognized as that branch of medical science, and more specifically, that branch of medical science which treats of mechanical or operative measures for healing diseases, deformities, or injuries. *State ex rel. Beck v. Gleason*, 148 Kan. 1, 79 P.2d 911.

The practice of *medicine*, in contradistinction to the practice of *surgery*, denotes the treatment of disease by the administration of drugs or other sanative substances. There cannot be a complete separation between the practice of medicine and surgery; the principles of both are the same throughout, and no one is qualified to practice either who does not properly understand the fundamental principles of both.

SURGICAL OPERATION. An act or series of acts performed on a patient's body by a surgeon to produce a cure. *Hartford Live Stock Ins. Co. v. McMillen*, C.C.A.Ohio, 9 F.2d 961, 962.

SURMISE. Formerly where a defendant pleaded a local custom, for instance, a custom of the city of London, it was necessary for him to "surmise," that is, to suggest that such custom should be certified to the court by the mouth of the recorder, and without such a surmise the issue was to be

tried by the country as other issues of fact are. 1 *Burrows*, 251; *Vin. Abr.* 246.

Something offered to a court to move it to grant a prohibition, *audita querela*, or other writ grantable thereon. *Jacob*.

In ecclesiastical law. An allegation in a libel. A collateral surmise is a surmise of some fact not appearing in the libel. *Phillim. Ecc. Law*, 1445.

SURNAME. The family name; the name over and above the Christian name. The part of a name which is not given in baptism; the name of a person which is derived from the common name of his parents; In *re Faith's Application*, 22 N.J. Misc. 412, 39 A.2d 638, 640. The last name; the name common to all members of a family. A patronymic. *Riley v. Litchfield*, 168 Iowa 187, 150 N.W. 81, 83, *Ann.Cas.*1917B, 172.

SURPLICE FEES. In English ecclesiastical law. Fees payable on ministerial offices of the church; such as baptisms, funerals, marriages, etc.

SURPLUS. That which remains of a fund appropriated for a particular purpose; the remainder of a thing; the overplus; the residue. *Smith v. Cotting*, 231 Mass. 42, 120 N.E. 177, 181; *People's F. Ins. Co. v. Parker*, 35 N.J.L. 577; *Towery v. McGaw*, 22 Ky.Law.Rep. 155, 56 S.W. 727; *Appeal of Coates*, 2 Pa. 137; 18 Ves. 466.

The "surplus" of a corporation may mean either the net assets of the corporation in excess of all liabilities including capital stock, *Winkelman v. General Motors Corporation*, D.C.N.Y., 44 F.Supp. 960, 996; or what remains after making provisions for all liabilities of every kind, except capital stock. *Insurance Co. of North America v. McCoach*, C.C.A.Pa., 224 F. 657, 658. The term is also defined as the residue of assets after defraying liabilities, *Douglas v. Edwards*, C.C.A.N.Y., 298 F. 229, 237; *Cochrane v. Interstate Packing Co.*, 139 Minn. 452, 167 N.W. 111, 113; the excess of net assets over the face value of the stock. *Sexton v. C. L. Percival Co.*, 189 Iowa 586, 177 N.W. 83, 86; the excess of gross assets over the outstanding capital stock, without deducting debts or liabilities; *State v. State Tax Commission ex rel. Marquette Hotel Inv. Co.*, 282 Mo. 213, 221 S.W. 721, 722; and as the accumulation of moneys or property in excess of the par value of the stock. *Small v. Sullivan*, 245 N.Y. 343, 157 N.E. 261, 263.

There is a sharp distinction between the "surplus," as of a bank, and undivided profits. Surplus, like the capital stock, constitutes the working capital of the bank and is, in addition, a fund for the protection of the depositors. *First Nat. Bank v. Moon*, 102 Kan. 334, 170 P. 33, 34, L.R. A.1918C, 986. The "undivided profits" constitute a temporary fund changing in size from day to day and carried only until dividend periods when it is distributed to the stockholders or transferred to the permanent surplus. It is the fund from which the expenses and losses of the bank are paid. *Saries v. Scandinavian American Bank*, 33 N.D. 40, 156 N.W. 556, 557. *Willcuts v. Milton Dairy Co.*, 48 S.Ct. 71, 72, 275 U.S. 215, 72 L.Ed. 247; *State ex rel. Payne v. Exchange Bank of Natchitoches*, 147 La. 25, 84 So. 481, 482.

As to surplus "Earnings," "Profits," and "Water," see those titles.

SURPLUSAGE. Extraneous, impertinent, superfluous, or unnecessary matter. In *re Wolcott's Estate*, 54 Utah, 165, 180 P. 169, 170, 4 A.L.R. 727.

Accounts

A greater disbursement than the charge of the accountant amounts unto. In another sense, the

remainder or overplus of money left. *Jacob. A* balance over. 1 *Lew.* 219.

Pleading

Allegations of matter wholly foreign and impertinent to the cause. All matter beyond the circumstances necessary to constitute the action. 5 *East* 275; *Allaire v. Ouland*, 2 *Johns. Cas. (N.Y.)* 52; *Adams v. Capital State Bank*, 74 *Miss.* 307, 20 *So.* 881; *Bradley v. Reynolds*, 61 *Conn.* 271, 23 *A.* 928; *State v. Kavanaugh*, 203 *La.* 1, 13 *So.2d* 366, 371. Any allegation without which the pleading would yet be adequate. *Mathews v. U. S., C.C.A. Neb.*, 15 *F.2d* 139, 142; *State v. Williams*, 94 *Vt.* 423, 111 *A.* 701, 708; *People v. Osborne*, 278 *Ill.* 104, 115 *N.E.* 890, 891.

SURPLUSAGIUM NON NOCET. Surplusage does no harm. 3 *Bouv. Inst. no.* 2949; *Broom, Max.* 627.

SURPRISE. Act of taking unawares; sudden confusion or perplexity. *Davis v. Steuben School Tp.*, 19 *Ind.App.* 694, 50 *N.E.* 1. In its legal acceptation, denotes an unforeseen disappointment against which ordinary prudence would not have afforded protection. *Patrick v. Boonville Gas Light Co.*, 17 *Mo.App.* 462, 463, 465.

Equity Practice

The act by which a party who is entering into a contract is taken unawares, by which sudden confusion or perplexity is created, which renders it proper that a court of equity should relieve the party so surprised. 2 *Brown, Ch.* 150.

The situation in which a party is placed without any default of his own, which will be injurious to his interests. *Rawle v. Skipwith*, 8 *Mart. N. S., La.*, 407.

Anything which happens without the agency or fault of the party affected by it, tending to disturb and confuse the judgment, or to mislead him, of which the opposite party takes an undue advantage, is in equity a surprise, and one species of fraud for which relief is granted. *Gid-lonsen v. Union Depot R. Co.*, 129 *Mo.* 392, 31 *S.W.* 800; *Heath v. Scott*, 65 *Cal.* 548, 4 *Pac.* 557; *Zimmerer v. Fremont Nat. Bank*, 59 *Neb.* 661, 81 *N.W.* 849; *Thompson v. Connell*, 31 *Or.* 231, 48 *P.* 467, 65 *Am.St.Rep.* 818.

There does not seem anything technical or peculiar in the word "surprise," as used in courts of equity. Where a court of equity relieves on the ground of surprise, it does so upon the ground that the party has been taken unawares, and that he has acted without due deliberation, and under confused and sudden impressions. 1 *Story, Eq. Jur.* § 120, note. But *Jeremy, Eq.Jur.* 366, 383, note, seems to think that the word surprise is a technical expression, and nearly synonymous with fraud. It is sometimes used in this sense when it is deemed presumptive of, or approaching to, fraud. 1 *Fonbl.Eq.* 123; 3 *Ch.Cas.* 56, 74, 103, 114.

Law

As a ground for a new trial, that situation in which a party is unexpectedly placed without default on his part, which will work injury to his interests. *State v. Price*, 100 *W.Va.* 699, 131 *S.E.* 710, 711. He must show himself to have been diligent at every stage of the proceedings. *Henderson v. Hazlett*, 75 *W.Va.* 255, 83 *S.E.* 907, 908. And that the event was one which ordinary prudence could not have guarded against; *Cupples v. Zupan*, 35 *Idaho*, 458, 207 *P.* 328, 329; *Jennings v.*

American President Lines, 61 *Cal.App.2d* 417, 143 *P.2d* 349, 356.

A situation, status, or result produced, having a substantive basis of fact and reason, from which the court may justly deduce, as a legal conclusion, that the party will suffer a judicial wrong if not relieved from his mistake. *Levy v. Caledonian Ins. Co.*, *D.C.Cal.*, 226 *F.* 336, 337.

The general rule is that when a party or his counsel is "taken by surprise," in a material point or circumstance which could not have been anticipated, and when want of skill, care, or attention cannot be justly imputed, and injustice has been done, a new trial should be granted. *Hill. New Trials*, 521.

SURREBUTTER. In pleading. The plaintiff's answer of fact to the defendant's rebutter. *Steph. Pl.* 59. It is governed by the same rules as the replication. See 6 *Com. Dig.* 185; 7 *id.* 389.

SURREJOINER. In pleading. The plaintiff's answer of fact to the defendant's rejoinder. *Steph. Pl.* 59. It is governed in every respect by the same rules as the replication. *Steph. Pl.* 77, 7 *Com. Dig.* 389.

SURRENDER. To give back; yield; render up; restore; and in law the giving up of an estate to the person who has it in reversion or remainder, so as to merge it in the larger estate; the giving up of a lease before its expiration; yielding up a tenancy in a copyhold estate to the lord of the manor for a specified purpose; a deed by which surrender is made; the giving up by a bankrupt of his property to his creditors or their assignees; also, his due appearance in the bankruptcy court for examination as formerly required by the bankruptcy acts. In *re Emlen's Estate*, 333 *Pa.* 238, 4 *A.2d* 143, 145; *Nolander v. Burns*, 48 *Minn.* 13, 50 *N.W.* 1016.

A yielding up of an estate for life or years to him who has an immediate estate in reversion or remainder, where in the estate for life or years may drown by mutual agreement between them. *Roberts Inv. Co. v. Hardie Mfg. Co.*, 142 *Or.* 179, 19 *P.2d* 429, 431; *Kimberlin v. Hicks*, 150 *Kan.* 449, 94 *P.2d* 335, 339.

"Surrender" is contractual act and occurs only through consent of both parties. *Motch's Adm'r v. Portner*, 237 *Ky.* 25, 34 *S.W.2d* 744, 745.

Surrender differs from "abandonment," as applied to leased premises, inasmuch as the latter is simply an act on the part of the lessee alone; but to show a surrender, a mutual agreement between lessor and lessee that the lease is terminated must be clearly proved. *Noble v. Sturm*, 210 *Mich.* 462, 178 *N.W.* 99, 106.

A surrender is of a nature directly opposite to a release; for, as the latter operates by the greater estate descending upon the less, the former is the falling of a less estate into a greater, by deed. *Shepp.Touchst.* 300.

SURRENDER BY BAIL. The act, by bail or sureties in a recognizance, of giving up their principal again into custody, in their own discharge. 1 *Burrill, Pr.* 394.

SURRENDER BY OPERATION OF LAW. This phrase is properly applied to cases where the tenant for life or years has been a party to some act the validity of which he is by law afterwards estopped from disputing, and which would not be valid if his particular estate continued to exist. *Ledsinger v. Burke*, 113 *Ga.* 74, 38 *S.E.* 313; *Brown*

SURRENDER

v. Cairns, 107 Iowa, 727, 77 N.W. 478. An implied surrender occurs when an estate incompatible with the existing estate is accepted, or the lessee takes a new lease of the same lands. *Livingston v. Potts*, 16 Johns., N.Y., 28; 1 B. & Ald. 50. See *Beall v. White*, 94 U.S. 389, 24 L.Ed. 173; *Martin v. Stearns*, 52 Iowa, 347, 3 N.W. 92.

The rule of law as now settled by recently adjudicated cases is that any acts which are equivalent to an agreement on the part of the tenant to abandon, and on the part of the landlord to resume the possession of the demised premises, amount to a "surrender by operation of law." *Carlton Chambers Co. v. Trask*, 261 Mass. 264, 158 N.E. 786, 788; 1375-83 *Broadway Corporation v. Filler*, 267 N.Y.S. 779, 149 Misc. 474. The rule may be safely said to be that a surrender is created by operation of law, when the parties to a lease do some act so inconsistent with the subsisting relation of landlord and tenant as to imply that they have both agreed to consider the surrender as made. *Flannagan v. Dickerson*, 103 Okl. 206, 229 P. 552, 553; *Hodgkiss v. Dayton-Brower Co.*, 156 N.Y.S. 907, 908, 93 Misc. 109; *Triest & Co. v. Goldstone*, 173 Cal. 240, 159 P. 715, 716.

SURRENDER OF CHARTER. A corporation created by charter may give up or "surrender" its charter to the people, unless the charter was granted under a statute, imposing indefeasible duties on the bodies to which it applies. *Grant, Corp.* 45.

SURRENDER OF COPYHOLD. The mode of conveying or transferring copyhold property from one person to another is by means of a surrender, which consists in the yielding up of the estate by the tenant into the hands of the lord for such purposes as are expressed in the surrender. The process in most manors is for the tenant to come to the steward, either in court or out of court, or else to two customary tenants of the same manor, provided there be a custom to warrant it, and there, by delivering up a rod, a glove, or other symbol, as the custom directs, to resign into the hands of the lord, by the hands and acceptance of his steward, or of the said two tenants, all his interest and title to the estate, in trust, to be again granted out by the lord to such persons and for such uses as are named in the surrender, and as the custom of the manor will warrant. *Brown*.

SURRENDER OF CRIMINALS. The act by which the public authorities deliver a person accused of a crime, and who is found in their jurisdiction, to the authorities within whose jurisdiction it is alleged the crime has been committed.

SURRENDER OF A PREFERENCE. In bankruptcy practice. The surrender to the assignee in bankruptcy, by a preferred creditor, of anything he may have received under his preference and any advantage it gives him, which he must do before he can share in the dividend. In *re Richter's Estate*, 1 Dill. 544, Fed.Cas.No.11,803. The word as generally defined may denote either compelled or voluntary action. *Keppel v. Bank*, 197 U.S. 356, 25 S.Ct. 443, 49 L.Ed. 790. In *Bankruptcy Act 1898*, § 57g (11 U.S.C.A. § 93 (g)), providing that creditors must surrender preferences before having claims allowed, it is unqualified and generic, and hence embraces both meanings. *Keppel v. Bank*, *supra*.

SURRENDER TO USES OF WILL. Formerly a copyhold interest would not pass by will unless it had been surrendered to the use of the will. By St. 55 Geo. III. c. 192, this is no longer necessary. 1 Steph. Comm. 639; *Mozley & Whitley*.

SURRENDEREE. The person to whom a surrender is made.

SURRENDEROR. One who makes a surrender. One who yields up a copyhold estate for the purpose of conveying it.

SURREPTITIOUS. Stealthily or fraudulently done, taken away, or introduced.

SURROGATE. In American law. The name given in some of the states to the judge or judicial officer who has the administration of probate matters, guardianships, etc. See *Malone v. Sts. Peter & Paul's Church*, 172 N.Y. 269, 64 N.E. 961. In other states he is called judge of probate, register, judge of the orphans' court, etc. He is ordinarily a county officer, with a local jurisdiction limited to his county.

In English law. One that is substituted or appointed in the room of another, as by a bishop, chancellor, judge, etc.; especially an officer appointed to dispense licenses to marry without bans. 2 Steph. Comm. 247.

SURROGATE'S COURT. In the United States. A state tribunal, with similar jurisdiction to the *court of ordinary*, *court of probate*, etc., relating to matters of probate, etc. 2 Kent, Comm. 409, note b. And see *Robinson v. Fair*, 9 S.Ct. 30, 128 U.S. 53, 32 L.Ed. 415; *In re Hawley*, 104 N.Y. 250, 10 N.E. 352.

SURROUND. To inclose on all sides; to encompass. In *re Creveling*, Cust. & Pat.App., 61 F.2d 862, 863.

SURROUNDING CIRCUMSTANCES. Which may permit inference of culpability on part of defendant under *res ipsa loquitur* rule refers, not to circumstances directly tending to show lack of care, but only to mere neutral circumstances of control and management by defendant, which may, when explained, appear to be entirely consistent with due care. *Hepp v. Quickel Auto & Supply Co.*, 37 N.M. 525, 25 P.2d 197.

SURSISE. L. Fr. In old English law. Neglect; omission; default; cessation.

SURSUM REDDERE. Lat. In old conveyancing. To render up; to surrender.

SURSUMREDDITIO. Lat. A surrender.

SURVEILLANCE. Oversight, superintendence, supervision. *People v. Howard*, 120 Cal.App. 45, 8 P.2d 176, 179.

SURVEY, v. Of land, to ascertain corners, boundaries, divisions, with distances and directions, and not necessarily to compute areas included within defined boundaries. *Keer v. Fee*, 179 Iowa, 1097, 161 N.W. 545, 547.

SURVEY, n. The process by which a parcel of land is measured and its contents ascertained; also a statement of the result of such survey, with the courses and distances and the quantity of the land. *Corporation of Frederick Scholes v. Theodore Ficke Warehouses*, 213 App.Div. 259, 210 N.Y.S. 341, 343. The land included in field notes. *Cross v. Wilkinson*, Tex.Civ.App., 187 S.W. 345, 346.

Insurance

An examination. A plan and description of the present existing state, condition, and mode of use of the property. *Macatawa Transp. Co. v. Firemen's Fund Ins. Co.*, 179 Mich. 443, 146 N.W. 396, 398.

In insurance law, the term has acquired a general meaning, inclusive of what is commonly called the "application," which contains the questions propounded on behalf of the company, and the answers of the assured. *Albion Lead Works v. Williamsburg City F. Ins. Co.*, C.C.Mass., 2 F. 484; *May v. Buckeye Ins. Co.*, 25 Wis. 291, 3 Am.Rep. 76.

Sales

An examination.

General

Survey of a vessel. A statement of its present condition. *Chicago S. S. Lines v. U. S. Lloyds*, C.C.A.Ill., 12 F.2d 733, 737. A public document, looked to both by underwriters and owners, as affording the means of ascertaining, at the time and place, the state and condition of the ship and other property at hazard. *Potter v. Ocean Ins. Co.*, 3 Sumn. 43, 19 Fed.Cas.1,173; *Hathaway v. Sun Mut. Ins. Co.*, 8 Bosw., N.Y., 68.

SURVEYOR. One who makes surveys, determines area of portion of earth's surface, length and direction of boundary lines, and contour of surface. *Severance v. Ball*, 93 Cal.App. 56, 268 P. 1068, 1070.

SURVEYOR OF HIGHWAYS. In English law. A person elected by the inhabitants of a parish, in vestry assembled, to survey the highways therein. He must possess certain qualifications in point of property; and, when elected, he is compellable, unless he can show some grounds of exemption, to take upon himself the office. *Mozley & Whitley*.

SURVEYOR OF THE PORT. A revenue officer of the United States appointed for each of the principal ports of entry, whose duties chiefly concern the importations at his station and the determination of their amount and valuation. *Rev.St.U.S.* § 2627 (19 U.S.C.A. § 40).

SURVIVAL STATUTES. Statutory provision for the survival, after death of the injured person, of certain causes of action for injury to the person whether death results from the injury or from some other cause. The cause of action which survives is for the wrong to the injured person. In *re Daniel's Estate*, 294 N.W. 465, 208 Minn. 420.

See, also, Wrongful Death Statutes.

SURVIVE. To continue to live or exist beyond the life, or existence of; to continue to live or exist beyond (a specified period or event); to live through in spite of; live on after passing through; to remain alive; exist in force or operation beyond any period specified. *Thompson v. New Orleans Ry. & Light Co.*, 145 La. 805, 83 So. 19, 20.

SURVIVING. Remaining alive. *State ex rel. Baker v. Bird*, 253 Mo. 569, 162 S.W. 119, 123, Ann. Cas. 1915C, 353.

SURVIVOR. One who survives another; one who outlives another; one who lives beyond some happening; one of two or more persons who lives after the death of the other or others. *Baker v. Baker*, 182 Ala. 194, 62 So. 284, 286.

The word "survivor," however, in connection with the power of one of two trustees to act, is used not only with reference to a condition arising where one of such trustees dies, but also as indicating a trustee who continues to administer the trust after his cotrustee is disqualified, has been removed, renounces, or refuses to act. *Busch v. Schuttler*, 216 Ill.App. 212, 217.

SURVIVORSHIP. The living of one of two or more persons after the death of the other or others.

Survivorship is where a person becomes entitled to property by reason of his having survived another person who had an interest in it. In *re Conklin's Estate*, 20 N.Y.S.2d 59, 62, 259 App.Div. 432; *United States v. Jacobs*, Ill. & N. Y., 306 U.S. 363, 59 S.Ct. 551, 555, 83 L.Ed. 763.

SUS. PER COLL. An abbreviation of "*suspendatur per collum*," let him be hanged by the neck. Words formerly used in England in signing judgment against a prisoner who was to be executed; being written by the judge in the margin of the sheriff's calendar or list, opposite the prisoner's name. 4 Bl. Comm. 403. Written, also, "sus' per coll'."

SUSCEPTIBLE. Capable. *U. S. v. Sischo*, D.C. Wash., 262 F. 1001, 1005. And see *Bensdorff v. Uihlein*, 132 Tenn. 193, 177 S.W. 481, 482, 2 A.L.R. 1364.

SUSPECT. To have a slight or even vague idea concerning;—not necessarily involving knowledge or belief or likelihood. *Cheek v. Missouri, K. & T. Ry. Co.*, 89 Kan. 247, 131 P. 617, 624.

"Suspect" with reference to probable cause as grounds for arrest without warrant is ordinarily used in place of the word believe. *U. S. v. Rembert*, D.C.Tex., 284 F. 996, 1001. But to "suspect and believe" that a person, claiming to have been falsely imprisoned by a deputy sheriff, is a felon, is not the legal equivalent of belief on probable cause. *Hill v. Wyrosdick*, 216 Ala. 235, 113 So. 49, 50.

SUSPEND. To interrupt; to cause to cease for a time; to postpone; to stay, delay, or hinder; to discontinue temporarily, but with an expectation or purpose of resumption. To forbid a public officer, attorney, employee, or ecclesiastical person from performing his duties or exercising his functions for a more or less definite interval of time.

SUSPEND

Insurance Co. v. Aiken, 82 Va. 428; Stack v. O'Hara, 98 Pa. 232; Reeside v. U. S., 8 Wall. 42, 19 L.Ed. 318; U. S. v. Felder, D.C.N.Y., 13 F.2d 527, 528; Bishop v. Bacon, 130 Pa.Super. 240, 196 A. 918, 921.

To postpone, as a judicial sentence. State v. Anderson, 43 S.D. 630, 181 N.W. 839, 840; People ex rel. Holton v. Hunt, 217 App.Div. 428, 216 N.Y.S. 765, 768, To stay, as a decree;—not synonymous with vacate. Stewart v. Oneal, C.C.A.Ohio, 237 F. 897, 903.

To cause a temporary cessation, as of work by an employee; to lay off;—not synonymous with remove. Thomas v. City of Chicago, 194 Ill.App. 526, 529.

Also, sometimes, to discontinue or dispense with (permanently); to remove permanently from office; to discharge (an employee) permanently. Phelps v. Connellee, Tex.Civ.App., 278 S.W. 939, 941. See Suspension.

SUSPENDER. In Scotch law. He in whose favor a suspension is made.

SUSPENSE. When a rent, profit à prendre, and the like, are, in consequence of the unity of possession of the rent, etc., of the land out of which they issue, not *in esse* for a time, they are said to be in suspense, *tunc dormiunt*; but they may be revived or awakened. Co. Litt. 313a.

SUSPENSION. A temporary stop, a temporary delay, interruption, or cessation. Hood ex rel. North Carolina Bank & Trust Co. v. Clark, 211 N.C. 693, 191 S.E. 732, 733.

A temporary stop of a right, of a law, and the like. Thus, we speak of a *suspension* of the writ of *habeas corpus*, of a statute, of the power of alienating an estate, of a person, in office, etc.

A temporary cutting off or debarring one, as from the privileges of an institution or society. John B. Stetson University v. Hunt, 88 Fla. 510, 102 So. 637, 639.

An ad interim stoppage or arrest of official power and pay;—not synonymous with "removal," which terminates wholly the incumbency of the office or employment. State v. Board of Police & Fire Com'rs of La Crosse, 159 Wis. 295, 150 N.W. 493, 494. Temporary withdrawal or cessation from public work as distinguished from permanent severance accomplished by removal, Bois v. City of Fall River, 257 Mass. 471, 154 N.E. 270; "removal" being, however, the broader term, which may on occasion include suspension. State v. Medler, 19 N.M. 252, 142 P. 376, 379.

Ecclesiastical Law

An ecclesiastical censure, by which a spiritual person is either interdicted the exercise of his ecclesiastical function or hindered from receiving the profits of his benefice. It may be partial or total, for a limited time, or forever, when it is called "deprivation" or "amotion." Ayl. Par. 501.

Scotch Law

A stay of execution until after a further consideration of the cause. Ersk. Inst. 4, 3, 5.

General

Pleas in suspension were those which showed some matter of temporary incapacity to proceed with the action or suit. Steph. Pl. 45.

Suspension of a right. The act by which a party is deprived of the exercise of his right for a time. A temporary stop of a right, a partial extinguishment for a time, as contrasted with a complete extinguishment, where the right is absolutely dead. In re Muser's Estate, 122 Misc. 164, 203 N.Y.S. 619, 621. Suspension of a right in an estate is a temporary or partial withholding of it from use or exercise. It differs from extinguishment, because a suspended right is susceptible of being revived, which is not the case where the right was extinguished. Bac. Abr. *Extinguishment* (A).

Suspension of a statute. A temporary stop. Chicago, R. I. & P. Ry. Co. v. Holliday, 45 Okl. 536, 145 P. 786, 793. The suspension of a statute for a limited time operates so as to prevent its operation for the time; but it has not the effect of a repeal. Brown v. Barry, 3 U.S. 365, 3 Dall. 365, 1 L.Ed. 638.

Suspension of arms. An agreement between belligerents, made for a short time or for a particular place, to cease hostilities between them. See, also, Armistice.

Suspension of business. These words in a statute contemplate an interruption of ordinary business operations, evidenced by some objective features; an interruption of the ordinary course of business, other than a mere failure to meet maturing obligations. Hoover Steel Ball Co. v. Schafer Ball Bearings Co., 89 N.J.Eq. 433, 105 A. 500, 501.

SUSPENSIVE CONDITION. See Condition.

SUSPENSORY CONDITION. See Condition.

SUSPICION. The act of suspecting, or the state of being suspected; imagination, generally of something ill; distrust; mistrust; doubt. McCalla v. State, 66 Ga. 348. The apprehension of something without proof or upon slight evidence. State v. Hall, Mo.App., 285 S.W. 1009, 1011.

Suspicion implies a belief or opinion based upon facts or circumstances which do not amount to proof. Burton v. McNeill, 196 S.C. 250, 13 S.E.2d 10, 11, 133 A.L.R. 603.

SUSPICIOUS CHARACTER. In the criminal laws of some of the states, a person who is known or strongly suspected to be an habitual criminal, or against whom there is reasonable cause to believe that he has committed a crime or is planning or intending to commit one, or whose actions and behavior give good ground for suspicion and who can give no good account of himself, and who may therefore be arrested or required to give security for good behavior. See McFadin v. San Antonio, 22 Tex.Civ.App. 140, 54 S.W. 48; People v. Russell, 35 Misc.Rep. 765, 72 N.Y.Supp. 1; 4 Bl. Comm. 252.

SUSTAIN. To carry on; to maintain. George v. Connecticut Fire Ins. Co., 84 Okl. 172, 201 P. 510, 512, 23 A.L.R. 80.

To support; to warrant;—said of evidence in connection with a verdict, decision, etc. Johnson v. Allispaugh, 58 Ind.App. 83, 107 N.E. 686, 688; Work v. Whittington, 61 Cal.App. 302, 214 P. 474.

To suffer; bear; undergo. To endure or undergo without failing or yielding; to bear up under. Webster.

SUTHDURE. The south door of a church, where canonical purgation was performed, and plaints, etc., were heard and determined. Wharton.

SUTLER. A person who, as a business, follows an army and sells provisions and liquor to the troops. A small trader who follows an army and who is licensed to sell goods, especially edibles, to the soldiers. Keane v. U. S., C.C.A.Va., 272 F. 577, 582.

SUUM CUIQUE TRIBUERE. Lat. To render to everyone his own. One of the three fundamental maxims of the law laid down by Justinian.

SUUS HÆRES. See Hæres.

SUUS JUDEX. Lat. In old English law. A proper judge; a judge having cognizance of a cause. Literally, one's own judge. Bract. fol. 401.

SUZERAIN. In French and feudal law. The immediate vassal of the king; a crown vassal; a tenant *in capite*. A lord who possesses a fief whence other fiefs issue. Note 77 of Butler & Hargrave's notes, Co. Litt. 1. 3. Also spelled "suzereign."

International Law

A state that exercises political control over another state, in relation to which it is sovereign. Webster.

The word has no clear or precise signification. It has been extended to the control of European Powers through their colonies over imperfectly civilized people. 12 L. Quart.Rev. 223; 1896, p. 122. See, also, Hershey, Int.L. 106.

In modern times suzerainty is used as descriptive of relations, ill-defined and vague, which exist between powerful and dependent states; its very indefiniteness being its recommendation. While protecting and protected states tend to draw nearer, the reverse is true of suzerain and vassal states; a protectorate is generally the preliminary to incorporation; suzerainty, to separation. Encycl.Br.

It is said that suzerainty is title without corresponding power; protectorate is power without corresponding title. Freund, Pol.Sci.Quart. 1899, p. 28.

SWAIN; SWAINMOTE. See Swein; Sweinmote.

SWAMP. A "swamp" has been defined as wet, spongy land, soft low ground saturated with water, but not usually covered by it, marshy ground away from seashore. Campbell v. Walker, 137 Or. 375, 2 P.2d 912, 914.

SWAMP AND OVERFLOWED LANDS. Lands unfit for cultivation by reason of their swampy character and requiring drainage or reclamation to render them available for beneficial use. Miller v. Eastern Ry. & Lumber Co., 84 Wash. 31, 146 P. 171, 173; Beer v. Whiteville Lumber Co., 170 N.C. 337, 86 S.E. 1024.

Such lands, when constituting a portion of the public domain, have generally been granted by congress to the

several states within whose limits they lie. See Miller v. Tobin, C.C.Or., 18 F. 614; Keeran v. Allen, 33 Cal. 546; Hogaboom v. Ehrhardt, 58 Cal. 233; Thompson v. Thornton, 50 Cal. 144; Martin v. Busch, 93 Fla. 535, 112 So. 274, 284.

SWANIMOTE. See Sweinmote.

SWARF-MONEY. Warth-money; or guard-money paid in lieu of the service of castle-ward. Cowell.

SWATCH. Commercially, a small sample of cloth from which suits, etc., are to be ordered. U. S. Fashion & Sample Book Co. v. Montrose Cloak & Suit Co., Mo.Sup., 218 S.W. 867, 869.

SWEAR. To put on oath; to administer an oath to a person.

To take an oath; to become bound by an oath duly administered. To declare on oath the truth (of a petition, etc.). Indiana Quarries Co. v. Simms, 158 Ky. 415, 165 S.W. 422; Landrum v. Landrum, 159 Ga. 324, 125 S.E. 832, 833, 38 A.L.R. 217.

To use profane language;—a punishable offense in many jurisdictions. See Gaines v. State, 7 Lea, Tenn., 410, 40 Am.Rep. 64; State v. Chrisp, 85 N.C. 528, 39 Am.Rep. 713. For "False Swearing," see that title.

SWEARING THE PEACE. Showing to a magistrate that one has just cause to be afraid of another in consequence of his menaces, in order to have him bound over to keep the peace.

SWEATING. The questioning of a person in custody charged with crime with intent to obtain information concerning his connection therewith or knowledge thereof by plying him with questions, or by threats or other wrongful means, extorting information to be used against him. Under the statute mere questioning amounts to "sweating" if done for the purpose of extorting from the accused information to be used against him; that is, inducing him to unwillingly or involuntarily give such information. Commonwealth v. McClanahan, 153 Ky. 412, 155 S.W. 1131, 1132, Ann.Cas. 1915C, 132.

SWEAT SHOP. A plant whose employees are overworked and paid low wages, or a place where employees are required to work to an extent hardly endurable, and in the public mind the term imputes unsavory and illegal business practices. Masters v. Sun Mfg. Co., 237 Mo.App. 240, 165 S.W.2d 701, 703.

SWEEPING. Comprehensive; including in its scope many persons or objects; as, a sweeping objection.

SWEEPSTAKES. In horse racing, the sum of the stakes for which the subscribers agree to pay for each horse nominated. Stone v. Clay, 10 C.C. A. 147, 61 F. 889.

SWEIN. In old English law. A freeman or freeholder within the forest.

SWEINMOTE

SWEINMOTE. In forest law. A court holden before the verderors, as judges, by the steward of the sweinmote, thrice in every year, the *sweins* or freeholders within the forest composing the jury. Its principal jurisdiction was—*First*, to inquire into the oppressions and grievances committed by the officers of the forest; and, *secondly*, to receive and try presentments certified from the court of attachments in offenses against vert and venison. 3 Bl. Comm. 72.

SWELL. To enlarge or increase. In an action of tort, circumstances of aggravation may "swell" the damages.

SWIFT WITNESS. A term colloquially applied to a witness who is unduly zealous or partial for the side which calls him, and who betrays his bias by his extreme readiness to answer questions or volunteer information.

SWINDLER. A cheat; one guilty of defrauding divers persons. 1 Term, 748.

SWINDLING. Cheating and defrauding grossly with deliberate artifice. Wyatt v. Ayres, 2 Port., Ala., 157; Chase v. Whitlock, 3 Hill, N.Y., 140. Usually applied to a transaction where the guilty party procures the delivery to him, under a pretended contract, of the personal property of another, with the felonious design of appropriating it to his own use. 2 Russ.Cr. 130; Stevenson v. Hayden, 2 Mass. 406; Jones v. State, 97 Ga. 430, 25 S.E. 319.

The acquisition of any personal or movable property, money, or instrument of writing conveying or securing a valuable right, by means of some false or deceitful pretense or device, or fraudulent representation, with intent to appropriate the same to the use of the party so acquiring, or of destroying or impairing the rights of the party justly entitled to the same. May v. State, 15 Tex.App. 436; Cochrain v. State, 93 Tex.Cr.R. 483, 248 S.W. 43, 44.

To make out offense of "cheating" and "swindling" by false representations, state must prove that representations were made, that representations were knowingly and designedly false, that representations were made with intent to defraud, that representations did defraud, that representations related to existing fact or past event, and that party to whom representations were made, relying on their truth, was thereby induced to part with his property. Code 1933, § 26-7401 et seq. Diamond v. State, 52 Ga.App. 184, 182 S.E. 813, 814.

SWITCH. A mechanical device which turns a movable object from one course to another. Jeffery v. Kewaunee, G. B. & W. Ry. Co., 189 Wis. 207, 207 N.W. 283, 284.

As used in railroading, a device for moving a small section of track so that rolling stock may be run or shunted from one line to another. Jeffery v. Kewaunee, G. B. & W. Ry. Co., *supra*. A mechanical arrangement of movable parts of rails for transferring cars from one track to another; also a siding; a turnout. Pittsburgh Rys. Co. v. Borough of Carrick, 259 Pa. 333, 103 A. 106, 108. A track in the nature of a sidetrack adjacent to and used in connection with another line of track.

Indiana Rys. & Light Co. v. City of Kokomo, 183 Ind. 543, 108 N.E. 771, 772.

SWITCH LIMITS. Depot or station grounds; yard limits. Atchison, T. & S. F. Ry. Co. v. McCall, 48 Okl. 602, 150 P. 173, 174.

SWITCH-YARD DOCTRINE. The doctrine that there can be no implied license to the public to use the track of a railroad company within the limits of its switch-yard. Binion v. Central of Georgia Ry. Co., 12 Ga.App. 663, 78 S.E. 132.

SWITCHING MOVEMENT or OPERATION. This term becomes of importance in determining whether or not the Safety Appliance Act (45 U.S.C.A. § 1 et seq.) is applicable to a particular set of facts, and is distinguished from "train movement."

Thus, the continuous movement of freight cars, reassembled after switching, from one portion of a railroad yard to another 4500 feet away, through the business or warehouse part of a city, and crossing several city streets at grade, was held to be a "train movement," and not a "switching operation." Illinois Cent. R. Co. v. U. S., C.C. A.Neb., 14 F.2d 747, 748.

SWITCHING SERVICE. This term is principally used in law in contradistinction to "transportation service," for which different rates may be set. "Transportation service" is one which requires no other service to complete the shipper's object, while "switching service" is one which precedes or follows transportation service. Andrews Steel Co. v. Davis, 210 Ky. 473, 276 S.W. 148, 150; on which legal freight charges have already been earned, or are to be earned. Louisville Water Co. v. Illinois Cent. R. Co., D.C.Ky., 14 F.Supp. 301, 303. The word "switching" in this connection is synonymous with "transferring." J. B. Doppes Sons Lumber Co. v. Cincinnati, N. O. & T. P. Ry. Co., *supra*. The test of distinction between these two services is not only whether the switching service follows transportation, but whether the movement of cars is under the yard-master's direction, in which case it is switching service, or under the trainmaster's direction, in which event it is transportation service. St. Louis, I. M. & S. Ry. Co. v. Clark Pressed Brick Co., 127 Ark. 474, 192 S.W. 382, 384.

"Switching services" may also be distinguished from a "line haul," in that the latter is a definite service rendered between two definite points, to which switching is a mere incident. Cummings Sand & Gravel Co. v. Minneapolis & St. L. Ry. Co., 182 Iowa, 955, 166 N.W. 354, 356, L.R.A.1918C, 797.

SWITCHING TRACKS. Tracks for use in loading, reloading, storing, and switching cars, and other things incidental to railroad's regular train haul. Missouri Pac. R. Co. v. Chicago Great Western R. Co., 137 Kan. 217, 19 P.2d 484, 489.

SWOLING OF LAND. So much land as one's plow can till in a year; a hide of land. Cowell.

SWORN. Frequently used interchangeably with "verified." Francesconi v. Independent School Dist. of Wall Lake, 204 Iowa, 307, 214 N.W. 882, 885. See Swear.

SWORN BROTHERS. In old English law. Persons who, by mutual oaths, covenant to share in each other's fortunes.

SWORN CLERKS IN CHANCERY. Certain officers in the English court of chancery, whose duties were to keep the records, make copies of pleadings, etc. Their offices were abolished by St. 5 & 6 Vict. c. 103.

SYB AND SOM. A Saxon form of greeting, meaning peace and safety.

SYLLABUS. An abstract; a headnote; a note prefixed to the report of an adjudged case, containing an epitome or brief statement of the rulings of the court upon the point or points decided in the case. In West Virginia it is the law of the case, whatever may be the reasoning employed in the opinion of the court. *Kuhn v. Coal Co.*, 215 U.S. 356, 30 S.Ct. 140, 141, 54 L.Ed. 228. The syllabus, however, in that state, is never made up of finding of facts, but is limited to points of law determined. Sometimes the finding of facts is referred to for the purpose of explaining the point of law adjudicated, but only for that purpose. *Koonce v. Doolittle*, 48 W.Va. 592, 37 S.E. 644, 645. Likewise in Ohio, the authority of decisions of its Supreme Court is limited to points stated in the syllabus. *Walsh v. E. G. Shinner & Co.*, C.C.A. Del., 20 F.2d 586, 588. But ordinarily, where a headnote, even though prepared by the court, is given no special force by statute or rule of court, the opinion is to be looked to for the original and authentic statement of the grounds of decision. *Burbank v. Ernst*, 232 U.S. 162, 34 S.Ct. 299, 58 L.Ed. 551.

Also, a catalogue or list; specifically (capitalized), a collection of eighty condemned propositions addressed by Pope Pius IX to all the Catholic episcopate, December 8, 1864. It gave rise to the most violent polemics; the Ultramontane party was loud in its praise, while the liberals treated it as a declaration of war by the church on modern society and civilization. *Encycl. Br.*

SYLLOGISM. In logic. The full logical form of a single argument. It consists of three propositions, (two premises and the conclusion,) and these contain three terms, of which the two occurring in the conclusion are brought together in the premises by being referred to a common class.

SYLVA CÆDUA. Lat. In ecclesiastical law. Wood of any kind which was kept on purpose to be cut, and which, being cut, grew again from the stump or root. *Lynd. Prov.* 190; 4 *Reeve, Eng. Law* 90. And see *Silva Cædua*.

SYMBOLÆOGRAPHY. The art or cunning rightly to form and make written instruments. It is either judicial or extrajudicial; the latter being wholly occupied with such instruments as concern matters not yet judicially in controversy, such as instruments of agreements or contracts, and testaments or last wills. *Wharton*.

SYMBOLIC DELIVERY. The constructive delivery of the subject-matter of a sale or gift, where

it is cumbersome or inaccessible, by the actual delivery of some article which is conventionally accepted as the symbol or representative of it, or which renders access to it possible, or which is evidence of the purchaser's or donee's title to it. Thus, a present gift of the contents of a box in a bank vault, accompanied by a transfer of the key thereto, is valid as a symbolical delivery. In *re Leadenhams' Estate*, 289 Pa. 216, 137 A. 247, 249.

SYMBOLUM ANIMÆ. Lat. A mortuary, or soul scot. See *Soul Scot*.

SYMMETRY. Due proportion of several parts of a body to each other; adaptation of the form or dimensions of the several parts of a thing to each other; harmonious relation of parts; conformance; consistency; congruity; correspondence or similarity of form, dimensions, or parts on opposite sides of an axis, center, or a dividing plane. *Maxwell v. City of Buhl*, 40 Idaho, 644, 236 P. 122, 123.

SYMOND'S INN. Formerly an inn of chancery.

SYMPATHETIC STRIKE. A boycott. *Booth v. Brown*, C.C.Wash., 62 F. 794, 795.

SYNALLAGMATIC CONTRACT. In the civil law. A bilateral or reciprocal contract, in which the parties expressly enter into mutual engagements, each binding himself to the other. *Poth. Obl. no. 9*. Such are the contracts of sale, hiring, etc. See *State ex rel. Waterman v. J. S. Waterman and Co.*, 178 La. 340, 151 So. 422, 426.

SYNCHRONISM. Two things may be said to be operating in "synchronism," not merely when they operate simultaneously, but also when their cycles of operation bear a timed relation to each other. *Diamond Power Specialty Corporation v. Bayer*, C.C.A.Mo., 13 F.2d 337, 342.

SYNCHRONIZATION. The operation of two radio broadcasting stations simultaneously upon the same frequency and with identical programs. *WGN, Inc., v. Federal Radio Commission*, 62 App. D.C. 385, 68 F.2d 432, 433.

SYNCOPE. To cut short, or pronounce things so as not to be understood. *Cowell*.

SYNDIC. In the civil law. An advocate or patron; a Burgess or recorder; an agent or attorney who acts for a corporation or university; an actor or procurator; an assignee. *Wharton*.

The word "syndic" in the civil law corresponds very nearly with that of assignee under the common law. *Mobile & O. R. Co. v. Whitney*, 39 Ala. 468, 471.

In English common law. An agent appointed by a corporation for the purpose of obtaining letters of guardianship and the like, to whom such letters were issued. *Minnesota L. & T. Co. v. Beebe*, 40 Minn. 7, 41 N.W. 232, 233, 2 L.R.A. 418.

In French law. The person who is commissioned by the courts to administer a bankruptcy. He fulfills the same functions as the trustee or assignee. Also, one who is chosen to conduct the

affairs and attend to the concerns of a body corporate or community. In this sense the word corresponds to director or manager. Rodman Notes to *Code de Com.* p. 351; Dalloz, Dict. *Syndic*. See *Field v. United States*, 9 Pet. 182, 9 L.Ed. 94.

In Louisiana. The assignee of a bankrupt. Also, one of several persons to be elected by the creditors of a succession, for the purpose of administering thereon, whenever a succession has been renounced by the heirs, or has been accepted under the benefit of an inventory, and neither the beneficiary heirs, their attorney in fact, nor tutor will accept the administration and give the security required. Civ.Code. La. art. 1224.

SYNDICALISM. The theory, plan, or practice of trade-union action which aims by the general strike and direct action to establish control by local organizations of workers over the means and processes of production. Webster.

A form or development of trade-unionism, originating in France, which aims at the possession of the means of production and distribution, and ultimately at the control of society and government, by the federated bodies of industrial workers, and which seeks to realize its purposes through the agency of general strikes and of terrorism, sabotage, violence, or other criminal means. New Cent. Dict.

Criminal Syndicalism

Defined by the California Criminal Syndicalism Act as any doctrine or precept advocating, teaching, or aiding and abetting the commission of crime, sabotage (defined in the act as willful and malicious physical damage or injury to physical property), or unlawful acts of force and violence or unlawful methods of terrorism, as a means of accomplishing a change in industrial ownership, or control, or effecting any political change. See *People v. Lesse*, 52 Cal.App. 280, 199 P. 46, 47; *State v. Dingman*, 37 Idaho, 253, 219 P. 760, 763.

SYNDICATE. A university committee. A combination of persons or firms united for the purpose of enterprises too large for individuals to undertake; or a group of financiers who buy up the shares of a company in order to sell them at a profit by creating a scarcity. Mozley & Whitley.

An association of individuals, formed for the purpose of conducting and carrying out some particular business transaction, ordinarily of a financial character, in which the members are mutually interested. *Hambleton v. Rhind*, 84 Md. 456, 36 A. 597, 40 L.R.A. 216. An organization formed for some temporary purpose. *Gates v. Megargel*, C.C.A.N.Y., 266 F. 811, 817, such as the organization of a real estate trust and the sale of shares to the public. *Minot v. Burroughs*, 223 Mass. 595, 112 N.E. 620, 623.

Merely "joint adventure," which is special combination in specific venture for profit without partnership or corporate designation. *McCauley v. Burnet*, 60 App.D.C. 201, 50 F.2d 491, 492.

SYNDICATING. Gathering materials suitable for newspaper publication from writers and artists and distributing the same at regular intervals, in the form of matrices, to newspapers throughout the country for publication on the same day. *Star Co. v. Wheeler-Syndicate*, 91 Misc. Rep. 640, 155 N.Y.S. 782, 784.

SYNDICOS, or SYNDICUS. One chosen by a college, municipality, etc., to defend its cause. Calvin. See *Syndic*.

SYNGRAPH. The name given by the canonists to deeds or other written instruments of which both parts were written on the same piece of parchment, with some word or letters of the alphabet written between them, through which the parchment was cut in such a manner as to leave half the word on one part and half on the other. It thus corresponded to the chirograph or indenture of the common law. 2 Bl.Comm. 295, 296.

Formerly such writings were attested by the subscription and crosses of the witnesses; afterwards, to prevent frauds and concealments, they made deeds of mutual covenant in a script and rescript, or in a *part* and *counterpart*, and in the middle between the two copies they wrote the word *syngraphus* in large letters, which, being cut through the parchment and one being delivered to each party, on being afterwards put together proved their authenticity.

A deed, bond, or other written instrument under the hand and seal of all the parties. It was so called because the parties *wrote together*.

SYNOD. A meeting or assembly of ecclesiastical persons concerning religion; being the same thing, in Greek, as convocation in Latin. There are four kinds: (1) A general or universal synod or council, where bishops of all nations meet; (2) a national synod of the clergy of one nation only; (3) a provincial synod, where ecclesiastical persons of a province only assemble, being now what is called the "convocation;" (4) a diocesan synod, of those of one diocese. A synod in Scotland is composed of three or more presbyteries. Wharton.

A convention of bishops and elders within a district including at least three presbyteries. Trustees of Pencader Presbyterian Church in Pencader Hundred v. Gibson, Del., 22 A.2d 782, 788.

A meeting of the few adjoining presbyteries,—not the same as an ecumenical council, which is a council of all, and not of a part. *Groesbeeck v. Dunscomb*, 41 How. Pract., N.Y., 344.

SYNODAL. A tribute or payment in money paid to the bishop or archdeacon by the inferior clergy, at the Easter visitation.

SYNODALES TESTES. L. Lat. Synods-men (corrupted into sidesmen) were the urban and rural deans, now the church-wardens. See *Sidesmen*.

SYNONYMOUS. Expressing the same or nearly the same idea. *McCarthy v. Dunlevy-Franklin Co.*, 277 Pa. 467, 121 A. 409, 410; *Hoffine v. Ewing*, 60 Neb. 729, 84 N.W. 93, 95.

SYNOPSIS. A brief or partial statement, less than the whole; an epitome; synonymous with

summary. *Barker v. Barker*, 43 Kan. 91, 22 P. 1000, 1001; *State ex rel. Hubbell v. Bettman*, 124 Ohio St. 24, 176 N.E. 664, 665.

SYPHILIS. In medical jurisprudence. A venereal disease (vulgarly called "the pox") of peculiar virulence, infectious by direct contact, capable of hereditary transmission, and the source of various other diseases and, directly or indirectly, of insanity.

SYSTEM. Orderly combination or arrangement, as of particulars, parts, or elements into a whole;

especially such combination according to some rational principle; any methodic arrangement of parts. *State v. Kistler*, 119 Neb. 89, 227 N.W. 319, 320. Method; manner; mode. *Fosche v. Union Traction Co.*, 108 Kan. 585; 196 P. 423, 424.

In mining usage, under the principle that a system or plan of development is sufficient to meet the requirements of annual expenditure in development of mining claims, the term "system" or "general system" of work means that work as it is commenced on the ground is such that if continued it will lead to a discovery and development of the veins or ore bodies that are supposed to be in the claims, or if these are known that the work will facilitate the extraction of ores and minerals. *Golden Giant Mining Co. v. Hill*, 27 N.M. 124, 198 P. 276, 279, 14 A.L.R. 1450.