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

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

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

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

IBERNAGIUM. The season for sowing winter corn.

Ibi semper debet fieri triatio ubi jura tores meliorem possunt habere notitiam. 7 Coke, 16. A trial should always be had where the jurors can be the best informed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

IDEO. Lat. Therefore. Calvin.

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

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

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

IDIocy. In medical jurisprudence. That condition of mind in which the reflective, and all or a part of the affective, powers are either entirely wanting, or are manifested to the slightest possible extent. Ray, Insan., § 58; Whart. & S. Med. Jur. § 222.

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

Idiocy is that condition in which the human creature has never had, from birth, any, the least, glimmering of reason; and is utterly destitute of all those intellectual faculties by which man, in general, is so eminently and peculiarly distinguished. It is not the condition of a deranged mind, but that of a total absence of all mind. Hence this state of fatuity can rarely ever be mistaken by any, the most superficial, observer. The medical profession seem to regard it as a natural defect, not as a disease in itself, or as the result of any disorder. In law, it is also considered as a defect, and as a permanent and hopeless incapacity. 1 Bland. Ch. 386.

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

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

IDIOTA INQUIRENDO, WRIT DE. This is the name of an old writ which directs the sheriff to inquire whether a man be an idiot or not. The inquisition is to be made by a jury of twelve men. Fitzh. Nat. Brev.
232. And, if the man were found an idiot, the profits of his lands and the custody of his person might be granted by the king to any subject who had interest enough to obtain them. 1 Bl. Comm. 303.

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

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

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

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

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

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

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

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

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

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

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

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

Ignorance is not a state of the mind in the sense in which sanity and insanity are. When the mind is ignorant of a fact, its condition still remains sound; the power of thinking, of judging, of willing, is just as complete before communication of the fact as after; the essence or texture, so to speak, of the mind, is not, as in the case of insanity, affected or impaired. Ignorance of a particular fact consists in this: that the mind, although sound and capable of healthy action, has never acted upon the fact in question, because the subject has never been brought to the notice of the perceptive faculties. 23 N. J. Law, 274.

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

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

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

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

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

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

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

Ignorantia facti excusat. Ignorance of fact excuses or is a ground of relief. 2 Coke, 3b. Acts done and contracts made under mistake or ignorance of a material fact...
are voidable and relievable in law and equity. 2 Kent, Comm. 491, and notes.

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

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

Ignorantia juris sui non prejudicat jure. Ignorance of one's right does not prejudice the right. Loft, 552.

Ignorantia legis neminem excusat. Ignorance of law excuses no one. 4 Bouv. Inst. no. 8228; 1 Story, Eq. Jur. § 111; 7 Watts, 374.


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

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

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

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

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

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

ILET. A little island.

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

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

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

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

Sometimes this term means merely that which lacks authority of or support from law; but more frequently it imports a violation. Etymologically, the word seems to convey the negative meaning only. But in ordinary use it has a severer, stronger signification; the idea of censure or condemnation for breaking law is usually presented. But the law implied in illegal is not necessarily an express statute. Things are called "illegal" for a violation of common-law principles. And the term does not imply that the act spoken of is immoral or wicked; it implies only a breach of the law. 1 Abb. Pr. (N. S.) 432; 45 N. H. 190; Id. 211; 3 Sneed, 64.

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

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

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

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

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

The Louisiana Code divided illegitimate children into two classes: (1) Those born from two persons who, at the moment when such children were conceived, could have lawfully married; and (2) those who are born from persons to whose marriage there existed at the time some legal impediment. Both classes, however, could be acknowledged and take by devise. 13 Rob. (La.) 56.

ILLEVIAL. Not leivable; that cannot or ought not to be levied. Cowell.
IL LICENCIATUS. In old English law. Without license. Fleta, lib. 3, c. 5, § 12.

IL LICIT. Not permitted or allowed; prohibited; unlawful; as an illicit trade; illicit intercourse.

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

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

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

IL LICITUM COLLEGIIUM. An illegal corporation.

IL LITERATE. Unlettered; ignorant; unlearned. Generally used of one who cannot read and write.

IL LOCABLE. Incapable of being placed out or hired.

ILLUD. Lat. That.

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

Ilud, quod alteri unitur, extinguitur, neque amplius per se vacare licet. Godol. Eee. Law. 163. That which is united to another is extinguished, nor can it be any more independent.

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

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

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

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

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

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

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

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

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

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

IMBEZZLE. See Embezzle.

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

IMBRACERY. See Embracery.

IMBROCUS. A brook, gutter, or waterpassage. Cowell.
IMMATERIAL. Not material, essential, or necessary; not important or pertinent; not decisive.

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

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

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

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

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

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

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

IMMEMORIAL. Beyond human memory; time out of mind.

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

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

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

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

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

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

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

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

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

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

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

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

IMMORALITY. That which is contra bonos mores. See IMMORAL.
IMMOVABLES. In the civil law. Property which, from its nature, destination, or the object to which it is applied, cannot move itself, or be removed.

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

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

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

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

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

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

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

IMPARCARE. In old English law. To impound. Reg. Orig. 926.

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

IMPARGAMENTUM. The right of impounding cattle.

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

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

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

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

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

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

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

IMEACH. To accuse; to charge a liability upon; to sue.

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

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

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

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

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

IMEACHMENT OF WASTE. Liability for waste committed; or a demand or
suit for compensation for waste committed upon lands or tenements by a tenant thereof who, having only a leasehold or particular estate, had no right to commit waste. See 2 Bl. Comm. 283.

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

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

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

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

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

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


IMPENSE. Lat. In the civil law. Expenses; outlay. Mackeld. Rom. Law, § 168; Calvin. Divided into necessary, (necessaria, ) useful, (utiles, ) and tasteful or ornamental, (coluptuaria, ) Dig. 50, 16, 79. See Id. 25, 1.

IMPERATIVE. See Directory.

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

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

IMPERFECT RIGHTS. See Rights.

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

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

IMPERITIA. Unskillfulness; want of skill.

Imperitia culpæ adnumeratur. Want of skill is reckoned as culpa; that is, as blamable conduct or neglect. Dig. 50, 17, 182.

Imperitia est maxima mechanicorum pena. Unskillfulness is the greatest punishment of mechanics; [that is, from its effect in making them liable to those by whom they are employed.] 11 Coke, 51a. The word "pena" in some translations is erroneously rendered "fault."

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

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


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

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

IMPERTINENT. In equity pleading. That which does not belong to a pleading, in-
terrogatory, or other proceeding; out of place; superfluous; irrelevant.

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

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

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

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

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

IMPIER. Umpire, (q. v.)

IMPIERMENT. Impairing or prejudicing. Jacob.


IMPIGNORATION. The act of pawning or putting to pledge.

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

IMPLACITARE. Lat. To implead; to sue.

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

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

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

Whatever may supply wants; particularly applied to tools, utensils, vessels, instruments of labor; as, the implements of trade or of husbandry. 23 Iowa, 359; 6 Gray, 238.

IMPLICATA. A term used in mercantile law, derived from the Italian. In order to avoid the risk of making fruitless voyages, merchants have been in the habit of receiving small adventures, on freight, at so much per cent., to which they are entitled at all events, even if the adventure be lost; and this is called "implicata." Wharton.

IMPLICATION. Intendment or inference, as distinguished from the actual expression of a thing in words. In a will, an estate may pass by mere implication, without any express words to direct its course. 2 Bl. Comm. 831.

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

In construing a will conjecture must not be taken for implication; but necessary implication means, not natural necessity, but so strong a probability of intention that an intention contrary to that which is imputed to the testator cannot be supposed. 1 Ves. & B. 469. "Implication" is also used in the sense of "inference," i. e., where the existence of an intention is inferred from acts not done for the sole purpose of communicating it, but for some other purpose. Sweet.

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

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

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

IMPLIED CONDITION. See Condition Implied.

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

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

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

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

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

IMPLI ED TRUST. A trust raised or created by implication of law; a trust implied or presumed from circumstances. See Resulting Use.

IMPLI ED USE. See Resulting Use.

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

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

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

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

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

IMPOSITION. An impost; tax; contribution.

IMPOSSIBILITY. That which, in the constitution and course of nature or the law, no man can do or perform. Impossibility is of the following several sorts:

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

Impossibilium null a obligatio est. There is no obligation to do impossible things. Dig. 50, 17, 155; Broom, Max. 249.

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

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

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

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

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

Impotentia excusat legem. Co. Litt. 29. The impossibility of doing what is re-
quired by the law excuses from the performance.

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

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

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

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

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

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

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

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

**IMPRESTIBILIS.** Lat. Beyond price; invaluable.

**IMPRIMATUR.** Lat. Let it be printed. A license or allowance, granted by the constituted authorities, giving permission to print and publish a book. This allowance was formerly necessary, in England, before any book could lawfully be printed, and in some other countries is still required.

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

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

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

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

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

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

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

Any forcible detention of a man's person, or control over his movements, is imprisonment. 3 Har. (Del.) 418.

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

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

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

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

**IMPROPER NAVIGATION.** Anything improperly done with the ship or part...
of the ship in the course of the voyage. L. R. 6 C.P. 563. See, also, 53 Law J. P. D. 65.

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

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

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

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

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

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

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

An "improvement," under our land system, does not mean a general enhancement of the value of the tract from the occupant's operations. It has a more limited meaning, which has in view the population of our forests, and the increase of agricultural products. All works which are directed to the creation of homes for families, or are substantial steps towards bringing lands into cultivation, have in their results the special character of "improvements," and, under the land laws of the United States and of the several states, are encouraged. Sometimes their minimum extent is defined as requisite to convey rights. In other cases not. But the test which runs through all the cases is always this: Are they real, and made bona fide, in accordance with the policy of the law, or are they only colorable, and made for the purpose of fraud and speculation? 37 Ark. 137.

In the law of patents. An addition to, or modification of, a previous invention or discovery, intended or claimed to increase its utility or value. See 2 Kent, Comm. 866-872.

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

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

IMPRUARE. In old records. To improve land. Improruitamentum, the improvement so made of it. Cowell.

IMPUBES. Lat. In the civil law. A minor under the age of puberty; a male under fourteen years of age; a female under twelve. Calvin.; Mackeld. Rom. Law, § 138.

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

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

IMPUNITY. Exemption or protection from penalty or punishment. 38 Tex. 153.

IMPUTATIO. In the civil law. Legal liability.

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

IMPUTED NEGLIGENCE. Negligence which is not directly attributable to the person himself, but which is the negligence of a person who is in privy with him, and with whose fault he is chargeable.
IN. In the law of real estate, this proposition has always been used to denote the fact of seizin, title, or possession, and apparently serves as an elliptical expression for some such phrase as "in possession," or as an abbreviation for "intitled" or "in vested with title." Thus, in the old books, a tenant is said to be "in by lease of his lessor." Litt. § 82.

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

IN ADVERSUM. Against an adverse, unwilling, or resisting party. "A decree not by consent, but in adversum." 3 Story, 318.

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

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

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

In equali jure mellior est conditio possidentis. In [a case of] equal right the condition of the party in possession is the better. Plow. 295; Broom, Max. 713.

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

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

IN ALIO LOCO. In another place.

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

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

In ambigua voce legis ea potius accipiendra est significatio que vitio caret, presertim cum etiam voluntas legis ex hoc colligi possit. In an ambiguous expression of law, that signification is to be preferred which is consonant with equity, especially when the spirit of the law can be collected from that. Dig. 1, 3, 19; Broom, Max. 576.

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

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

In Anglia non est interregnum. In England there is no interregnum. Jenk. Cent. 205; Broom, Max. 59.

IN APERTA LUCE. In open daylight; in the day-time. 9 Coke, 655.

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

IN ARBITRIUM JUDICIS. At the pleasure of the judge.

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

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

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

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

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

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

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

IN BONIS. Among the goods or property; in actual possession. Inst. 4, 2, 2. In bonis defuncti, among the goods of the deceased.
IN CAMERA. In chambers; in private. A cause is said to be heard in camera either when the hearing is had before the judge in his private room, or when all spectators are excluded from the court-room.

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

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

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

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

IN CAUSA. In the cause, as distinguished from in initia libris, (q. e.) A term in Scotch practice. 1 Brown, Ch. 252.

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

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

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

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

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

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

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

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

In conjunctivis, oportet utramque partem esse veram. In conjunctives, it is necessary that each part be true. Wing. Max. 15, 9. In a condition consisting of divers parts in the copulative, both parts must be performed.

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

IN CONSIDERATIONE LEGIS. In consideration or contemplation of law; in abeyance. Dyer, 1026.

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

In consimili caso, consimiles debet esse remedium. Hartr. 65. In similar cases the remedy should be similar.

IN CONSPICU EJUS. In his sight or view. 12 Mod. 95.

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

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

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

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

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

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

In conventionibus, contraentium voluntas potius quam verba spectari pla-
IN CORPORE. In agreements, the intention of the contracting parties, rather than the words used, should be regarded. 17 Johns. 150; Broom, Max. 551.

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

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

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

IN DIESM. For a day; for the space of a day. Calvin.

IN DOMINICO. In domino suo ut de foedo, in his desmesne as of fee.

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

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

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

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

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

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

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

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

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

IN Eadem causa. In the same state or condition. Calvin.

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

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

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

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

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

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

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

In expositione instrumentorum, mala grammatica, quod fleti potest, vitanda est. In the construction of instruments, bad grammar is to be avoided as much as possible. 6 Coke, 89; 2 Pars. Cont. 26.

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

IN FACIE CURIAE. In the face of the court. Dyer, 28.

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

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

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

IN FACTO. In fact; in deed. In faccio dictus, in fact says. 1 Salk. 22, pl. 1.

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


IN FAVOREM LIBERTATIS. In favor of liberty.

IN FAVOREM VITÆ. In favor of life.

In favorem vitæ, liber tatis, et innocentiæ, omnia præsumuntur. In favor of life, liberty, and innocence, every presumption is made. Lofft. 125.

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

In fictione juris semper equitas existit. In the fiction of law there is always equity; a legal fiction is always consistent with equity. 11 Coke, 51a; Broom, Max. 127, 130.

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

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

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

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

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

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

IN FORO ECCLESIASTICO. In an ecclesiastical forum; in the ecclesiastical court. Fleta, lib. 2, c. 57, § 18.

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

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

IN FRAUDEM LEGIS. In fraud of the law. 3 Bl. Comm. 94. With the intent or view of evading the law. 1 Johns. 424, 492.

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

IN FULL LIFE. Continuing in both physical and civil existence; that is, neither actually dead nor civiliiter mortuis.

IN FUTURE. In future; at a future time; the opposite of in praesenti. 2 Bl. Comm. 166, 175.

IN GENERALI PASSAGIO. In the general passage; that is, on the journey to Palestine with the general company or body of Crusaders. This term was of frequent occurrence in the old law of essoins, as a means of accounting for the absence of the party, and was distinguished from simplex passagium, which meant that he was performing a pilgrimage to the Holy Land alone.
IN GENERALIBUS, ETC. 603 IN JURE

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

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

In Gremio Legis. In the bosom of the law; in the protection of the law; in abeyance. 1 Coke, 131a; T. Raym. 319.

In Gross. In a large quantity or sum; without division or particulars; by wholesale.
At large; not annexed to or dependent upon another thing. Common in gross is such as is neither appendant nor appurtenant to land, but is annexed to a man's person. 2 Bl. Comm. 34.

In Hac Parte. In this behalf; on this side.

In Hag Verba. In these words; in the same words.

In heredes non solent transire actiones que poneales ex maleficio sunt. 2 Inst. 442. Penal actions arising from anything of a criminal nature do not pass to heirs.

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

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

In Hoc. In this; in respect to this.

In Iisdem Terminis. In the same terms. 9 East, 487.

In Individuo. In the distinct, identical, or individual form; in specie. Story, Ballm. §97.

In Infinitum. Infinitely; indefinitely. Imports indefinite succession or continuance.

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

In Initio. In or at the beginning. In initio litteris, at the beginning, or in the first stage of the suit. Bract. fol. 400.

In Integrum. To the original or former state. Calvin.

In Invidia. To excite a prejudice.

In Invitum. Against an unwilling party; against one not consenting. A term applied to proceedings against an adverse party, to which he does not consent.

In Ipsis Faucibus. In the very throat or entrance. In ipsis faucibus of a port, actually entering a port. 1 C. Rob. Adm. 233, 234.

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

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

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

In judicis, minori sitatur succurratur. In courts or judicial proceedings, infancy is aided or favored. Jenk. Cent. 46, case 89.

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

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

In Jure. In law; according to law. In the Roman practice, the procedure in an
action was divided into two stages. The first was said to be in jure; it took place before the praeceptor, and included the formal and introductory part and the settlement of questions of law. The second stage was committed to the iudex, and comprised the investigation and trial of the facts; this was said to be in judicio.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

IN MEDIO. Intermedia's. A term applied, in Scotch practice, to a fund held between parties litigant.

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

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

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

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

IN MODUM ASSISÆ. In the manner or form of an assize. Bract. fol. 183b. In modum juratæ, in manner of a jury. Id. fol. 1816.

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

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

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

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

In novo casu, novum remedium apponundum est. 2 Inst. 3. A new remedy is to be applied to a new case.

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

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

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

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

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

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

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

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

In omni actione ubi due concurrent districtiones, videlicet, in rem et in personam, illa districtio tenenda est quae magis timetur et magis ligat. In every action where two distresses concur, that is, in rem and in personam, that is to be chosen which is most dreaded, and which binds most firmly. Bract. fol. 372; Fleta, 1. 6, c. 14, § 28.

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

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

In omnibus contractibus, sive nominatis sive innominatis, permutatio continetur. In all contracts, whether nominative or innominate, an exchange [of value, i.e., a consideration] is implied. Gravin. lib. 2, § 12; 2 Bl. Comm. 441, note.

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

In omnibus [fere] penalibus judiciis, et estati et imprudentiae succurrurit. In nearly all penal judgments, immaturity of age and imbecility of mind are favored. Dig. 50, 17, 108; Broom. Max. 314.

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

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

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

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

IN PAPER. A term formerly applied to the proceedings in a cause before the record was made up. 3 Bl. Comm. 406; 2 Bur-
In pari causa. In an equal cause. In a cause where the parties on each side have equal rights.

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

In pari delicto. In equal fault; equally culpable or criminal; in a case of equal fault or guilt.

In pari delicto potior est condition possidentis, [defendentis.] In a case of equal or mutual fault [between two parties] the condition of the party in possession [or defending] is the better one. 2 Burrows, 926. Where each party is equally in fault, the law favors him who is actually in possession. Broom, Max. 230, 729. Where the fault is mutual, the law will leave the case as it finds it. Story, Ag. § 195.

In pari materia. Upon the same matter or subject. Statutes in pari materia are to be construed together. 7 Conn. 456.

In patiendo. In suffering, permitting, or allowing.

In pectore judicis. In the breast of the judge. Latch. 180. A phrase applied to a judgment.

In pejore partem. In the worst part; on the worst side. Latch. 159, 160.

In perpetuum rei memoriam. In perpetual memory of a matter; for preserving a record of a matter. Applied to depositions taken in order to preserve the testimony of the deponent.

In perpetuum rei testimonium. In perpetual testimony of a matter; for the purpose of declaring and settling a thing forever. 1 Bl. Comm. 86.

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

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

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

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

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

In personam actio est, qua cum eo agimus qui obligatus est nobis ad faciendum aliquid vel dandum. The action in personam is that by which we sue him who is under obligation to us to do something or give something. Dig. 44, 7, 25; Bract. 1016.

In pius usus. For pious uses; for religious purposes. 2 Bl. Comm. 505.


In pleno comitatu. In full county court. 3 Bl. Comm. 36.

In pleno lumine. In public; in common knowledge; in the light of day.

In penalisbus causis benignius interpretandum est. In penal causes or cases,
the more favorable interpretation should be adopted. Dig. 50, 17, (197,) 155, 2; Plowd. 865, 124; 2 Hale, P. C. 365.

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

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

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

In preparatorius ad judicium favetur actori. 2 Inst. 57. In things preceding judgment the plaintiff is favored.

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

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

IN PRENDER. L. Fr. In taking. A term applied to such incorporeal hereditaments as a party entitled to them was to take for himself; such as common. 2 Steph. Comm. 28; 3 Bl. Comm. 15.

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

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

IN PRINCIOPI. At the beginning.

IN PROMPTU. In readiness; at hand.

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

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

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

IN RE. In the affair; in the matter of. This is the usual method of entitling a judicial proceeding in which there are not adversary parties, but merely some res concerning which judicial action is to be taken, such as a bankrupt's estate, an estate in the probate court, a proposed public highway, etc. It is also sometimes used as a designation of a proceeding where one party makes an application on his own behalf, but such proceedings are more usually entitled "Ex parte - ."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

IN SIMPLICI PEREGRINATIONE. In simple pilgrimage. Bract. fol. 333. A phrase in the old law of essoins. See IN GENERALI PASSAGIO.

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

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

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

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

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

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

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

In stipulationibus cum queritur quid actum sit verba contra stipulatorem in-
terpretanda sunt. In the construction of agreements words are interpreted against the person using them. Thus, the construction of the stipulatio is against the stipulator, and the construction of the promissio against the promissor. Dig. 45, 1, 38, 18; Broom, Max. 599.

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

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

IN SUBSIDIUM. In aid.

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

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

IN TERMINIS TERMINANTIBUS. In terms of determination; exactly in point. 11 Coke, 40b. In express or determinate terms. 1 Leon. 93.

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

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

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

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

In testamentis ratio tacita non debet considerari, sed verba solum spectari debent; adoe per divinationem mentis a verbis recedere durum est. In wills an unexpressed meaning ought not to be considered, but the words alone ought to be looked to; so hard is it to recede from the words by guessing at the intention.

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

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

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

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

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

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

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

IN VACUO. Without object; without concomitants or coherence.

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

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

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

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

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

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

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

IN WITNESS WHEREOF. The initial words of the concluding clause in deeds: "In witness whereof the said parties have
hereunto set their hands," etc. A translation of the Latin phrase "in c u j s r e i t e s t i m o n i u m . "

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

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

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

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

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

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

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

INBOUND COMMON. An inclosed common, marked out, however, by boundaries.

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

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

INCAUSTUM, or ENCAUSTUM. Ink. Fleta, 1, 2, c. 27, § 5.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

INCIDENT. This word, used as a noun, denotes anything which inseparably belongs
INCIDERE. To shut up. "To inclose a jury," in Scotch practice, is to shut them up in a room by themselves. Bell.

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

INCLUSION. In English law, inclusion is the act of freeing land from rights of common, commomable rights, and generally all rights which obstruct cultivation and the productive employment of labor on the soil. Also, an artificial fence around one's estate. 39 Vt. 34, 325; 36 Wis. 42. See Close.

Inclusio unius est exclusio alterius. The inclusion of one is the exclusion of another. The certain designation of one person is an absolute exclusion of all others. 11 Coke, 588.

INCLUSIVE. Embraced; comprehend-ed; comprehending the stated limits or extremes. Opposed to "exclusive."

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


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

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

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

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

INCOMMUNICATION. In Spanish law. The condition of a prisoner who is not permitted to see or to speak with any person visiting him during his confinement. A person accused cannot be subjected to this treatment unless it be expressly ordered by the judge, for some grave offense, and it cannot be continued for a longer period than is absolutely necessary. This precaution is resorted to for the purpose of preventing the
accused from knowing beforehand the testimony of the witnesses, or from attempting to corrupt them and conceal such measures as will efface the traces of his guilt. As soon, therefore, as the danger of his doing so has ceased, the interdiction ceases likewise. Escriche.

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

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

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

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

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

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

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

INCOPOLITUS. A proctor or vicar.

Incorporalia bello non adquiruntur. Incorporeal things are not acquired by war. 6 Maule & S. 104.

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

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

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

INCORPORATION. 1. The act or process of forming or creating a corporation; the formation of a legal or political body, with the quality of perpetual existence and succession, unless limited by the act of incorporation.

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

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

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

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

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

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

INCRIRGIBLE ROGUE. A species of rogue or offender, described in the statutes 5 Geo. 1V. c. 83, and 1 & 2 Vict. c. 33. 4 Steph. Comm. 309.

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

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

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

INCRUENTUM. Increase or improvement. See Incrementum.

INCRUINATION. An unlawful gaining upon the right or possession of another. See Encroachment.

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

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

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

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

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

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

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

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

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

INCRUAMENTUM. The liability to a fine, penalty, or amercement. Cowell.

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

Inde datæ leges ne fortior omnis posset. Laws are made to prevent the stronger from having the power to do everything. Dav. Ir. K. B. 36.


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

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

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

INDEBTEDNESS. The state of being in debt, without regard to the ability or inability of the party to pay the same. See Story, Eq. Jur. 549; 2 Hill, Abr. 421.

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

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

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

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

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

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

INDEFENSUS. In old English practice. Undefended; undenied by pleading.
A defendant who makes no defense or plea.

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

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

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

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

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

INDEMNIFICATUS. Lat. Indemnified. See INDEMNIFY.

INDEMNIFY. To save harmless; to secure against loss or damage; to give security for the reimbursement of a person in case of an anticipated loss falling upon him. Also to make good; to compensate; to make reimbursement to one of a loss already incurred by him.

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

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

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

INDEMNITY. An indemnity is a collateral contract or assurance, by which one person engages to secure another against an anticipated loss, or to prevent him from being dammified by the legal consequences of an act or forbearance on the part of one of the parties or of some third person. See Civil Code Cal. § 2772. Thus, insurance is a contract of indemnity. So an indemnifying bond is given to a sheriff who fears to proceed under an execution where the property is claimed by a stranger.

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

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

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


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

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

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

**INDENTURE.** A deed to which two or more persons are parties, and in which these enter into reciprocal and corresponding grants or obligations towards each other: whereas a deed-poll is properly one in which only the party making it executes it, or binds himself by it as a deed, though the grantors or grantees therein may be several in number. 3 Washb. Real Prop. 311. See **INDENT, v.**

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

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

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

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

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

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

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

Index animi sermo. Language is the exponent of the intention. The language of a statute or instrument is the best guide to the intention. Broom, Max. 622.

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

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

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

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

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

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

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

**INDICAVIT.** In English practice. A writ of prohibition that lies for a patron of a church, whose clerk is sued in the spiritual court by the clerk of another patron, for tithes amounting to a fourth part of the value of the living. 3 Bl. Comm. 91; 3 Steph. Comm. 711. So termed from the emphatic word of the Latin form. Reg. Orig. 356, 36.

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

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

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

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

INDICTEE. A person indicted.

INDICTIO. In old public law. A declaration; a proclamation. Indictio belii, a declaration or induction of war. An indictment.

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

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

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

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

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

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

INDIFFERENT. Impartial; unbiased; disinterested.

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

INDIRECT EVIDENCE. Evidence which does not tend directly to prove the controverted fact, but to establish a state of facts, or the existence of other facts, from which it will follow as a logical inference. Inferential evidence as to the truth of a disputed fact, not by testimony of any witness to the fact, but by collateral circumstances ascertained by competent means. 1 Starkie, Ev. 15.

INDISTANTER. Forthwith; without delay.

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

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

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

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

INDORSAT. In old Scotch law. Indorsed. 2 Pitt. Crim. Tr. 41.

INDORSE. To write a name on the back of a paper or document. Bills of exchange and promissory notes are indorsed by a party's writing his name on the back. 7 Pick. 117. "Indorse" is a technical term, having sufficient legal certainty without words of more particular description. 7 Vt. 351.

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

INDORSEE IN DUE COURSE. An indorsee in due course is one who, in good faith, in the ordinary course of business, and for value, before its apparent maturity or presumptive dishonor, acquires a negotiable instrument duly indorsed to him, or indorsed generally, or payable to the bearer. Civil Code Cal. § 3123.
INDORSEMENT. The act of a payee, drawee, accommodation indorser, or holder of a bill, note, check, or other negotiable instrument, in writing his name upon the back of the same, with or without further or qualifying words, whereby the property in the same is assigned and transferred to another.

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

One who writes his name upon a negotiable instrument, otherwise than as a maker or acceptor, and delivers it, with his name thereon, to another person, is called an “indorser,” and his act is called “indorsement.”

Civil Code Cal. § 3108; Civil Code Dak. § 1836.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

INDUMENT. Endowment, (q. v.)

INDUSTRIAL AND PROVIDENT SOCIETIES. Societies formed in England for carrying on any labor, trade, or handicraft, whether wholesale or retail, in-
CLUDING the buying and selling of land and also (but subject to certain restrictions) the business of banking.

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

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

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

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

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

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

Inesse potes donationi, modulus, conditione; si conditione; si causa. In a gift there may be manner, condition, and cause; as [ut] introduces a manner; if, [sæ], a condition; because, [quia], a cause. Dyer, 138.

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

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

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

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

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

INEWARDUS. A guard; a watchman. Domesday.

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

INFAMIA. Lat. Infamy; ignominy or disgrace.

By infamia juris is meant infamy established by law as the consequence of crime; infamia facti is where the party is supposed to be guilty of such crime, but it has not been judicially proved. 17 Mass. 415, 541.

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

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

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

A crime punishable by imprisonment in the state prison or penitentiary, with or without hard labor, is an infamous crime, within the provision of the fifth amendment.
of the constitution that "no person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury." 117 U. S. 348, 6 Sup. Ct. Rep. 777.

"Infamous," as used in the fifth amendment to the United States constitution, in reference to crimes, includes those only of the class called "crimen falsi," which both involve the charge of falsehood, and may also injuriously affect the public administration of justice by introducing falsehood and fraud. 15 N. B. R. 325.

By the Revised Statutes of New York the term "infamous crime," when used in any statute, is directed to be construed as including every offense punishable with death or by imprisonment in a state-prison, and no other. 2 Rev. St. (p. 703, § 31,) p. 557, § 32.

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

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

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

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

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

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

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

INFANTICIDE. The murder or killing of an infant soon after its birth. The fact of the birth distinguishes this act from "faeti­ cide" or "procuring abortion," which terms denote the destruction of the status in the womb.

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

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

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

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

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

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

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

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

An inference is a deduction which the reason of the jury makes from the facts proved, without an express direction of law to that effect. Code Civil Proc. Cal. § 1968.


INFERIOR. One who, in relation to another, has less power and is below him; one who is bound to obey another. He who makes the law is the superior; he who is
INFIRM. Weak, feeble. The testimony of an “infirm” witness may be taken de bene esse in some circumstances. See 1 P. Wms. 117.

INFIRMATIVE. In the law of evidence. Having the quality of diminishing force; having a tendency to weaken or render infirm. 3 Benth. Jud. Ev. 14; Best, Pres. § 217.

INFIRMATIVE CONSIDERATION. In the law of evidence. A consideration, supposition, or hypothesis of which the criminative facts of a case admit, and which tends to weaken the inference or presumption of guilt deductible from them. Burrill, Circ. Ev. 153–155.

INFIRMATIVE FACT. In the law of evidence. A fact set up, proved, or even supposed, in opposition to the criminative facts of a case, the tendency of which is to weaken the force of the inference of guilt deductible from them. 3 Benth. Jud. Ev. 14; Best, Pres. § 217, et seq.

INFIRMATIVE HYPOTHESIS. A term sometimes used in criminal evidence to denote an hypothesis or theory of the case which assumes the defendant’s innocence, and explains the criminative evidence in a manner consistent with that assumption.

INFORMAL. Deficient in legal form; inartificially drawn up.

INFORMALITY. Want of legal form.

INFORMATION. In practice. An accusation exhibited against a person for some criminal offense, without an indictment. 4 Bl. Comm. 308.

An accusation in the nature of an indictment, from which it differs only in being presented by a competent public officer on his oath of office, instead of a grand jury on their oath. 1 Bish. Crim. Proc. § 141.

The word is also frequently used in the law in its sense of communicated knowledge, and affidavits are frequently made, and pleadings and other documents verified, on “information and belief.”

In French law. The act or instrument which contains the depositions of witnesses against the accused. Poth. Proc. Civil, § 2, art. 5.

INFORMATION IN THE NATURE OF A QUO WARRANTO. A proceeding against the usurper of a franchise or office. See QUO WARRANTO.
INFORMATION OF INTRUSION. A proceeding instituted by the state prosecuting officer against intruders upon the public domain. See Gen. St. Mass. c. 141; 3 Pick. 224; 6 Leigh, 588.

INFORMATUS NON SUM. In practice, I am not informed. A formal answer made by the defendant's attorney in court to the effect that he has not been advised of any defense to be made to the action. Thereupon judgment by default passes.

INFORMER. A person who informs or prefers an accusation against another, whom he suspects of the violation of some penal statute.

A common informer is a person who sues for a penalty which is given to any person who will sue for it, as opposed to a penalty which is only given to a person specially aggrieved by the act complained of. 3 Bl. Comm. 161.

INFORTIATUM. The name given by the glossators to the second of the three parts or volumes into which the Pandects were divided. The glossators at Bologna had at first only two parts, the first called "Digestum Vetus," (the Old Digest,) and the last called "Digestum Novum," (the New Digest.) When they afterwards received the middle or second part, they separated from the Digestum Novum the beginning it had then, and added it to the second part, from which enlargement the latter received the name "Inforniatum." Mackeik. Rom. Law, §110.

INFORTUNIUM, HOMICIDE PER. Where a man doing a lawful act, without intention of hurt, unfortunately kills another.

INFRA. Lat. Below; underneath; within. This word occurring by itself in a book refers the reader to a subsequent part of the book, like "post." It is the opposite of "ante" and "supra." (q. v.)

INFRA ETATEM. Under age; not of age. Applied to minors.

INFRA ANNOS NUBILES. Under marriageable years; not yet of marriageable age.

INFRA ANNUM. Under or within a year. Bract. fol. 7.

INFRA ANNUM LUCTUS. (Within the year of mourning.) The phrase is used in reference to the marriage of a widow within a year after her husband's death, which was prohibited by the civil law.

INFRA BRACHIA. Within her arms. Used of a husband de jure, as well as de facto. 2 Inst. 317. Also inter brachia. Bract. fol. 1486. It was in this sense that a woman could only have an appeal for murder of her husband inter brachia sua.

INFRA CIVITATEM. Within the state. 1 Camp. 23, 24.

INFRA CORPUS COMITATUS. Within the body (territorial limits) of a county. In English law, waters which are infra corpus comitatus are exempt from the jurisdiction of the admiralty.

INFRA DIGNITATEM CURIÆ. Beneath the dignity of the court; unworthy of the consideration of the court. Where a bill in equity is brought upon a matter too trivial to deserve the attention of the court, it is demurrable, as being infra dignitatem curiae.

INFRA FUOREM. During madness; while in a state of insanity. Bract. fol. 196.

INFRA HOSPITIUM. Within the inn. When a traveler's baggage comes infra hospitium, i. e., in the care and under the custody of the innkeeper, the latter's liability attaches.

INFRA JURISDICTIONEM. Within the jurisdiction. 2 Strange, 827.

INFRA LIGEANTIAM REGIS. Within the king's ligeance. Comb. 212.

INFRA METAS. Within the bounds or limits. Infra metas forestae, within the bounds of the forest. Fleta, lib. 2, c. 41, §12. Infra metas hospiti, within the limits of the household; within the verge. Id. lib. 2, c. 2, §2.

INFRA PRÆSIDIA. Within the protection; within the defenses. In international law, when a prize, or other captured property, is brought into a port of the captors, or within their lines, or otherwise under their complete custody, so that the chance of rescue is lost, it is said to be infra præsidia.

INFRA QUATUOR MARIA. Within the four seas; within the kingdom of England; within the jurisdiction.

INFRA QUATUOR PARVITETES. Within four walls. 2 Crabb, Real Prop. p. 106, §1089.

INFRA REGNUM. Within the realm.

INFRA SEX ANNOS. Within six years.
INFRA TRIDUUM. Within three days. Formal words in old appeals. Fleta, lib. 1, c. 31, § 6; Id. c. 35, § 3.

INFRINGEMENT. A breach, violation, or infringement; as of a law, a contract, a right or duty.

In French law, this term is used as a general designation of all punishable actions.

INFRINGEMENT. A breaking into; a trespass or encroachment upon; a violation of a law, regulation, contract, or right. Used especially of invasions of the rights secured by patents, copyrights, and trademarks.

INFUGARE. To put to flight.

INFULA. A coif, or a cassock. Jacob.

INFUSION. In medical jurisprudence. The process of steeping in liquor; an operation by which the medicinal qualities of a substance may be extracted by a liquor without boiling. Also the product of this operation. "Infusion" and "decoction," though not identical, are ejusdem generis in law. 3 Camp. 74. See Decoction.

INGE. Meadow, or pasture. Jacob.

INGENIUM. (1) Artifice, trick, fraud; (2) an engine, machine, or device. Spelman.

INGENUITAS. Liberty given to a servant by manumission.

INGENUITAS REGNI. In old English law. The freemen, yeomanry, or commonalty of the kingdom. Cowell. Applied sometimes also to the barons.

INGENUUS. In Roman law. A person who, immediately that he was born, was a free person. He was opposed to libertinus, or libertus, who, having been born a slave, was afterwards manumitted or made free. It is not the same as the English law term "generous," which denoted a person not merely free, but of good family. There were no distinctions among ingenii; but among libertini there were (prior to Justinian's abolition of the distinctions) three varieties, namely: Those of the highest rank, called "Cives Romanii;" those of the second rank, called "Latini Juniani;" and those of the lowest rank, called "Dediticii." Brown.

INGRATITUDE. In Roman law, ingratitude was accounted a sufficient cause for revoking a gift or recalling the liberty of a freedman. Such is also the law of France, with respect to the first case. But the English law has left the matter entirely to the moral sense.

INGRESS, EGRESS, AND REGRESS. These words express the right of a lessee to enter, go upon, and return from the lands in question.

INGRESSU. In English law. An ancient writ of entry, by which the plaintiff or complainant sought an entry into his lands. Abolished in 1833.

INGRESSUS. In old English law. Ingress; entry. The relief paid by an heir to the lord was sometimes so called. Cowell.

INGROSSATOR. An engrosser. Ingrossator magni rotuli, engrosser of the great roll; afterwards called "clerk of the pipe." Spelman; Cowell.

INGROSSING. The act of making a fair and perfect copy of any document from a rough draft of it, in order that it may be executed or put to its final purpose.

INHABITANT. One who resides actually and permanently in a given place, and has his domicile there.

"The words 'inhabitant,' "citizen," and "resident," as employed in different constitutions to define the qualifications of electors, mean substantially the same thing; and one is an inhabitant, resident, or citizen at the place where he has his domicile or home." Cooley, Const. Lim. "600. But the terms "resident" and "inhabitant" have also been held not synonymous, the latter implying a more fixed and permanent abode than the former, and importing privileges and duties to which a mere resident would not be subject. 40 Ill. 197.

INHABITED HOUSE DUTY. A tax assessed in England on inhabited dwelling-houses, according to their annual value, (St. 14 & 15 Vict. c. 36; 32 & 33 Vict. c. 14, § 11,) which is payable by the occupier, the landlord being deemed the occupier where the house is let to several persons, (St. 48 Geo. III. c. 55, Schedule B.) Houses occupied solely for business purposes are exempt from duty, although a care-taker may dwell therein, and houses partially occupied for business purposes are to that extent exempt. Sweet.

INHERENT POWER. An authority possessed without its being derived from another. A right, ability, or faculty of doing a thing, without receiving that right, ability, or faculty from another.

INHERETRIX. The old term for "heirress." Co. Litt. 13a.
INHERIT. To take by inheritance; to take as heir on the death of the ancestor. "To inherit to" a person is a common expression in the books. 3 Coke, 41; 2 Bl. Comm. 254, 255.

INHERITABLE BLOOD. Blood which has the purity (freedom from attainder) and legitimacy necessary to give its possessor the character of a lawful heir; that which is capable of being the medium for the transmission of an inheritance.

INHERITANCE. An estate in things real, descending to the heir. 2 Bl. Comm. 201.

Such an estate in lands or tenements or other things as may be inherited by the heir. Termes de la Ley.

An estate or property which a man has by descent, as heir to another, or which he may transmit to another, as his heir. Litt. § 9.

A perpetuity in lands or tenements to a man and his heirs. Cowell; Blount.

"Inheritance" is also used in the old books where "hereditament" is now commonly employed. Thus, Coke divides inheritances into corporeal and incorporeal, into real, personal, and mixed, and into entire and several.

In the civil law. The succession of the heir to all the rights and property of the estate-leaver. It is either testamentary, where the heir is created by will, or ab intestato, where it arises merely by operation of law. Heinec. § 484.

INHERITANCE ACT. The English statute of 3 & 4 Wm. IV. c. 106, by which the law of inheritance or descent has been considerably modified. 1 Steph. Comm. 359, 500.

INHIBITION. In ecclesiastical law. A writ issuing from a superior ecclesiastical court, forbidding an inferior judge to proceed further in a cause pending before him. In this sense it is closely analogous to the writ of prohibition at common law.

Also the command of a bishop or ecclesiastical judge that a clergyman shall cease from taking any duty.

In Scotch law. A species of diligence or process by which a debtor is prohibited from contracting any debt which may become a burden on his heritable property, in competition with the creditor at whose instance the inhibition is taken out; and from granting any deed of alienation, etc., to the prejudice of the creditor. Brande.

In the civil law. A prohibition which the law makes or a judge ordains to an individual. Hallifax, Civil Law, p. 125.

INHIBITION AGAINST A WIFE. In Scotch law. A writ in the sovereign's name, passing the signet, which prohibits all and sundry from having transactions with a wife or giving her credit. Bell; Ersk. Inst. 1, 6, 26.

INHOC. In old records. A nook or corner of a common or fallow field, inclosed and cultivated. Kennett, Par. Antiq. 297, 298; Cowell.


Iniquissima pax est anteponenda justissimo bello. The most unjust peace is to be preferred to the justest war. 18 Wend. 257, 305.

INIQUITY. In Scotch practice. A technical expression applied to the decision of an inferior judge who has decided contrary to law; he is said to have committed iniquity. Bell.

Iniquum est alios permettere, alios inhiberere mercaturam. It is inequitatible to permit some to trade and to prohibit others. 3 Inst. 181.

Iniquum est aliquem rei sui esse judicem. It is wrong for a man to be a judge in his own cause. Branch, Princ.; 12 Coke, 113.

Iniquum est ingenuis hominibus non esse liberam rerum suarum alienationem. It is unjust that freemen should not have the free disposal of their own property. Co. Litt. 223 a; Hob. 87; 4 Kent, Comm. 131.

INITIAL. That which begins or stands at the beginning. The first letter of a man's name.

INITIALIA TESTIMONII. In Scotch law. Preliminaries of testimony. The preliminary examination of a witness, before examining him in chief, answering to the voir dire of the English law, though taking a somewhat wider range. Wharton.

INITIATE. Commenced; inchoate. Curtesy initiate is the interest which a husband has in the wife's lands after a child is born who may inherit, but before the wife dies.
INITIATIVE. In French law. The name given to the important prerogative conferred by the charte constitutionnelle, article 16, on the late king to propose through his ministers projects of laws. 1 Toullier, no. 93.

INJUNCTION. A prohibitive writ issued by a court of equity, at the suit of a party complainant, directed to a party defendant in the action, or to a party made a defendant for that purpose, forbidding the latter to do some act, or to permit his servants or agents to do some act, which he is threatening or attempting to commit, or restraining him in the continuance thereof, such act being unjust and inequitable, injurious to the plaintiff, and not such as can be adequately redressed by an action at law.

An injunction is a writ or order requiring a person to refrain from a particular act. It may be granted by the court in which the action is brought, or by a judge thereof, and when made by a judge it may be enforced as an order of the court. Code Civil Proc. Cal. § 525.

Mandatory injunctions command defendant to do a particular thing. Preventive, command him to refrain from an act.

An injunction is called "preliminary" or "provisional," or an "injunction pendente lite," when it is granted at the outset of a suit brought for the purpose of restraining the defendant from doing the act threatened, until the suit has been heard and the rights of the parties determined. It is called "final" or "perpetual" when granted upon a hearing and adjudication of the rights in question, and as a measure of permanent relief.

INJURIA. Injury; wrong; the privation or violation of right. 3 Bl. Comm. 2.

INJURIA ABSQUE DAMNO. Injury or wrong without damage. A wrong done, but from which no loss or damage results, and which, therefore, will not sustain an action.

Injuria fit et cui convicium dictum est, vel de eo factum carmen famosum. An injury is done to him of whom a reproachful thing is said, or concerning whom an infamous song is made. 9 Coke, 60.

Injuria illata judici, seu locum tenenti regis, videtur ipsi regi illata maxime si flat in excenterem officium. 3 Inst. 1. An injury offered to a judge, or person representing the king, is considered as offered to the king himself, especially if it be done in the exercise of his office.

Injuria non excusat injuriam. One wrong does not justify another. Broom, Max. 395. See 6 El. & Bl. 47.


Injuria propria non cadet in beneficium facientes. One's own wrong shall not fall to the advantage of him that does it. A man will not be allowed to derive benefit from his own wrongful act. Branch, Prin.

Injuris servi dominum pertingit. The master is liable for injury done by his servant. Lofft, 229.

INJURIOUS WORDS. In Louisiana. Slander, or libelous words. Civil Code La. art. 3501.

INJURY. Any wrong or damage done to another, either in his person, rights, reputation, or property.

In the civil law. A delict committed in contempt or outrage of any one, whereby his body, his dignity, or his reputation is maliciously injured. Voet, Com. ad Pand. 47, t. 10, no. 1.

Injustum est, nisi tota lege inspecta, de una aliqua ejus particula proposita judicare vel respondere. 8 Coke, 117b. It is unjust to decide or respond as to any particular part of a law without examining the whole of the law.

INLAGARE. In old English law. To restore to protection of law. To restore a man from the condition of outlawry. Opposed to utlagare. Bract. lib. 3, tr. 2, c. 14. § 1; Du Cange.

INLAGATION. Restoration to the protection of law. Restoration from a condition of outlawry.

INLAGH. A person within the law's protection; contrary to utlagh, an outlaw. Cowell.

INLAND. Within a country, state, or territory; within the same country.

In old English law, inland was used for the demesne (q. v.) of a manor; that part which lay next or most convenient for the lord's mansion-house, as within the view thereof, and which, therefore, he kept in his own hands for support of his family and for hospitality; in distinction from outland or utland, which was the portion let out to tenants. Cowell; Kennett; Spelman.

INLAND BILL OF EXCHANGE. A bill of which both the drawer and drawers reside within the same state or country. Oth-
erwise called a "domestic bill," and distinguished from a "foreign bill."

INLAND NAVIGATION. Within the meaning of the legislation of congress upon the subject, this phrase means navigation upon the rivers of the country, but not upon the great lakes. 24 How. 1; 6 Biss. 364.

INLAND TRADE. Trade wholly carried on at home; as distinguished from commerce, (which see.)

INLANTAL, INLANTALE. Demesne or inland, opposed to delantal, or land tenanted. Cowell.


INLAW. To place under the protection of the law. "Swearing obedience to the king in a leet, which doth inlauo the subject." Bacon.

INLEASED. In old English law. Entangled, or ensuared. 2 Inst. 247; Cowell; Blount.

INLIGARE. In old European law. To confederate; to join in a league, (in ligam coire.) Speiman.

INMATE. A person who lodges or dwells in the same house with another, occupying different rooms, but using the same door for passing in and out of the house. Webster; Jacob.

INN. An Inn is a house where a traveler is furnished with everything which he has occasion for while on his way. 3 Barn. & Ald. 283. See 5 Sandf. 242; 35 Conn. 183.

Under the term "inn" the law includes all taverns, hotels, and houses of public general entertainment for guests. Code Ga. 1882, § 2114.

The words "inn," "tavern," and "hotel" are used synonymously to designate what is ordinarily and popularly known as an "inn" or "tavern," or place for the entertainment of travelers, and where all their wants can be supplied. A restaurant where meals only are furnished is not an inn or tavern. 84 Barb. 311; 1 Hitt. 193.

An inn is distinguished from a private boarding-house mainly in this: that the keeper of the latter is at liberty to choose his guests, while the innkeeper is obliged to entertain and furnish all travelers of good conduct and means of payment with what they may have occasion for, as such travelers, while on their way. 83 Cal. 557.

The distinction between a boarding-house and an inn is that in the former the guest is under an express contract for a certain time at a certain rate; in the latter the guest is entertained from day to day upon an implied contract. 2 E. D. Smith, 148.

INNAMIUM. A pledge.

INNAVIGABILITY. In insurance law. The condition of being innavigable, (q. v.) The foreign writers distinguish "innavigability" from "shipwreck." 3 Kent, Comm. 323, and note. The term is also applied to the condition of streams which are not large enough or deep enough, or are otherwise unsuited, for navigation.

INNAVIGABLE. As applied to streams, not capable of or suitable for navigation; impassable by ships or vessels.

As applied to vessels in the law of marine insurance, it means unfit for navigation; so damaged by misadventures at sea as to be no longer capable of making a voyage. See 3 Kent, Comm. 323, note.

INNER BARRISTER. A serjeant or queen's counsel, in England, who is admitted to plead within the bar.

INNER HOUSE. The name given to the chambers in which the first and second divisions of the court of session in Scotland hold their sittings. See OUTER HOUSE.

INNINGS. In old records. Lands recovered from the sea by draining and banking. Cowell.

INNKEEPER. One who keeps an inn, or house for the lodging and entertainment of travelers. The keeper of a common inn for the lodging and entertainment of travelers and passengers, their horses and attendants, for a reasonable compensation. Story, Baltm. § 475. One who keeps a tavern or coffee-house in which lodging is provided. 2 Steph. Comm. 133.

One who receives as guests all who choose to visit his house, without any previous agreement as to the time of their stay, or the terms. His liability as innkeeper ceases when his guest pays his bill, and leaves the house with the declared intention of not returning, notwithstanding the guest leaves his baggage behind him. 5 Sandf. 242.

INNOMINATE. The absence of guilt. The law presumes in favor of innocence.

INNOCENT CONVEYANCES. A technical term of the English law of conveyancing, used to designate such conveyances as may be made by a leasehold tenant without working a forfeiture. These are said to be lease and re-lease, bargain and sale, and, in case of a life-tenant, a covenant to stand seised. See 1 Chitt. Pr. 243.

INNOMINATE. In the civil law. Not named or classed; belonging to no specific class; ranking under a general head. A
term applied to those contracts for which no certain or precise remedy was appointed, but a general action on the case only. Dig. 2, 1, 4, 7, 2; Id. 19, 4, 5.

**INNOMINATE CONTRACTS.** Literally, are the "unclassified" contracts of Roman law. They are contracts which are neither re, orbis, iteris, nor consensu simply, but some mixture of or variation upon two or more of such contracts. They are principally the contracts of permutatio, de estimato, precarium, and transactio. Brown.

**INNOMINANS.** In old English law. A close or inclosure, (clausum, inclusura.) Spelman.

**INNOTESCIMUS.** Lat. We make known. A term formerly applied to letters patent, derived from the emphatic word at the conclusion of the Latin forms. It was a species of exemplification of charters of feoffment or other instruments not of record. 5 Coke, 54a.

**INNOVATION.** In Scotch law. The exchange of one obligation for another, so as to make the second obligation come in the place of the first, and be the only subsisting obligation against the debtor. Bell. The same with "novation," (q. v.)

**INNOXIARE.** In old English law. To purge one of a fault and make him innocent.

**INNS OF CHANCERY.** So called because anciently inhabited by such clerks as chiefly studied the framing of writs, which regularly belonged to the cursitors, who were officers of the court of chancery. There are nine of them,—Clement's, Clifford's, and Lyon's Inn; Furnival's, Thavies, and Symond's Inn; New Inn; and Barnard's and Staples' Inn. These were formerly preparatory colleges for students, and many entered them before they were admitted into the inns of court. They consist chiefly of solicitors, and possess corporate property, hall, chambers, etc., but perform no public functions like the inns of court. Wharton.

**INNS OF COURT.** These are certain private unincorporated associations, in the nature of collegiate houses, located in London, and invested with the exclusive privilege of calling men to the bar; that is, conferring the rank or degree of a barrister. They were founded probably about the beginning of the fourteenth century. The principal inns of court are the Inner Temple, Middle Temple, Lincoln's Inn, and Gray's Inn. (The two former originally belonged to the Knights Templar; the two latter to the ears of Lincoln and Gray respectively.) These bodies now have a "common council of legal education," for giving lectures and holding examinations. The inns of chancery, distinguishable from the foregoing, but generally classed with them under the general name, are the buildings known as "Clifford's Inn," "Clement's Inn," "New Inn," "Staples' Inn," and "Barnard's Inn." They were formerly a sort of collegiate houses in which law students learned the elements of law before being admitted into the inns of court, but they have long ceased to occupy that position.

**INNUENDO.** This Latin word (commonly translated "meaning") was the technical beginning of that clause in a declaration or indictment for slander or libel in which the application of the language charged to the plaintiff was pointed out. Hence it gave its name to the whole clause; and this usage is still retained, although an equivalent English word is now substituted. Thus, it may be charged that the defendant said "he (meaning the said plaintiff) is a perjurer."

The word is also used, (though more rarely) in other species of pleadings, to introduce an explanation of a preceding word, charge, or averment.

It is said to mean no more than the words "id est," "scilicet," or "meaning," or "afore-said," as explanatory of a subject-matter sufficiently expressed before; as "such a one, meaning the defendant," or "such a subject, meaning the subject in question." Cops. 683. It is only explanatory of some matter already expressed. It serves to point out where there is precedent matter, but never for a new charge. It may apply what is already expressed, but cannot add to or enlarge or change the sense of the previous words. 1 Chit. Pl. 422.

**INOFFICIOSUM.** In the civil law. Inofficious; contrary to natural duty or affection. Used of a will of a parent which disinherited a child without just cause, or that of a child which disinherited a parent, and which could be contested by querela inofficiosi testamenti. Dig. 2, 5, 3, 13; Paulus, lib. 4, tit. 5, § 1.

**INOFFICIOUS TESTAMENT.** A will not in accordance with the testator's natural affection and moral duties. Williams, Exrs., (7th Ed.) 38.
INOIFICICIDAD. In Spanish law. Everything done contrary to a duty or obligation assumed, as well as in opposition to the piety and affection dictated by nature. Escritche.

INOPS CONSIGILII. Lat. Destitute of counsel; without legal counsel. A term applied to the acts or condition of one acting without legal advice, as a testator drafting his own will.

INORDINATUS. An intestate.

INPENY and OUTPENY. In old English law. A customary payment of a penny on entering into and going out of a tenancy, (pro exitu de tenura, et pro ingressu.) Spelman.

INQUEST. 1. A body of men appointed by law to inquire into certain matters. The grand jury is sometimes called the “grand inquest.”

2. The judicial inquiry made by a jury summoned for the purpose is called an “inquest.” The finding of such men, upon an investigation, is also called an “inquest.”

3. The inquiry by a coroner, termed a “coroner’s inquest,” into the manner of the death of any one who has been slain, or has died suddenly or in prison.

4. This name is also given to a species of proceeding under the New York practice, allowable where the defendant in a civil action has not filed an affidavit of merits nor verified his answer. In such case the issue may be taken up, out of its regular order, on plaintiff’s motion, and tried without the admission of any affirmative defense.

An inquest is a trial of an issue of fact where the plaintiff alone introduces testimony. The defendant is entitled to appear at the taking of the inquest, and to cross-examine the plaintiff’s witnesses; and, if he do appear, the inquest must be taken before a jury, unless a jury be expressly waived by him. 6 How. Pr. 118.

INQUEST OF OFFICE. In English practice. An inquiry made by the king’s (or Queen’s) officer, his sheriff, coroner, or escheator, circumstans officii, or by writ sent to them for that purpose, or by commissioners specially appointed, concerning any matter that entitles the king to the possession of lands or tenements, goods or chattels; as to inquire whether the king’s tenant for life died seised, whereby the reversion accrues to the king; whether A., who held immediately of the crown, died without heir, in which case the lands belong to the king by escheat; whether B. be attainted of treason, whereby his estate is forfeited to the crown; whether C., who has purchased land, be an alien, which is another cause of forfeiture, etc. 3 Bl. Comm. 258. These inquests of office were more frequent in practice during the continuance of the military tenures than at present; and were devised by law as an authentic means to give the king his right by solemn matter of record. Id. 258, 259; 4 Steph. Comm. 40, fol. 41. Sometimes simply termed “office,” as in the phrase “office found,” (q. v.) See 7 Cranch, 603.

INQUILLINUS. In Roman law. A tenant; one who hires and occupies another’s house; but particularly, a tenant of a hired house in a city, as distinguished from colonus, the hirer of a house or estate in the country. Calvin.

INQUIRENDO. An authority given to some official person to institute an inquiry concerning the crown’s interests.

INQUIRY. The writ of inquiry is a judicial process addressed to the sheriff of the county in which the venue is laid, stating the former proceedings in the action, and, “because it is unknown what damages the plaintiff has sustained,” commanding the sheriff that, by the oath of twelve men of his county, he diligently inquire into the same, and return the inquisition into court. This writ is necessary after an interlocutory judgment, the defendant having let judgment go by default, to ascertain the quantum of damages. Wharton.

INQUISITIO. In old English law. An inquisition or inquest. Inquisitio post mortem, an inquisition after death. An inquest of office held, during the continuance of the military tenures, upon the death of every one of the king’s tenants, to inquire of what lands he died seised, who was his heir, and of what age, in order to entitle the king to his marriage, wardship, relief, prime seisin, or other advantages, as the circumstances of the case might turn out. 3 Bl. Comm. 258. Inquisitio patria, the inquisition of the country; the ordinary jury, as distinguished from the grand assise. Bract. fol. 155.

INQUISITION. In practice. An inquiry or inquest; particularly, an investigation of certain facts made by a sheriff, together with a jury impaneled by him for the purpose.

INQUISITOR. A designation of sheriffs, coroners super visum corporis, and the like.
who have power to inquire into certain matters.

**INROLL.** A form of "enroll," used in the old books. 3 Rep. Ch. 63, 73; 3 East. 410.

**INROLLMENT.** See Enrollment.

**INSANE.** Unsound in mind; of unsound mind; deranged, disordered, or diseased in mind. Violently deranged; mad.

**INSANITY.** A manifestation of disease of the brain, characterized by a general or partial derangement of one or more faculties of the mind, and in which, while consciousness is not abolished, mental freedom is perverted, weakened, or destroyed. Ham. Nervous System. 352.

The prolonged departure, without any adequate cause, from the states of feeling and modes of thinking usual to the individual in health. Bouvier.

This is not, strictly speaking, a legal term, but it is commonly used to denote that state of mind which prevents a person from knowing right from wrong, and, therefore, from being responsible for acts which in a sane person would be criminal. Pope, Lun. 6, 19, 336.

By insanity is not meant a total deprivation of reason, but only an inability, from defect of perception, memory, and judgment, to do the act in question. So, by a lucid interval is not meant a perfect restoration to reason, but a restoration so far as to be able, beyond doubt, to comprehend and to do the act with such reason, memory, and judgment as to make it a legal act. 2 Del. Ch. 363.

**Insanus est qui, abjecta ratione, omnium impetu et furore facit.** He is insane who, reason being thrown away, does everything with violence and rage. 4 Coke, 128.

**INSCRIBERE.** Lat. In the civil law. To subscribe an accusation. To bind one's self, in case of failure to prove an accusation, to suffer the same punishment which the accused would have suffered had he been proved guilty. Calvin.

**INSCRIPTIO.** Lat. In the civil law. A written accusation in which the accuser undertakes to suffer the punishment appropriate to the offense charged, if the accused is able to clear himself of the accusation. Calvin.; Col. 9, 1, 10; 11. 9, 2, 16, 17.

**INSRIPTION.** In evidence. Anything written or engraved upon a metallic or other solid substance, intended for great durability; as upon a tombstone, pillar, tablet, medal, ring, etc.

**INSRIPTIONES.** The name given by the old English law to any written instrument by which anything was granted. Blount.

**INSENSIBLE.** In pleading. Unintelligible; without sense or meaning, from the omission of material words, etc. Steph. Pl. 377.

**INSETENA.** In old records. An inditch; an interior ditch; one made within another, for greater security. Spelman.

**INSIDIATORES VIARUM.** Lat. Highwaymen; persons who lie in wait in order to commit some felony or other misdemeanour.

**INSIGNIA.** Ensigns or arms; distinctive marks; badges; indica; characteristics.

**INSILIARIUS.** An evil counsellor. Cowell.

**INSILium.** Evil advice or counsel. Cowell.

**INSIMUL.** Lat. Together; jointly. Townsh. Pl. 44.

**INSIMUL COMPUTASSENT.** They accounted together. The name of the count in assumpsit upon an account stated; it being averred that the parties had settled their accounts together, and defendant engaged to pay plaintiff the balance.

**INSIMUL TENUIT.** One species of the writ of formedon brought against a stranger by a coparcener on the possession of the ancestor, etc. Jacob.

**INSINUACION.** In Spanish law. The presentation of a public document to a competent judge, in order to obtain his approbation and sanction of the same, and thereby give it judicial authenticity. Escriche.

**INSINUARE.** Lat. In the civil law. To put into; to deposit a writing in court, answering nearly to the modern expression "to file." Si non mandatum actis insinuatum est, if the power or authority be not deposited among the records of the court. Inst. 4, 11, 3.

To declare or acknowledge before a judicial officer; to give an act an official form.


**INSINUATION.** In the civil law. The transcription of an act on the public registers, like our recording of deeds. It was not necessary in any other alienation but that appropriated to the purpose of donation. Inst. 2, 7, 2.
INSINUATION OF WILL. In the civil law. The first production of a will, or the leaving it with the registrar, in order to its probate. Cowell; Blount.

INSOLVENCY. The condition of a person who is insolvent; inability to pay one's debts; lack of means to pay one's debts. Such a relative condition of a man's assets and liabilities that the former, if all made immediately available, would not be sufficient to discharge the latter. Or the condition of a person who is unable to pay his debts as they fall due, or in the usual course of trade and business. See 2 Kent, Comm. 389; 4 Hill, 652; 15 N. Y. 141, 200; 3 Gray, 600; 2 Bell, Comm. 162.

As to the distinction between bankruptcy and insolvency, see Bankruptcy.

INSOLVENCY FUND. In English law. A fund, consisting of moneys and securities, which, at the time of the passing of the bankruptcy act, 1861, stood, in the Bank of England, to the credit of the commissioners of the insolvent debtors' court, and was, by the twenty-sixth section of that act, directed to be carried by the bank to the account of the accountant in bankruptcy. Provision has now been made for its transfer to the commissioners for the reduction of the national debt. Robs. Bankr. 20, 56.

INSOLVENT. One who cannot or does not pay; one who is unable to pay his debts; one who is not solvent; one who has not means or property sufficient to pay his debts.

A debtor is "insolvent," within the meaning of the bankrupt act, when he is unable to pay his debts and meet his engagements in the ordinary course of business, as persons in trade usually do. 3 Ben. 153; id. 520; 1 Abb. (U. S.) 490; 1 Dill. 186.

A trader is insolvent when he is not in a condition to meet his engagements or pay his debts in the usual and ordinary course of business. His solvency or insolvency does not depend upon the simple question whether his assets at the date alleged will or will not satisfy all the demands against him, due and to become due. 33 Cal. 635.

INSOLVENT LAW. A term applied to a law, usually of one of the states, regulating the settlement of insolvent estates, and according a certain measure of relief to insolvent debtors.

INSPECTOR. A prosecutor or adversary.

INSPECTION. The examination or testing of food, fluids, or other articles made subject by law to such examination, to ascertain their fitness for use or commerce.

Also the examination by a private person of public records and documents; or of the books and papers of his opponent in an action, for the purpose of better preparing his own case for trial.

INSPECTION LAWS. Laws authorizing and directing the inspection and examination of various kinds of merchandise intended for sale, especially food, with a view to ascertaining its fitness for use, and excluding unwholesome or unmarketable goods from sale, and directing the appointment of official inspectors for that purpose. See Const. U. S. art. 1, § 10, cl. 2; Story, Const. § 1017, et seq.

INSPECTION OF DOCUMENTS. This phrase refers to the right of a party, in a civil action, to inspect and make copies of documents which are essential or material to the maintenance of his cause, and which are either in the custody of an officer of the law or in the possession of the adverse party.

INSPECTION, TRIAL BY. A mode of trial formerly in use in England, by which the judges of a court decided a point in dispute, upon the testimony of their own senses, without the intervention of a jury. This took place in cases where the fact upon which issue was taken must, from its nature, be evident to the court from ocular demonstration, or other irrefragable proof; and was adopted for the greater expedition of a cause. 3 Bl. Comm. 391.

INSPECTORS. Officers whose duty it is to examine the quality of certain articles of merchandise, food, weights and measures, etc.

INSPECTORSHIP, DEED OF. In English law. An instrument entered into between an insolvent debtor and his creditors, appointing one or more persons to inspect and oversee the winding up of such insolvent's affairs on behalf of the creditors.

INSPEXIMUS. Lat. In old English law. We have inspected. An exemplification of letters patent, so called from the emphatic word of the old forms. 5 Coke, 599.

INSTALLATION. The ceremony of inducting or investing with any charge, office, or rank, as the placing a bishop into his see, a dean or prebendary into his stall or seat, or a knight into his order. Wharton.

INSTALLMENTS. Different portions of the same debt payable at different successive periods as agreed. Brown.
INSTANCE. In pleading and practice. Solicitation, properly of an earnest or urgent kind. An act is often said to be done at a party’s “special instance and request.”

In the civil and French law. A general term, designating all sorts of actions and judicial demands. Dig. 44, 7, 58.

In ecclesiastical law. Causes of instance are those proceeded in at the solicitation of some party, as opposed to causes of office, which run in the name of the judge. Halifax, Civil Law, p. 156.

In Scotch law. That which may be insisted on at one diet or course of probation. Wharton.

INSTANCE COURT. In English law. That division or department of the court of admiralty which exercises all the ordinary admiralty jurisdiction, with the single exception of prize cases, the latter belonging to the branch called the “Prize Court.”

The term is sometimes used in American law for purposes of explanation, but has no proper application to admiralty courts in the United States, where the powers of both instance and prize courts are conferred without any distinction. 3 Dall. 6; 1 Gall. 563; 3 Kent, Comm. 935, 978.

INSTANCIA. In Spanish law. The institution and prosecution of a suit from its commencement until definitive judgment. The first instance, “primera instancia,” is the prosecution of the suit before the judge competent to take cognizance of it at its inception; the second instance, “secunda instancia,” is the exercise of the same action before the court of appellate jurisdiction; and the third instance, “tercera instancia,” is the prosecution of the same suit, either by an application of revision before the appellate tribunal that has already decided the cause, or before some higher tribunal, having jurisdiction of the same. Escriche.

INSTANTER. Immediately; instantly; forthwith; without delay. Trial instanter was had where a prisoner between attainted and execution pleaded that he was not the same who was attainted.

When a party is ordered to plead instanter, he must plead the same day. The term is usually understood to mean within twenty-four hours.

INSTAR. Lat. Likeness; the likeness, size, or equivalent of a thing. Instar dentium, like teeth. 2 Bl. Comm. 295. Instar omnium, equivalent or tantamount to all. Id. 146; 3 Bl. Comm. 231.

INSTAURUM. In old English deeds. A stock or store of cattle, and other things; the whole stock upon a farm, including cattle, wagons, plows, and all other implements of husbandry. 1 Mon. Angl. 548b; Fleta, lib. 2, c. 72. § 7. Terra instaurata, land ready stocked.

INSTIGATION. Incitation; urging; solicitation. The act by which one incites another to do something, as to commit some crime or to commence a suit.

INSTIRPARE. To plant or establish.

INSTITOR. Lat. In the civil law. A clerk in a store; an agent.

INSTITORIA ACTIO. Lat. In the civil law. The name of an action given to those who had contracted with an institor (q. v.) to compel the principal to performance. Inst. 4, 7, 2; Dig. 14, 3, 1; Story, Ag. § 426.

INSTITORIAL POWER. The charge given to a clerk to manage a shop or store. 1 Bell, Comm. 506, 507.

INSTITUTE, v. To inaugurate or commence; as to institute an action.

To nominate, constitute, or appoint; as to institute an heir by testament. Dig. 28, 5, 65.

INSTITUTE, n. In the civil law. A person named in the will as heir, but with a direction that he shall pass over the estate to another designated person, called the “substitute.”

In Scotch law. The person to whom an estate is first given by destination or limitation; the others, or the heirs of tailzie, are called “substitutes.”

INSTITUTES. A name sometimes given to text-books containing the elementary principles of jurisprudence, arranged in an orderly and systematic manner. For example, the Institutes of Justinian, of Gaius, of Lord Coke.

INSTITUTES OF GAIUS. An elementary work of the Roman juris Gaius; important as having formed the foundation of the Institutes of Justinian, (q. v.) These Institutes were discovered by Niebuhr in 1816, in a codex rescriptus of the library of the cathedral chapter at Verona, and were first published at Berlin in 1820. Two editions have since appeared. Mackeld. Rom. Law, § 54.

INSTITUTES OF JUSTINIAN. One of the four component parts or principal di-
visions of the *Corpus Juris Civilis*, being an elementary treatise on the Roman law, in four books. This work was compiled from earlier sources, resting principally on the Institutes of Gaius, by a commission composed of Tribonian and two others, by command and under direction of the emperor Justinian, and was first published November 21, A. D. 533.

**INSTITUTES OF LORD COKE.** The name of four volumes by Lord Coke, published A. D. 1628. The first is an extensive comment upon a treatise on tenures, compiled by Littleton, a judge of the common pleas, *temp.* Edward IV. This comment is a rich mine of valuable common-law learning, collected and heaped together from the ancient reports and Year Books, but greatly defective in method. It is usually cited by the name of "Co. Litt.," or as "1 Inst." The second volume is a comment upon old acts of parliament, without systematic order; the third a more methodical treatise on the pleas of the crown; and the fourth an account of the several species of courts. These are cited as 2, 3, or 4 "Inst." without any author's name. Wharton.

**INSTITUTIO HÆREDIS.** Lat. In Roman law. The appointment of the *hæres* in the will. It corresponds very nearly to the nomination of an executor in English law. Without such an appointment the will was void at law, but the *prætor* (i. e., equity) would, under certain circumstances, carry out the intentions of the testator. Brown.

**INSTITUTION.** The commencement or inauguration of anything. The first establishment of a law, rule, rite, etc. Any custom, system, organization, etc., firmly established. An elementary rule or principle.

In practice. The commencement of an action or prosecution; as, A. B. has instituted a suit against C. D. to recover damages for trespass.

In political law. A law, rite, or ceremony enjoined by authority as a permanent rule of conduct or of government. Webster.

A system or body of usages, laws, or regulations, of extensive and recurring operation, containing within itself an organism by which it effects its own independent action, continuance, and generally its own further development. Its object is to generate, effect, regulate, or sanction a succession of acts, transactions, or productions of a peculiar kind or class. We are likewise in the habit of calling single laws or usages "institu-

tions," if their operation is of vital importance and vast scope, and if their continuance is in a high degree independent of any interfering power. Lieb. Civil Lib. 300.

In corporation law. An organization or foundation, for the exercise of some public purpose or function; as an asylum or a university. By the term "institution" in this sense is to be understood an establishment or organization which is permanent in its nature, as distinguished from an enterprise or undertaking which is transient and temporary. 29 Ohio St. 206; 24 Ind. 391.

In ecclesiastical law. A kind of investiture of the spiritual part of the benefice, as induction is of the temporal; for by institution the care of the souls of the parish is committed to the charge of the clerk. Brown.

In the civil law. The designation by a testator of a person to be his heir.

In jurisprudence. The plural form of this word ("institutions") is sometimes used as the equivalent of "institutes," to denote an elementary text-book of the law.

**INSTITUTIONES.** Works containing the elements of any science; institutions or institutes. One of Justinian's principal law collections, and a similar work of the Roman jurist Gaius, are so entitled. See Institutes.

**INSTRUCT.** To convey information as a client to an attorney, or as an attorney to a counsel; to authorize one to appear as advocate; to give a case in charge to the jury.

**INSTRUCTION.** In French criminal law. The first process of a criminal prosecution. It includes the examination of the accused, the preliminary interrogation of witnesses, collateral investigations, the gathering of evidence, the reduction of the whole to order, and the preparation of a document containing a detailed statement of the case, to serve as a brief for the prosecuting officers, and to furnish material for the indictment.

**INSTRUCTIONS.** In common law. Orders given by a principal to his agent in relation to the business of his agency.

In practice. A detailed statement of the facts and circumstances constituting a cause of action made by a client to his attorney for the purpose of enabling the latter to draw a proper declaration or procure it to be done by a pleader.

**INSTRUMENT.** A written document; a formal or legal document in writing, such as a contract, deed, will, bond, or lease.
In the law of evidence. Anything which may be presented as evidence to the senses of the adjudicating tribunal. The term "instruments of evidence" includes not merely documents, but witnesses and living things which may be presented for inspection. 1 Whart. Ev. § 615.

INSTRUMENT OF APPEAL. The document by which an appeal is brought in an English matrimonial cause from the president of the probate, divorce, and admiralty division to the full court. It is analogous to a petition. Browne, Div. 322.

INSTRUMENT OF EVIDENCE. Instruments of evidence are the media through which the evidence of facts, either disputed or required to be proved, is conveyed to the mind of a judicial tribunal; and they comprise persons, as well as writings. Best, Ev. § 123.

INSTRUMENT OF SAISINE. An instrument in Scotland by which the delivery of "saisine" (i.e., seizin, or the feudal possession of land) is attested. It is subscribed by a notary, in the presence of witnesses, and is executed in pursuance of a "precept of saisine," whereby the "grantor of the deed" desires "any notary public to whom these presents may be presented" to give saisine to the intended grantee or grantees. It must be entered and recorded in the registers of saisines. Mozley & Whitley.

INSTRUMENTA. That kind of evidence which consists of writings not under seal; as court-rolls, accounts, and the like. 3 Co. Litt. 487.

INSUCKEN MULTURES. A quantity of corn paid by those who are thirled to a mill. See Thirlage.

INSUFFICIENCY. In equity pleading. The legal inadequacy of an answer in equity which does not fully and specifically reply to some one or more of the material allegations, charges, or interrogatories set forth in the bill.

INSULA. An island; a house not connected with other houses, but separated by a surrounding space of ground. Calvin.

INSUPER. Moreover; over and above. An old exchequer term, applied to a charge made upon a person in his account. Blount.

INSURABLE INTEREST. Such a real and substantial interest in specific property as will sustain a contract to indemnify the person interested against its loss. If the assured had no real interest, the contract would be a mere wager policy.

Every interest in property, or any relation thereto, or liability in respect thereof, of such a nature that a contemplated peril might directly dimnify the insured, is an insurable interest. Civil Code Cal. § 2546.

INSURANCE. A contract whereby, for a stipulated consideration, one party undertakes to compensate the other for loss on a specified subject by specified perils. The party agreeing to make the compensation is usually called the "insurer" or "underwriter;" the other, the "insured" or "assured;" the agreed consideration, the "premium;" the written contract, a "policy;" the events insured against, "risks" or "perils;" and the subject, right, or interest to be protected, the "insurable interest." 1 Phil. Ins. §§ 1-5.

Insurance is a contract whereby one undertakes to indemnify another against loss, damage, or liability arising from an unknown or contingent event. Civil Code Cal. § 2527; Civil Code Dak. § 1474.

Various classes or kinds of insurance are in use. Marine insurance applies to vessels, cargoes, and property exposed to maritime risks. Fire insurance covers buildings, merchandise, and other property on land exposed to injury by fire. Life insurance means the engagement to pay a stipulated sum upon the death of the insured, or of a third person in whose life the insured has an interest, either whenever it occurs, or in case it occurs within a prescribed term. Accident and health insurance include insurances of persons against injury from accident, or expense and loss of time from disease. Many other forms might exist, and several others have been to a limited extent introduced in recent times; such as insurance of valuables against theft, insurance of the lives and good condition of domestic animals, insurance of valuable plate-glass windows against breakage. Abbott.

INSURANCE AGENT. An agent employed by an insurance company to solicit risks and effect insurances.

Agents of insurance companies are called "general agents" when clothed with the general oversight of the company's business in a state or large section of country, and "local agents" when their functions are limited and confined to some particular locality.

INSURANCE BROKER. A broker through whose agency insurances are effected. 3 Kent, Comm. 260. See Broker.

INSURANCE COMPANY. A corporation or association whose business is to make contracts of insurance. They are either mutual companies or stock companies.
INSURANCE POLICY. See Policy.

INSURE. To engage to indemnify a person against pecuniary loss from specified perils. To act as an insurer.

INSURED. The person who obtains insurance on his property, or upon whose life an insurance is effected.

INSURER. The underwriter or insurance company with whom a contract of insurance is made.

The person who undertakes to indemnify another by a contract of Insurance is called the “insurer,” and the person indemnified is called the “insured.” Civil Code Cal. § 2538.

INSURGENT. One who participates in an insurrection; one who opposes the execution of law by force of arms, or who rises in revolt against the constituted authorities.

A distinction is often taken between “insurgent” and “rebel,” in this: that the former term is not necessarily to be taken in a bad sense, inasmuch as an insurrection, though extralegal, may be just and timely in itself; as where it is undertaken for the overthrow of tyranny or the reform of gross abuses. According to Webster, an insurrection is an incipient or early stage of a rebellion.

INSURRECTION. A rebellion, or rising of citizens or subjects in resistance to their government. See Insurgent.

Insurrection shall consist in any combined resistance to the lawful authority of the state, with intent to the denial thereof, when the same is manifestly, or intended to be manifested, by acts of violence. Code Ga. 1882, § 4815.

INTAKERS. In old English law. A kind of thieves inhabiting Redesdale, on the extreme northern border of England; so called because they took in or received such booties of cattle and other things as their accomplices, who were called “outparters,” brought in to them from the borders of Scotland. Spelman; Cowell.

INTAKES. Temporary inclosures made by customary tenants of a manor under a special custom authorizing them to inclose part of the waste until one or more crops have been raised on it. Elton, Common, 277.

INTEGRAL. Whole; untouched. Res integras means a question which is new and undecided. 2 Kent, Comm. 177.

INTEMPERANCE. Habitual intemperance is that degree of intemperance from the use of intoxicating drinks which disqualifies the person a great portion of the time from properly attending to business, or which would reasonably inflict a course of great mental anguish upon an innocent party. Civil Code Cal. § 106.

INTEND. To design, resolve, purpose. To apply a rule of law in the nature of presumption; to discern and follow the probabilities of like cases.

INTENDANT. One who has the charge, management, or direction of some office, department, or public business.

INTENDED TO BE RECORDED. This phrase is frequently used in conveyances, when reciting some other conveyance which has not yet been recorded, but which forms a link in the chain of title. In Pennsylvania, it has been construed to be a covenant, on the part of the grantor, to procure the deed to be recorded in a reasonable time. 2 Rawle, 14.

INTENDENTE. In Spanish law. The immediate agent of the minister of finance, or the chief and principal director of the different branches of the revenue, appointed in the various departments in each of the provinces into which the Spanish monarchy is divided. Escribche.

INTENDMENT OF LAW. The true meaning, the correct understanding or intention of the law; a presumption or inference made by the courts. Co. Litt. 78.

INTENT. In criminal law and the law of evidence. Purpose; formulated design; a resolve to do or forbear a particular act; aim; determination. In its literal sense, the stretching of the mind or will towards a particular object.

“Intent” expresses mental action at its most advanced point, or as it actually accompanies an outward, corporal act which has been determined on. Intent shows the presence of will in the act which consummates a crime. It is the exercise of intelligent will, the mind being fully aware of the nature and consequences of the act which is about to be done, and with such knowledge, and with full liberty of action, willing and electing to do it. Burrill, Circ. Ev. 284, and notes.

INTENTIO. Lat. In the civil law. The formal complaint or claim of a plaintiff before the prator.

In old English law. A count or declaration in a real action, (narratio.) Bract. lib. 4, tr. 2, c. 2; Fleta, lib. 4, c. 7; Du Cange.
Intentio cœca mala. A blind or obscure meaning is bad or ineffectual. 2 Bulst. 179. Said of a testator's intention.

Intentio inservire debit legibus, non leges intentioni. The intention [of a party] ought to be subservient to [for in accordance with] the laws, not the laws to the intention. Co. Litt. 314a, 314b.

Intentio mea imponit nomen operi meo. Hob. 123. My intent gives a name to my act.

INTENTION. Meaning; will; purpose; design. "The intention of the testator, to be collected from the whole will, is to govern, provided it be not unlawful or inconsistent with the rules of law." 4 Kent, Comm. 554.

"Intention," when used with reference to the construction of wills and other documents, means the sense and meaning of it, as gathered from the words used therein. Parol evidence is not ordinarily admissible to explain this. When used with reference to civil and criminal responsibility, a person who contemplates any result, as not unlikely to follow from a deliberate act of his own, may be said to intend that result, whether he desire it or not. Thus, if a man should, for a wager, discharge a gun among a multitude of people, and any should be killed, he would be deemed guilty of intending the death of such person; for every man is presumed to intend the natural consequence of his own actions. Intention is often confounded with motive, as when we speak of a man's "good intentions." Mozley & Whitley.

INTENTIOINE. A writ that lay against him who entered into lands after the death of a tenant in dower, or for life, etc., and held out to him in reversion or remainder. Fitzh. Nat. Brev. 203.

INTER. Lat. Among; between.

INTER ALIA. Among other things. A term anciently used in pleading, especially in reciting statutes, where the whole statute was not set forth at length. Inter alia enactatum suit, among other things it was enacted. See Plowd. 65.

Inter alias causas acquisitionis, magna, celebris, et famosa est causa donationis. Among other methods of acquiring property, a great, much-used, and celebrated method is that of gift. Bract. fol. 11.

INTER ALIOS. Between other persons; between those who are strangers to a matter in question.

INTER APICES JURIS. Among the subtleties of the law. See Apex Juris.

INTER BRACHIA. Between her arms. Fleta, lib. 1, c. 35, §§ 1, 2.

INTER CATÉROS. Among others: in a general clause; not by name, (nomination.) A term applied in the civil law to causes of disinheritance in a will. Inst. 2, 13, 1; Id. 2, 13, 3.

INTER CANEM ET LUPUM. (Lat. Between the dog and the wolf.) The twilithe; because then the dog seeks his rest, and the wolf his prey. 3 Inst. 63.

INTER CONJUGES. Between husband and wife.

INTER CONJUNCTAS PERSONAS. Between conjunct persons. By the act 1621, c. 18, all conveyances or alienations between conjunct persons, unless granted for onerous causes, are declared, as in a question with creditors, to be null and of no avail. Conjunct persons are those standing in a certain degree of relationship to each other; such, for example, as brothers, sisters, sons, uncles, etc. These were formerly excluded as witnesses, on account of their relationship; but this, as a ground of exclusion, has been abolished. Tray. Lat. Max.

INTER PARTES. Between parties. Instruments in which two persons unite, each making conveyance to, or engagement with, the other, are called "papers inter partes."

INTER QUATUOR PARIETES. Between four walls. Fleta, lib. 6, c. 55, § 4.

INTER REGALIA. In English law. Among the things belonging to the sovereign. Among these are rights of salmon fishing, mines of gold and silver, forests, forfeitures, casualties of superiority, etc., which are called "regalia minoria," and may be conveyed to a subject. The regalia majora include the several branches of the royal prerogative, which are inseparable from the person of the sovereign. Tray. Lat. Max.

INTER RUSTICOS. Among the illiterate or unlearned.

INTER SE, INTER SESE. Among themselves. Story, Partn. § 405.

INTER VIRUM ET UXOREM. Between husband and wife.

INTER VIVOS. Between the living; from one living person to another. Where property passes by conveyance, the transaction is said to be inter vivos, to distinguish it from a case of succession or devise. So
an ordinary gift from one person to another is called a "gift inter vivos," to distinguish it from a donation made in contemplation of death, (mors causa.)

INTERCALARE. In the civil law. To introduce or insert among or between others; to introduce a day or month into the calendar; to intercalate. Dig. 50, 16, 98, pr.

INTERCEDERE. In the civil law. To become bound for another's debt.

INTERCHANGEABLY. By way of exchange or interchange. This term properly denotes the method of signing deeds, leases, contracts, etc., executed in duplicate, where each party signs the copy which he delivers to the other.

INTERCOMMON. To enjoy a common mutually or promiscuously with the inhabitants or tenants of a contiguous township, vil, or manor. 2 Bl. Comm. 33; 1 Crabb, Real Prop. p. 271, § 290.

INTERCOMMONING. When the commoners of two adjacent manors join, and the inhabitants of both have immemorially fed their cattle promiscuously on each other's common, this is called "intercommoning." Termes de la Ley.

INTERCOMMUNING. Letters of intercommuning were letters from the Scotch privy council passing (on their act) in the king's name, charging the lieges not to reset, supply, or intercommune with the persons thereby denounced; or to furnish them with meat, drink, house, harbor, or any other thing useful or comfortable; or to have any intercourse with them whatever,—under pain of being reputed art and part in their crimes, and dealt with accordingly; and desiring all sheriffs, bailies, etc., to apprehend and commit such rebels to prison. Bell.

INTERCOURSE. Communication; literally, a running or passing between persons or places; commerce.

INTERDICT. In Roman law. A decree of the praeator by means of which, in certain cases determined by the edict, he himself directly commanded what should be done or omitted, particularly in causes involving the right of possession or a quasi possession. In the modern civil law, interdicts are regarded precisely the same as actions, though they give rise to a summary proceeding. Mackeld. Rom. Law, § 258.

Interdicts are either prohibitory, restorative, or exhibitory; the first being a prohibition, the second a decree for restoring possession lost by force, the third a decree for the exhibiting of accounts, etc. Heinec. § 1206.

An interdict was distinguished from an "action." (actio,) properly so called, by the circumstance that the praeator himself decided in the first instance, (principipoter,) on the application of the plaintiff, without previously appointing a judex, by issuing a decree commanding what should be done, or left undone. Gaius, 4, 139. It might be adopted as a remedy in various cases where a regular action could not be maintained, and hence interdicts were at one time more extensively used by the praeator than the actions themselves. Afterwards, however, they fell into disuse, and in the time of Justinian were generally dispensed with. Mackeld. Rom. Law, § 238; Inst. 4, 15, § 5.

In ecclesiastical law. An ecclesiastical censure, by which divine services are prohibited to be administered either to particular persons or in particular places.

In Scotch law. An order of the court of session or of an inferior court, pronounced, on cause shown, for stopping any act or proceedings complained of as illegal or wrong­ful. It may be resorted to as a remedy against any encroachment either on property or possession, and is a protection against any unlawful proceeding. Bell.

INTERDICTION. In French law. Every person who, on account of insanity, has become incapable of controlling his own interests, can be put under the control of a guardian, who shall administer his affairs with the same effect as he might himself. Such a person is said to be "interdict," and his status is described as "interdiction." Arg. Fr. Merc. Law, 562.

In the civil law. A judicial decree, by which a person is deprived of the exercise of his civil rights.

INTERDICTION OF FIRE AND WATER. Banishment by an order that no man should supply the person banished with fire or water, the two necessaries of life.

INTERDICTUM SALVIANUM. Lat. In Roman law. The Salvian Interdict. A process which lay for the owner of a farm to obtain possession of the goods of his tenant who had pledged them to him for the rent of the land. Inst. 4, 15, 3.

Inter d um event ut exceptio quæ prima facie justa videtur, tamen inique noceat. It sometimes happens that a plea which seems prima facie just, nevertheless is injurious and unequal. Inst. 4, 14, 1, 2.
INTERESSE. Lat. Interest. The interest of money; also an interest in lands.

INTERESSE TERMINI. An interest in a term. That species of interest or property which a lessee for years acquires in the lands demised to him, before he has actually become possessed of those lands; as distinguished from that property or interest vested in him by the demise, and also reduced into possession by an actual entry upon the lands and the assumption of ownership therein, and which is then termed an "estate for years." Brown.

INTEREST. In property. The most general term that can be employed to denote a property in lands or chattels. In its application to lands or things real, it is frequently used in connection with the terms "estate," "right," and "title," and, according to Lord Coke, it properly includes them all. Co. Litt. 345b.

More particularly it means a right to have the advantage accruing from anything; any right in the nature of property, but less than title; a partial or undivided right; a title to a share.

The terms "interest" and "title" are not synonymous. A mortgagor in possession, and a purchaser holding under a deed defectively executed, have, both of them, absolute as well as insurable interests in the property, though neither of them has the legal title. 29 Conn. 30.

In the law of evidence. "Interest," in a statute that no witness shall be excluded by interest in the event of the suit, means "concern," "advantage," "good," "share," "portion," "part," or "participation." 11 Barb. 471; 11 Metc. (Mass.) 390.

A relation to the matter in controversy, or to the issue of the suit, in the nature of a prospective gain or loss, which actually does, or presumably might, create a bias or prejudice in the mind, inclining the person to favor one side or the other.

For money. Interest is the compensation allowed by law or fixed by the parties for the use or forbearance or detention of money. Civil Code Cal. § 1915.

Legal interest is the rate of interest established by the law of the country, and which will prevail in the absence of express stipulation; conventional interest is a certain rate agreed upon by the parties. 2 Cal. 593.

Simple interest is that which is paid for the principal or sum lent, at a certain rate or allowance, made by law or agreement of parties. Compound interest is interest upon interest, where accrued interest is added to the principal sum, and the whole treated as a new principal, for the calculation of the interest for the next period.

INTEREST, MARITIME. See MARITIME INTEREST.

INTEREST OR NO INTEREST. These words, inserted in an insurance policy, mean that the question whether the insured has or has not an insurable interest in the subject-matter is waived, and the policy is to be good irrespective of such interest. The effect of such a clause is to make it a wager policy.

INTEREST POLICY. In insurance. One which actually, or prima facie, covers a substantial and insurable interest; as opposed to a wager policy.


Interest reipublice ne sua quis male utatur. It concerns the state that persons do not misuse their property. 6 Coke, 36a.

Interest reipublice quod homines conserventur. It concerns the state that the lives of men be preserved. 12 Coke, 62.

Interest reipublice res judicatas non rescindi. It concerns the state that things adjudicated be not rescinded. 2 Inst. 350. It is matter of public concern that solemn adjudications of the courts should not be disturbed. See Best, Ev. p. 41, § 44.

Interest reipublicae suprema hominum testamenta rata habere. It concerns the state that men's last wills be held valid, [or allowed to stand.] Co. Litt. 2965.

Interest reipublicae ut carceres sint in tuto. It concerns the state that prisons be safe places of confinement. 2 Inst. 589.

Interest (imprimis) reipublicae ut pax in regno conservetur, et quaecunque paci adversentur provide declinentur. It especially concerns the state that peace be preserved in the kingdom, and that whatever things are against peace be prudently avoided. 2 Inst. 158.

Interest reipublicae ut quilibet re sua bene utatur. It is the concern of the state that every one uses his property properly.

Interest reipublicae ut sit finis litium. It concerns the state that there be an end of lawsuits. Co. Litt. 303. It is for the gen-
eral welfare that a period be put to litigation. Broom, Max. 331, 343.

INTEREST SUIT. In English law. An action in the probate branch of the high court of justice, in which the question in dispute is as to which party is entitled to a grant of letters of administration of the estate of a deceased person. Wharton.

INTEREST UPON INTEREST. Compound interest, (q. v.)

INTERFERENCE. In patent law, this term designates a collision between rights claimed or granted; that is, where a person claims a patent for the whole or any integral part of the ground already covered by an existing patent or by a pending application.

INTERIM. In the mean time; meanwhile. An assignee ad interim is one appointed between the time of bankruptcy and appointment of the regular assignee. 2 Bell, Comm. 355.

INTERIM COMMITTITUR. Lat. "In the mean time, let him be committed." An order of court (or the docket-entry noting it) by which a prisoner is committed to prison and directed to be kept there until some further action can be taken, or until the time arrives for the execution of his sentence.

INTERIM CURATOR. A person appointed by justices of the peace to take care of the property of a felon convict, until the appointment by the crown of an administrator or administrators for the same purpose. Mozley & Whitely.

INTERIM FACTOR. In Scotch law. A judicial officer elected or appointed under the bankruptcy law to take charge of and preserve the estate until a fit person shall be elected trustee. 2 Bell, Comm. 357.

INTERIM OFFICER. One appointed to fill the office during a temporary vacancy, or during an interval caused by the absence or incapacity of the regular incumbent.

INTERIM ORDER. One made in the mean time, and until something is done.

INTERIM RECEIPT. A receipt for money paid by way of premium for a contract of insurance for which application is made. If the risk is rejected, the money is refunded, less the pro rata premium.

INTERLAEQUARE. In old practice. To link together, or interchangeably. Writs were called "interlaqueata" where several were issued against several parties residing in different counties, each party being summoned by a separate writ to warrant the tenant, together with the other warrantors. Fleta, lib. 5, c. 4, § 2.

INTERLINEATION. The act of writing between the lines of an instrument; also what is written between lines.

INTERLOCUTOR. In Scotch practice. An order or decree of court; an order made in open court. 2 Swint. 362; Arkley, 32.

INTERLOCUTOR OF RELEVANCY. In Scotch practice. A decree as to the relevancy of a libel or indictment in a criminal case. 2 Alis. Crim. Pr. 373.

INTERLOCUTOR. Provisional; temporary; not final. Something intervening between the commencement and the end of a suit which decides some point or matter, but is not a final decision of the whole controversy.

INTERLOCUTOR COSTS. In practice. Costs accruing upon proceedings in the intermediate stages of a cause, as distinguished from final costs; such as the costs of motions. 3 Chit. Gen. Pr. 597.

INTERLOCUTOR DECREE. In equity practice. A provisional or preliminary decree, which is not final and does not determine the suit, but directs some further proceedings preparatory to the final decree. A decree pronounced for the purpose of ascertaining matter of law or fact preparatory to a final decree. 1 Barb. Ch. Pr. 326, 327.

INTERLOCUTOR JUDGMENT. A judgment which is not final is called "interlocutory;" that is, an interlocutory judgment is one which determines some preliminary or subordinate point or plea, or settles some step, question, or default arising in the progress of the cause, but does not adjudicate the ultimate rights of the parties, or finally put the case out of court. Thus, a judgment or order passed upon any provisional or accessory claim or contention is, in general, merely interlocutory, although it may finally dispose of that particular matter. 1 Black, Judgm. § 21.

INTERLOCUTOR ORDER. "An order which decides not the cause, but only settles some intervening matter relating to it; as when an order is made, on a motion in chancery, for the plaintiff to have an injunction to quiet his possession till the hearing of
the cause. This or any such order, not being final, is interlocutory." Terme de la Ley.

INTERLOCUTORY SENTENCE. In the civil law. A sentence on some indirect question arising from the principal cause. Halifax, Civil Law, b. 3, ch. 9, no. 40.

INTERLOPERS. Persons who run into business to which they have no right, or who interfere wrongfully; persons who enter a country or place to trade without license. Webster.

INTERN. To restrict or shut up a person, as a political prisoner, within a limited territory.

INTERNATIONAL LAW. The law which regulates the intercourse of nations; the law of nations. 1 Kent. Comm. 1, 4. The customary law which determines the rights and regulates the intercourse of independent states in peace and war. 1 Wildm. Int. Law, 1.

The system of rules and principles, founded on treaty, custom, precedent, and the consensus of opinion as to justice and moral obligation, which civilized nations recognize as binding upon them in their mutual dealings and relations.

Public international law is the body of rules which control the conduct of independent states in their relations with each other.

Private international law is that branch of municipal law which determines before the courts of what nation a particular action or suit should be brought, and by the law of what nation it should be determined; in other words, it regulates private rights as dependent on a diversity of municipal laws and jurisdictions applicable to the persons, facts, or things in dispute, and the subject of it is hence sometimes called the "conflict of laws." Thus, questions whether a given person owes allegiance to a particular state where he is domiciled, whether his status, property, rights, and duties are governed by the lex situs, the lex loci, the lex fori, or the lex domicilii, are questions with which private international law has to deal. Sweet.

INTERNUNCIUS. A minister of a second order, charged with the affairs of the papal court in countries where that court has no nuncio.

INTERPRETATIO TALIS, ETC.

INTERPELATION. In the civil law. The act by which, in consequence of an agreement, the party bound declares that he will not be bound beyond a certain time. Wolff, Inst. Nat. § 752.

INTERPLEADER. When two or more persons claim the same thing (or fund) of a third, and he, laying no claim to it himself, is ignorant which of them has a right to it, and fears he may be prejudiced by their proceeding against him to recover it, he may file a bill in equity against them, the object of which is to make them litigate their title between themselves, instead of litigating it with him, and such a bill is called a "bill of interpleader." Brown.

By the statute 1 & 2 Wm. IV. c. 58, summary proceedings at law were provided for the same purpose, in actions of assumpsit, debt, detinue, and trover. And the same remedy is known, in one form or the other, in most or all of the United States.

Under the Pennsylvania practice, when goods levied upon by the sheriff are claimed by a third party, the sheriff takes a rule of interpleader on the parties, upon which, when made absolute, a feigned issue is framed, and the title to the goods is tested. The goods, pending the proceedings, remain in the custody of the defendant upon the execution of a forthcoming bond. Bouvier.

INTERPOLATE. To insert words in a complete document.

INTERPOLATION. The act of interpolating; the words interpolated.

INTERPRET. To construe; to seek out the meaning of language; to translate orally from one tongue to another.

Interpretare et concordare leges legibus, est optimus interpretandi modus. To interpret, and [in such a way as] to harmonize laws with laws, is the best mode of interpretation. 8 Coke, 169a.

Interpretatio chartarum beneigne facienda est, ut res magis valeat quam pereat. The interpretation of deeds is to be liberal, that the thing may rather have effect than fail. Broom, Max. 543.

Interpretatio fienda est ut res magis valeat quam pereat. Jenk. Cent. 198. Such an interpretation is to be adopted that the thing may rather stand than fall.

Interpretatio talis in ambiguiss semper fienda est ut evitetur inconveniens et absurdum. In cases of ambiguity, such an interpretation should always be made
that what is inconvenient and absurd may be avoided. 4 Inst. 328.

INTERPRETATION. The discovery and representation of the true meaning of any signs used to convey ideas. Lieb. Herm.

"Construction" is a term of wider scope than "interpretation," for, while the latter is concerned only with ascertaining the sense and meaning of the subject-matter, the former may also be directed to explaining the legal effects and consequences of the instrument in question. Hence interpretation precedes construction, but stops at the written text.

Close interpretation (interpretatio restricta) is adopted if just reasons, connected with the formation and character of the text, induce us to take the words in their narrowest meaning. This species of interpretation has generally been called "literal," but the term is inadmissible. Lieb. Herm. 54.

Extensive interpretation (interpretatio extensa), called, also, "liberal interpretation") adopts a more comprehensive significance of the word. Id. 58.

Extravagant interpretation (interpretatio excedens) is that which substitutes a meaning evidently beyond the true one. It is therefore not genuine interpretation. Id. 59.

Free or unrestricted interpretation (interpretatio soluta) proceeds simply on the general principles of interpretation in good faith, not bound by any specific or superior principle. Id. 59.

Limited or restricted interpretation (interpretatio limitata) is when we are influenced by other principles than the strictly hermeneutic ones. Id. 60.

Predetermined interpretation (interpretatio prodestitata) takes place if the interpreter, laboring under a strong bias of mind, makes the text subservient to his preconceived views or desires. This includes artful interpretation, (interpretatio vofer,) by which the interpreter seeks to give a meaning to the text other than the one he knows to have been intended. Id. 60.

It is said to be either "legal," which rests on the same authority as the law itself, or "doctrinal," which rests upon its intrinsic reasonableness. Legal interpretation may be either "authentic," when it is expressly provided by the legislator, or "usual," when it is derived from unwritten practice. Doctrinal interpretation may turn on the meaning of words and sentences, when it is called "grammatical," or on the intention of the legislator, when it is described as "logical." When logical interpretation stretches the words of a statute to cover its obvious mean-

ing, it is called "extensive;" when, on the other hand, it avoids giving full meaning to the words, in order not to go beyond the intention of the legislator, it is called "restrictive." Holl. Jur. 344.

INTERPRETATION CLAUSE. A section of a statute which defines the meaning of certain words occurring frequently in the other sections.

INTERPRETER. A person sworn at a trial to interpret the evidence of a foreigner or a deaf and dumb person to the court.

INTERREGNUM. An interval between reigns. The period which elapses between the death of a sovereign and the election of another. The vacancy which occurs when there is no government.

INTERROGATOIRE. In French law. An act which contains the interrogatories made by the judge to the person accused, on the facts which are the object of the accusation, and the answers of the accused. Poth. Proc. Crim. c. 4, art. 2, § 1.

INTERROGATORIES. A set or series of written questions drawn up for the purpose of being propounded to a party in equity, a garnishee, or a witness whose testimony is taken on deposition; a series of formal written questions used in the judicial examination of a party or a witness. In taking evidence on depositions, the interrogatories are usually prepared and settled by counsel, and reduced to writing in advance of the examination.

Interrogatories are either direct or cross, the former being those which are put on behalf of the party calling a witness; the latter are those which are interposed by the adverse party.

INTERRUPTIO. Lat. Interruption. A term used both in the civil and common law of prescription. Calvin.

Interuptio multiplex non tollit prescriptionem semel obtentam. 2 Inst. 654. Frequent interruption does not take away a prescription once secured.

INTERRUPTION. The occurrence of some act or fact, during the period of prescription, which is sufficient to arrest the running of the statute of limitations. It is said to be either "natural" or "civil," the former being caused by the act of the party; the latter by the legal effect or operation of some fact or circumstance.
Interuption of the possession is where the right is not enjoyed or exercised continuously; interruption of the right is where the person having or claiming the right ceases the exercise of it in such a manner as to show that he does not claim to be entitled to exercise it.

In Scotch law. The true proprietor's claiming his right during the course of prescription. Bell.

INTERSECTION. The point of intersection of two roads is the point where their middle lines intersect. 73 Pa. St. 127.

INTERSTATE COMMERCE. Traffic, intercourse, commercial trading, or the transportation of persons or property between or among the several states of the Union, or from or between points in one state and points in another state; commerce between two states, or between places lying in different states.

INTERSTATE COMMERCE ACT. The act of congress of February 4, 1887, designed to regulate commerce between the states, and particularly the transportation of persons and property, by carriers, between interstate points, prescribing that charges for such transportation shall be reasonable and just, prohibiting unjust discrimination, rebates, draw-backs, preferences, pooling of freights, etc., requiring schedules of rates to be published, establishing a commission to carry out the measures enacted, and prescribing the powers and duties of such commission and the procedure before it.

INTERSTATE COMMERCE COMMISSION. A commission created by the interstate commerce act (q. v.) to carry out the measures therein enacted, composed of five persons, appointed by the President, empowered to inquire into the business of the carriers affected, to enforce the law, to receive, investigate, and determine complaints made to them of any violation of the act, make annual reports, hold stated sessions, etc.

INTERVENER. An intervenor is a person who voluntarily interposes in an action or other proceeding with the leave of the court.

INTERVENING DAMAGES. Such damages to an appellee as result from the delay caused by the appeal. 1 Tyler, 237.

INTERVENTION. In international law. Intervention is such an interference between two or more states as may (according to the event) result in a resort to force; while mediation always is, and is intended to be and to continue, peaceful only. Intervention between a sovereign and his own subjects is not justified by anything in international law; but a remonstrance may be addressed to the sovereign in a proper case. Brown.

In English ecclesiastical law. The proceeding of a third person, who, not being originally a party to the suit or proceeding, but claiming an interest in the subject-matter in dispute, in order the better to protect such interest, interposes his claim. 2 Chit. Fr. 492; 3 Chit. Commer. Law, 633; 2 Hagg. Const. 137; 3 Phillim. Ecc. Law, 586.

In the civil law. The act by which a third party demands to be received as a party in a suit pending between other persons. The intervention is made either for the purpose of being joined to the plaintiff, and to claim the same thing he does, or some other thing connected with it; or to join the defendant, and with him to oppose the claim of the plaintiff, which it is his interest to defeat. Poth. Proc. Civile, pt. 1, c. 2, § 7, no. 3.

INTESTABILIS. A witness incompetent to testify. Calvin.

INTESTABLE. One who has not testamentary capacity; e. g., an infant, lunatic, or person civilly dead.

INTESTACY. The state or condition of dying without having made a valid will.

INTESTATE. Without making a will. A person is said to die intestate when he dies without making a will, or dies without leaving anything to testify what his wishes were with respect to the disposal of his property after his death. The word is also often used to signify the person himself. Thus, in speaking of the property of a person who died intestate, it is common to say "the intestate's property;" i. e., the property of the person dying in an intestate condition. Brown.

Besides the strict meaning of the word as above given, there is also a sense in which intestacy may be partial; that is, where a man leaves a will which does not dispose of his whole estate, he is said to "die intestate" as to the property so omitted.

INTESTATE SUCCESSION. A succession is called "intestate" when the deceased has left no will, or when his will has been revoked or annulled as irregular. Therefore the heirs to whom a succession has fallen by the effects of law only are called "heirs at intestate." Civil Code La. art. 1096.
INTESTADO. In the civil law. intestate; without a will. Calvin.

INTESTATUS. In the civil and old English law. An intestate; one who dies without a will. Dig. 50, 17, 7.

Intestatus decedit, qui aut omnino testamentum non fecit; aut non jure fecit; aut id quod fecerat ruptum irritumve factum est; aut nemo ex eo haeres existit. A person dies intestate who either has made no testament at all or has made one not legally valid; or if the testament be has made be revoked, or made useless; or if no one becomes heir under it. Inst. 3, 1, pr.

INTIMATION. In the civil law. A notification to a party that some step in a legal proceeding is asked or will be taken. Particularly, a notice given by the party taking an appeal, to the other party, that the court above will hear the appeal.

In Scotch law. A formal written notice, drawn by a notary, to be served on a party against whom a stranger has acquired a right or claim; e. g., the assignee of a debt must serve such a notice on the debtor, otherwise a payment to the original creditor will be good.

INTIMIDATION. In English law. Every person commits a misdemeanor, punishable with a fine or imprisonment, who wrongfully uses violence to or intimidates any other person, or his wife or children, with a view to compel him to abstain from doing, or to do, any act which he has a legal right to do, or abstain from doing. (St. 38 & 39 Vict. c. 86, § 7.) This enactment is chiefly directed against outrages by trades-unions. Sweet. There are similar statutes in many of the United States.

INTIMIDATION OF VOTERS. This, by statute in several of the states, is made a criminal offense. Under an early Pennsylvania act, it was held that, to constitute the offense of intimidation of voters, there must be a preconceived intention for the purpose of intimidating the officers or interrupting the election. 3 Yeates, 429.

INTITILE. An old form of “entitle.” 6 Mod. 304.

INTOL AND UTTOL. In old records. Toll or custom paid for things imported and exported, or bought in and sold out. Cowell.

INTOXICATE. Generally relates to the use of strong drink. “Intoxicated,” used without words of qualification, signifies a condition produced by drinking intoxicating spirituous liquor, and is equivalent to “drunk.” No additional word is needed to convey this idea. It is sometimes said that a person is intoxicated with opium, or with ether, or with laughing-gas; but this is an unusual or forced use of the word. A complaint, under a statute authorizing proceedings against persons found intoxicated, which aver that defendant was found intoxicated, is in this respect sufficient, and need not allege upon what he became so. 47 Vt. 294.

INTOXICATING LIQUORS. Those the use of which is ordinarily or commonly attended with entire or partial intoxication. 6 Park. Crim. R. 355.

The terms “intoxicating liquor” and “spirituous liquor” are not synonymous. All spirituous liquor is intoxicating, but all intoxicating liquor is not spirituous. Fermented liquor, though intoxicating, is not spirituous, because not distilled. 2 Gray, 501; 4 Gray, 18.

INTRA. Lat. In; near; within. “In-tra” or “inter” has taken the place of “in-tra” in many of the more modern Latin phrases.

INTRA ANNI SPATIUM. Within the space of a year. Cod. 5, 9, 2. Intra annale tempus. Id. 6, 30, 19.

INTRA FIDEM. Within belief; credible. Calvin.

INTRA LUCTUS TEMPS. Within the time of mourning. Cod. 9, 1, auth.

INTRA MENTIA. Within the walls (of a house.) A term applied to domestic or menial servants. 1 Bl. Comm. 425.

INTRA PARIETES. Between walls; among friends; out of court; without litigation. Calvin.

INTRA PRESIDIA. Within the defenses. See Intra Presidia.

INTRA QUATUOR MARIA. Within the four seas. Shep. Touch. 378.

INTRA VIRES. An act to said to be intra vires (“within the power”) of a person or corporation when it is within the scope of his or its powers or authority. It is the opposite of ultra vires, (g. e.)

INTRARE MARISCUM. To drain a marsh or low ground, and convert it into herbage or pasture.

INTRINSECUM SERVITIUM. Common and ordinary duties with the lord’s court.
INTRINSIC VALUE. The intrinsic value of a thing is its true, inherent, and essential value, not depending upon accident, place, or person, but the same everywhere and to every one. 5 Ired. 698.

INTRODUCTION. The part of a writing which sets forth preliminary matter, or facts tending to explain the subject.

INTROMISSION. In Scotch law. The assumption of authority over another's property, either legally or illegally. The irregular intermeddling with the effects of a deceased person, which subjects the party to the whole debts of the deceased, is called "citious intromission." Kames, Eq. b. 3, c. 8, § 2.

INTROMISSIONS. Dealings in stock, goods, or cash of a principal coming into the hands of his agent. To be accounted for by the agent to his principal. 29 Eng. Law & Eq. 391.

INTRONISATION. In French ecclesiastical law. Enthronement. The installation of a bishop in his episcopal see.

INTRUDER. A stranger who, on the death of the ancestor, enters on the land, unlawfully, before the heir can enter.

INRUSION. A species of injury by ouster or amotion of possession from the freehold, being an entry of a stranger, after a particular estate of freehold is determined, before him in remainder or reversion.

The name of a writ brought by the owner of a fee-simple, etc., against an intruder. New Nat. Brev. 453. Abolished by 3 & 4 Wm. IV. c. 57.

INTUITUS. A view; regard; contemplation. Diverso intuitu, (q. c.) with a different view.

INUNDATION. The overflow of waters by coming out of their bed.

INURE. To take effect; to result.

INUREMENT. Use; user; service to the use or benefit of a person. 100 U. S. 583.

Inutilis labor et sine fructu non est effectus legis. Useless and fruitless labor is not the effect of law. Co. Litt. 127b. The law forbids such recoveries whose ends are vain, chargeable, and unprofitable. Id; Wing. Max. p. 110, max. 38.

INVADIARE. To pledge or mortgage lands.

INVADIATIO. A pledge or mortgage.

INVAUDIATUS. One who is under pledge; one who has had sureties or pledges given for him. Spelman.

INVALID. Vain; inadequate to its purpose; not of binding force or legal efficacy; lacking in authority or obligation.

INVASION. An encroachment upon the rights of another; the incursion of an army for conquest or plunder. Webster.

INVASIONES. The inquisition of serjeants and knights' fees. Cowell.

INVICTA ET ILLATA. Lat. In the civil law. Things carried in and brought in. Articles brought into a hired tenement by the hirer or tenant, and which became or were pledged to the lessor as security for the rent. Dig. 2, 14, 4, pr. The phrase is adopted in Scotch law. See Bell.

Inveniens libellum famosum et non corrumpens punitur. He who finds a libel and does not destroy it is punished. Moore, 813.

INVENT. To find out something new; to devise, contrive, and produce something not previously known or existing, by the exercise of independent investigation and experiment; particularly applied to machines, mechanical appliances, compositions, and patentable inventions of every sort.

INVENTIO. In the civil law. Finding; one of the modes of acquiring title to property by occupancy. Heinece. lib. 2, tit. 1, § 350.

In old English law. A thing found; as goods, or treasure-trove. Cowell. The plural, "inventiones," is also used.

INVENTION. In patent law. The act or operation of finding out something new; the process of contriving and producing something not previously known or existing, by the exercise of independent investigation and experiment. Also the article or contrivance or composition so invented.

An "invention" differs from a "discovery." The former term is properly applicable to the contrivance and production of something that did not before exist; while discovery denotes the bringing into knowledge and use of something which, although it existed, was before unknown. Thus, we speak of the "discovery" of the properties of light, electricity, etc., while the telescope and the electric motor are the results of the process of "invention."

INVENTOR. One who finds out or contrives some new thing; one who devises some new art, manufacture, mechanical appliance,
or process; one who invents a patentable contrivance.

INVENTORY. A detailed list of articles of property; a list or schedule of property, containing a designation or description of each specific article; an itemized list of the various articles constituting a collection, estate, stock in trade, etc., with their estimated or actual values. In law, the term is particularly applied to such a list made by an executor, administrator, or assignee in bankruptcy.

INVENTUS. Lat. Found. Thesaurus inventus, treasure-trove. Non est inventus, [he] is not found.

INVERITARE. To make proof of a thing. Jacob.

INVEST. To loan money upon securities of a more or less permanent nature, or to place it in business ventures or real estate, or otherwise lay it out, so that it may produce a revenue or income.

To clothe one with the possession of a fief or benefice. See INVESTITURE.

INVESTITIVE FACT. The fact by means of which a right comes into existence; e.g., a grant of a monopoly, the death of one's ancestor. Holl. Jur. 132.

INVESTITURE. A ceremony which accompanied the grant of lands in the feudal ages, and consisted in the open and notorious delivery of possession in the presence of the other vassals, which perpetuated among them the aura of their new acquisition at the time when the art of writing was very little known; and thus the evidence of the property was reposed in the memory of the neighborhood, who, in case of disputed title, were afterwards called upon to decide upon it. Brown.

In ecclesiastical law. Investiture is one of the formalities by which the election of a bishop is confirmed by the archbishop. See Phillim. Ecc. Law, 42, et seq.

INVESTMENT. Money invested.

INVIOLABILITY. The attribute of being secured against violation. The persons of ambassadors are inviolable.

INVITO. Lat. Being unwilling. Against or without the assent or consent.

Invito beneficium non datur. A benefit is not conferred on one who is unwilling to receive it; that is to say, no one can be compelled to accept a benefit. Dig. 50, 17, 69; Broom, Max. 699, note.

INVITO DEBITORE. Against the will of the debtor.

INVITO DOMINO. The owner being unwilling; against the will of the owner; without the owner's consent. In order to constitute larceny, the property must be taken invito domino.

INVOICE. In commercial law. An account of goods or merchandise sent by merchants to their correspondents at home or abroad, in which the marks of each package, with other particulars, are set forth. Marsh. Ins. 408; Dane, Abr. Index.

A list or account of goods or merchandise sent or shipped by a merchant to his correspondent, factor, or consignee, containing the particular marks of each description of goods, the value, charges, and other particulars. Jac. Sea Laws, 302.

A writing made on behalf of an importer, specifying the merchandise imported, and its true cost or value. And, Rev. Law, § 294.

INVOICE BOOK. A book in which invoices are copied.

INVOICE PRICE of goods means the prime cost. 7 Johns. 343.

IN VOLUNTARY. An involuntary act is that which is performed with constraint (q. e.) or with repugnance, or without the will to do it. An action is involuntary, then, which is performed under duress. Wolff. Inst. Nat. § 5.

IN VOLUNTARY MANSLAUGHTER. The unintentional killing of a person by one engaged in an unlawful, but not felonious, act. 4 Steph. Comm. 52.

IOTA. The minuest quantity possible. Iota is the smallest Greek letter. The word "jot" is derived therefrom.

Ipsæ leges cupiunt ut jure regantur. Co. Litt. 174. The laws themselves require that they should be governed by right.

IPSE. Lat. He himself; the same; the very person.

IPSE DIXIT. He himself said it; a bare assertion resting on the authority of an individual.

IPSISISSIMIS VERBIG. In the identical words; opposed to "substantially." 7 How. 719; 5 Ohio St. 346.

IPSO FACTO. By the fact itself; by the mere fact. By the mere effect of an act or a fact.
In English ecclesiastical law. A censure of excommunication in the ecclesiastical court, immediately incurred for divers offenses, after lawful trial.

IPSO JURE. By the law itself; by the mere operation of law. Calvin.

Ira furor brevis est. Anger is a short insanity. 4 Wend. 336, 355.

IRA MOTUS. Moved or excited by anger or passion. A term sometimes formerly used in the plea of son assault demesne. 1 Tidd, Pr. 645.

IRE AD LARGUM. To go at large; to escape; to be set at liberty.

IRENARCHA. in Roman law. An officer whose duties are described in Dig. 5, 4, 18, 7. See Id. 48, 8, 6; Cod. 10, 75. Literally, a peace-officer or magistrate.

IRREGULAR. Not according to rule; improper or insufficient, by reason of departure from the prescribed course.

IRREGULAR DEPOSIT. A species of deposit which arises when a party, having a sum of money which he does not think safe in his own hands, confides it to another, (e. g., a bank,) who is to return to him not the same money, but a like sum, when he shall demand it. An irregular deposit differs from a mutuum simply in this respect: that the latter has principally in view the benefit of the borrower, and the former the benefit of the bailor. Story, Bailm. § 84; Poth. du Depot. 82, 83.

IRREGULAR PROCESS. Sometimes the term "irregular process" has been defined to mean process absolutely void, and not merely erroneous and voidable; but usually it has been applied to all process not issued in strict conformity with the law, whether the defect appears upon the face of the process, or by reference to extrinsic facts, and whether such defects render the process absolutely void or only voidable. 2 Ind. 252.

IRREGULARITY. Violation or non-observance of established rules and practices. The want of adherence to some prescribed rule or mode of proceeding; consisting either in omitting to do something that is necessary for the due and orderly conducting of a suit, or doing it in an unseasonable time or improper manner. 1 Tidd, Pr. 512. "Irregularity" is the technical term for every defect in practical proceedings, or the mode of conducting an action or defense, as distinguishable from defects in pleadings. 3 Chit. Gen. Pr. 509.

The doing or not doing that, in the conduct of a suit at law, which, conformably with the practice of the court, ought or ought not to be done. 2 Ind. 252.

In canon law. Any impediment which prevents a man from taking holy orders.

IRRELEVANCY. The absence of the quality of relevancy in evidence or pleadings. Irrelevancy, in an answer, consists in statements which are not material to the decision of the case; such as do not form or tender any material issue. 18 N. Y. 315, 321.

IRRELEVANT. In the law of evidence. Not relevant; not relating or applicable to the matter in issue; not supporting the issue.

IRREMovable. The status of a pauper in England, who cannot be legally removed from the parish or union in which he is receiving relief, notwithstanding that he has not acquired a settlement there. 3 Steph. Comm. 60.

IRREPARABLE INJURY. This phrase does not mean such an injury as is beyond the possibility of repair, or beyond possible compensation in damages, or necessarily great damage, but includes an injury, whether great or small, which ought not to be submitted to, on the one hand, or inflicted, on the other; and which, because it is so large or so small, is of such constant and frequent occurrence, cannot receive reasonable redress in a court of law. 76 Ill. 322.

Wrongs of a repeated and continuing character, or which occasion damages that are estimated only by conjecture, and not by any accurate standard, are included. 3 Pittsb. R. 204.

IREPLEVABLE. That cannot be repleved or delivered on sureties. Spelled, also, "irepleivable." Co. Litt. 145.

IRRESISTIBLE FORCE. A term applied to such an interposition of human agency as is, from its nature and power, absolutely uncontrollable; as the inroads of a hostile army. Story, Bailm. § 25.

IRREVOCABLE. Which cannot be revoked or recalled.

IRRIGATION. The operation of watering lands for agricultural purposes by artificial means.

IRRITANCY. In Scottish law. The happening of a condition or event by which
a charter, contract, or other deed, to which a clause irritant is annexed, becomes void.

IRRITANT. In Scotch law. Avoiding or making void; as an irritant clause. SeeIRRITANCY.

IRRITANT CLAUSE. In Scotch law. A provision by which certain prohibited acts specified in a deed are, if committed, declared to be null and void. A resolutio clause dissolves and puts an end to the right of a proprietor on his committing the acts so declared void.

IRROGARE. In the civil law. To impose or set upon, as a fine. Calvin. To inflict, as a punishment. To make or ordain, as a law.

IRROTULATIO. An enrolling; a record.

IS QUI COGNOSCIT. Lat. The cognizor in a fine. Is cui cognoscitor, the cognizee.

ISH. In Scotch law. The period of the termination of a tack or lease. 1 Bligh, 522.

ISLAND. A piece of land surrounded by water.

ISSINT. A law French term, meaning "thus," "so," giving its name to part of a plea in debt.

ISSUABLE. In practice. Leading to or producing an issue; relating to an issue or issues.

ISSUABLE Plea. A plea to the merits; a traversable plea. A plea such that the adverse party can join issue upon it and go to trial.

It is true a plea in abatement is a plea, and, if it be properly pleaded, issues may be found on it. In the ordinary meaning of the word "plea," and of the word "issuable," such pleas may be called "issuable pleas," but, when these two words are used together, "issuable plea," or "issuable defense," they have a technical meaning, to-wit, pleas to the merits. 44 Ga. 454.

ISSUABLE TERMS. In the former practice of the English courts, Hilary term and Trinity term were called "issuable terms," because the issues to be tried at the assizes were made up at those terms. 3 Bl. Comm. 353. But the distinction is superseded by the provisions of the judicature acts of 1878 and 1875.

ISSUE, v. To send forth; to emit; to promulgate; as, an officer issues orders, processes issues from a court. To put into circulation; as, the treasury issues notes.

ISSUE, n. The act of issuing, sending forth, emitting, or promulgating; the giving a thing its first inception; as the issue of an order or a writ.

In pleading. The disputed point or question to which the parties in an action have narrowed their several allegations, and upon which they are desirous of obtaining the decision of the proper tribunal. When the plaintiff and defendant have arrived at some specific point or matter affirmed on the one side, and denied on the other, they are said to be at issue. The question so set apart is called the "issue," and is designated, according to its nature, as an "issue in fact" or an "issue in law." Brown.

Issues arise upon the pleadings, when a fact or conclusion of law is maintained by the one party and controverted by the other. They are of two kinds: (1) Of law; and (2) of fact. Code N. Y. § 248; Rev. Code Iowa 1880, § 2737; Code Civil Proc. Cal. § 588.

Issues are classified and distinguished as follows:

General and special. The former is raised by a plea which briefly and directly traverses the whole declaration, such as "not guilty" or "non assumpsit." The latter is formed when the defendant chooses one single material point, which he traverses, and rests his whole case upon its determination.

Material and immaterial. They are so described according as they do or do not bring up some material point or question which, when determined by the verdict, will dispose of the whole merits of the case, and leave no uncertainty as to the judgment.

Formal and informal. The former species of issue is one framed in strict accordance with the technical rules of pleading. The latter arises when the material allegations of the declaration are traversed, but in an inartificial or untechnical mode.

Real or feigned. A real issue is one formed in a regular manner in a regular suit for the purpose of determining an actual controversy. A feigned issue is one made up by direction of the court, upon a supposed case, for the purpose of obtaining the verdict of a jury upon some question of fact collateraly involved in the cause.

Common issue is the name given to the issue raised by the plea of non est factum to an action for breach of covenant.

In real law. Descendants. All persons who have descended from a common ancestor.
In this sense, the word includes not only a child or children, but all other descendants in whatever degree; and it is so construed generally in deeds. But, when used in wills, it is, of course, subject to the rule of construction that the intention of the testator, as ascertained from the will, is to have effect, rather than the technical meaning of the language used by him; and hence issue may, in such a connection, be restricted to children, or to descendants living at the death of the testator, where such an intention clearly appears. Abbott.

In business law. A class or series of bonds, debentures, etc., comprising all that are emitted at one and the same time.

ISSUE IN FACT. In pleading. An issue taken upon or consisting of matter of fact, the fact only, and not the law being disputed, and which is to be tried by a jury. 3 Bl. Comm. 314, 315; Co. Litt. 126; 3 Steph. Comm. 572. See Code Civil Proc. Cal. § 590.

ISSUE IN LAW. In pleading. An issue upon matter of law, or consisting of matter of law, being produced by a demurrer on the one side, and a joinder in demurrer on the other. 3 Bl. Comm. 314; 3 Steph. Comm. 572, 580. See Code Civil Proc. Cal. § 589.

ISSUE ROLL. In English practice. A roll upon which the issue in actions at law was formerly required to be entered, the roll being entitled of the term in which the issue was joined. 2 Tidg. Pr. 733. It was not, however, the practice to enter the issue at full length, if triable by the country, until after the trial, but only to make an incipitum on the roll. Id. 734.

ISSUES. In English law. The goods and profits of the lands of a defendant against whom a writ of distringas or distress infinite has been issued, taken by virtue of such writ, are called "issues." 3 Bl. Comm. 280; 1 Chit. Crim. Law, 351.

ITA QUOD. In old practice. So that. Formal words in writs. *Ita quod habeas corpus*, so that you have the body. 2 Mod. 150.

The name of the stipulation in a submission to arbitration which begins with the words "so as [ita quod]" the award be made of and upon the premises."

In old conveyancing. So that. An expression which, when used in a deed, formerly made an estate upon condition. Litt. § 529. Sheppard enumerates it among the three words that are most proper to make an estate conditional. Shep. Touch. 121, 122.

*Ita semper flat relatio ut valeat dispositio.* 6 Coke, 76. Let the interpretation be always such that the disposition may prevail.

**ITA TE DEUS ADJUVET.** Lat. So help you God. The old form of administering an oath in England, generally in connection with other words, thus: *Ita te Deus adjuvet, et sacrosancta Dei Evangelia, so help you God, and God's holy Evangelists. Ita te Deus adjuvet et omnes saneti, so help you God and all the saints.* Willes, 338.

*Ita utere tuo ut alienum non iedas.* Use your own property and your own rights in such a way that you will not hurt your neighbor, or prevent him from enjoying his. Frequently written, "*Sic utere tuo,*" etc. (g. n.)

ITEM. Also; likewise; again. This word was formerly used to mark the beginning of a new paragraph or division after the first, whence is derived the common application of it to denote a separate or distinct particular of an account or bill.

The word is sometimes used as a verb. "The whole [costs] in this case that was thus itemed to counsel." Bunb. p. 164, case 233.

**ITER.** In the civil law. A way; a right of way belonging as a servitude to an estate in the country, (*pratum rusticum*). The right of way was of three kinds: (1) *iter*, a right to walk, or ride on horseback, or in a litter; (2) *actus*, a right to drive a beast or vehicle; (3) *via*, a full right of way, comprising right to walk or ride, or drive beast or carriage. Hennece. § 408. Or, as some think, they were distinguished by the width of the objects which could be rightfully carried over the way: *e. g.*, *via*, 8 feet; *actus*, 4 feet, etc. Mackeld. Rom. Law, § 298; Bract. fol. 232; 4 Bell, H. L. Sc. 390.
In old English law. A journey, especially a circuit made by a justice in eyre, or itinerant justice, to try causes according to his own mission. Du Cange; Bract. lib. 3, cc. 11, 12, 13.

In maritime law. A way or route. The route or direction of a voyage; the route or way that is taken to make the voyage assured. Distinguished from the voyage itself.

Iter est jus eundi, ambulandi hominis; non etiam jumentum agendi vel vehiculum. A way is the right of going or walking, and does not include the right of driving a beast of burden or a carriage. Co. Litt. 56a; Inst. 2, 3, pr.; Mackeld. Rom. Law, § 318.

ITERATIO. Repetition. In the Roman law, a bonitary owner might liberate a slave, and the quirital owner's repetition (iteratio) of the process effected a complete manumission. Brown.

ITINERA. Eyres, or circuits. 1 Reeve, Eng. Law, 52.

ITINERANT. Wandering; traveling; applied to justices who make circuits.

IULE. In old English law. Christmas.
J.


This letter is sometimes used for "I," as the initial letter of "Institutiones," in references to the Institutes of Justinian.

JAC. An abbreviation for "Jacobus," the Latin form of the name James; used principally in citing statutes enacted in the reigns of the English kings of that name; e.g., "St. 1 Jac. II." Used also in citing the second part of Croke's reports; thus, "Cro. Jac," denotes "Croke's reports of cases in the time of James I."

JACENS. Lat. Lying in abeyance.

JACENS HÆREDITAS. An inheritance in abeyance. See HÆREDITAS JACENS.

JACET IN ORE. In old English law, it lies in the mouth. Fleta, lib. 5, c. 5, § 49.

JACK. A kind of defensive coat-armor worn by horsemen in war; not made of solid iron, but of many plates fastened together. Some tenants were bound by their tenure to find it upon invasion. Cowell.

JACOBUS. A gold coin worth 24s., so called from James I., who was king when it was struck. Enc. Lond.

JACTITATION. A false boasting; a false claim; assertions repeated to the prejudice of another's right. The species of defamation or disparagement of another's title to real estate known at common law as "slander of title" comes under the head of jactitation, and in some jurisdictions (as in Louisiana) a remedy for this injury is provided under the name of an "action of jactitation."

JACTITATION OF A RIGHT TO A CHURCH SITTING appears to be the boasting by a man that he has a right or title to a pew or sitting in a church to which he has legally no title.

JACTITATION OF MARRIAGE. In English ecclesiastical law. The boasting or giving out by a party that he or she is married to some other, whereby a common reputation of their matrimony may ensue. To defeat that result, the person may be put to a proof of the actual marriage, failing which proof, he or she is put to silence about it. 3 Bl. Comm. 93.

JACTITATION OF TITHES is the boasting by a man that he is entitled to certain tithes to which he has legally no title.

JACTIVUS. Lost by default; tossed away. Cowell.

JACTURA. In the civil law. A throwing of goods overboard in a storm; jettison. Loss from such a cause. Calvin.

JACTUS. A throwing goods overboard to lighten or save the vessel, in which case the goods so sacrificed are a proper subject for general average. Dig. 14, 2, "de lege Rhodii de Jactu."

JACTUS LAPILLI. The throwing down of a stone. One of the modes, under the civil law, of interrupting prescription. Where one person was building on another's ground, and in this way acquiring a right by usucapio, the true owner challenged the intrusion and interrupted the prescriptive right by throwing down one of the stones of the building before witnesses called for the purpose. Tray. Lat. Max.

JAIL. A gaol; a prison; a building designated by law, or regularly used, for the confinement of persons held in lawful custody. See GAOL.

JAIL DELIVERY. See GAOL DELIVERY.

JAIL LIBERTIES. See GAOL LIBERTIES.

JAILER. A keeper or warden of a prison or jail.

JAMBEAUX. Leg-armor. Blount.

JAMMA, JUMMA. In Hindu law. Total amount; collection; assembly. The total of a territorial assessment.

JAMMABUNDY, JUMMABUNDY. In Hindu law. A written schedule of the whole of an assessment.
JAMPNUM. Furse, or grass, or ground where furse grows; as distinguished from "arable," "pasture," or the like. Co. Litt. 5a.

JAMUNLINGI, JAMUNDILINGI. Freemen who delivered themselves and properly to the protection of a more powerful person, in order to avoid military service and other burdens. Spelman. Also a species of serfs among the Germans. Du Cange. The same as commended.


In modern law. A janitor is understood to be a person employed to take charge of rooms or buildings, to see that they are kept clean and in order, to lock and unlock them, and generally to care for them. 84 N. Y. 352.

JAQUES. In old English law. Small money.

JAVELIN-MEN. Yeomen retained by the sheriff to escort the judge of assize.


JEDBURGH JUSTICE. Lynch law.

JEMAN. In old records. Yeoman. Cowell; Blount.

JEOPAILE. L. Fr. I have failed; I am in error. An error or oversight in pleading.

Certain statutes are called "statutes of amendments and jeofailes" because, where a pleader perceives any slip in the form of his proceedings, and acknowledges the error, (jeofaile,) he is at liberty, by those statutes, to amend it. The amendment, however, is seldom made; but the benefit is attained by the court's overlooking the exception. 3 Bl. Comm. 407; 1 Saund. p. 228, no. 1.

Jeofaile is when the parties to any suit in plead ing have proceeded so far that they have joined issue which shall be tried or is tried by a jury or inquest, and this pleading or issue is so badly pleaded or joined that it will be error if they proceed. Then some of the said parties may, by their counsel, show it to the court, as well after verdict given and before judgment as before the jury is charged. And the counsel shall say: "This inquest ye ought not to take." And if it be after verdict, then he may say: "To judgment you ought not to go." And, because such niceties occasioned many delays in suits, divers statutes are made to redress them. Termes de la Ley.

JEOPARDY. Danger; hazard; peril. Jeopardy is the danger of conviction and punishment which the defendant in a crim-inal action incurs when a valid indictment has been found, and a petit jury has been impaneled and sworn to try the case and give a verdict.

JERGUER. In English law. An officer of the custom-house who oversees the waiters. Techn. Dict.

JESSE. A large brass candlestick, usually hung in the middle of a church or choir. Cowell.


JETSAM. A term descriptive of goods which, by the act of the owner, have been voluntarily cast overboard from a vessel, in a storm or other emergency, to lighten the ship. 1 C. B. 113.

Jetsam is where goods are cast into the sea, and there sink and remain under water. 1 Bl. Comm. 292.

Jetsam differs from "flotsam," in this: that in the latter the goods float, while in the former they sink, and remain under water. It differs also from "ligan."

JETTISON. The act of throwing overboard from a vessel part of the cargo, in case of extreme danger, to lighten the ship. The same name is also given to the thing or things so cast out.

A carrier by water may, when in case of extreme peril it is necessary for the safety of the ship or cargo, throw overboard, or otherwise sacrifice, any or all of the cargo or appurtenances of the ship. Throwing property overboard for such purpose is called "jettison," and the loss incurred thereby is called a "general average loss." Civil Code Cal. § 2148; Civil Code Dak. § 1245.

JEUX DE BOURSE. In French law. Speculation in the public funds or in stocks; gambling speculations on the stock exchange; dealings in "options" and "futures."

JEWEL. By "jewels" are meant ornaments of the person, such as ear-rings, pearls, diamonds, etc., which are prepared to be worn. Brown, Ch. 467. See, further, 43 N. Y. 539; 36 Barb. 70; 14 Pick. 370; 33 Fed. Rep. 709.

JOB. The whole of a thing which is to be done. "To build by plot, or to work by the job, is to undertake a building for a certain stipulated price." Civil Code La. art. 2727.

JOBBER. One who buys and sells goods for others; one who buys or sells on the stock
JOCELET. A little manor or farm.

COWELL.


JOCELES. In old English law. A little manor or farm.


JOCHUS PARTITUS. In old English practice. A divided game, risk, or hazard. An arrangement which the parties to a suit were anciently sometimes allowed to make by mutual agreement upon a certain hazard, (sub periculo;) as that one should lose if the case turned out in a certain way, and, if it did not, that the other should gain, (quod unus amittat si ita sit, et si non sit, quod alius lucretur.) Bract. fols. 211b, 379b, 432, 434, 2006.

JOHN DOE. The name which was usually given to the fictitious lessee of the plaintiff in the mixed action of ejectment. He was sometimes called "Goodtitle." So the Romans had their fictitious personages in law proceedings, as Titius, Seius.

JOINER. Joining or coupling together; uniting two or more constituents or elements in one; uniting with another person in some legal step or proceeding.

JOINER IN DEMURRER. When a defendant in an action tenders an issue of law, (called a "demurrer," ) the plaintiff, if he means to maintain his action, must accept it, and this acceptance of the defendant's tender, signified by the plaintiff in a set form of words, is called a "joiner in demurrer." Brown.

JOINER IN ISSUE. In pleading. A formula by which one of the parties to a suit joins in or accepts an issue in fact tendered by the opposite party. Steph. Pl. 57, 236. More commonly termed a "similiter." (q. c.)

JOINER IN PLEADING. Accepting the issue, and mode of trial tendered, either by demurrer, error, or issue in fact, by the opposite party.

JOINER OF ACTIONS. This expression signifies the uniting of two or more demands or rights of action in one action; the statement of more than one cause of action in a declaration.

JOINER OF ERROR. In proceedings on a writ of error in criminal cases, the joiner of error is a written denial of the errors alleged in the assignment of errors. It answers to a joiner of issue in an action.

JOINER OF OFFENSES. The uniting of several distinct charges of crime in the same indictment or prosecution.

JOINER OF PARTIES. The uniting of two or more persons as co-plaintiffs or as co-defendants in one suit.

JOINT. United; combined; undivided, done by or against two or more unitedly; shared by or between two or more.

JOINT ACTION. An action in which there are two or more plaintiffs, or two or more defendants.

JOINT ADVENTURE. A commercial or maritime enterprise undertaken by several persons jointly. See ADVENTURE.

JOINT AND SEVERAL BOND. A bond in which the obligors bind themselves both jointly and individually to the obligee, and which may be enforced either by a joint action against all or separate actions against each.

JOINT BOND. One in which the obligors (two or more in number) bind themselves jointly, but not severally, and which must therefore be prosecuted in a joint action against all the obligors.

JOINT COMMITTEE. A joint committee of a legislative body comprising two chambers is a committee consisting of representatives of each of the two houses, meeting and acting together as one committee.

JOINT CONTRACT. One made by two or more promisors, who are jointly bound to fulfill its obligations, or made to two or more promisees, who are jointly entitled to require performance of the same.

JOINT CREDITORS. Persons jointly entitled to require satisfaction of the same debt or demand.

JOINT DEBTOR ACTS. Statutes enacted in many of the states, which provide that judgment may be given for or against one or more of several plaintiffs, and for or against one or more of several defendants, and that, "in an action against several defendants, the court may, in its discretion,
render judgment against one or more of
them, leaving the action to proceed against
the others, whenever a several judgment is
proper." The name is also given to statutes
providing that where an action is instituted
against two or more defendants upon an al-
eged joint liability, and some of them are
served with process, but jurisdiction is not
obtained over the others, the plaintiff may
still proceed to trial against those who are
before the court, and, if he recovers, may have
judgment against all of the defendants whom
he shows to be jointly liable. 1 Black,
Judgm. §§ 208, 235.

**JOINT DEBTORS.** Persons united in
a joint liability or indebtedness.

**JOINT EXECUTORS.** Co-executors;
two or more who are joined in the execution
of a will.

**JOINT FIAT.** In English law. A flat
in bankruptcy, issued against two or more
trading partners.

**JOINT FINE.** In old English law. "If
a whole vill is to be fined, a joint fine may be
laid, and it will be good for the necessity of
it; but, in other cases, fines for offenses are
to be severally imposed on each particular
offender, and not jointly upon all of them." Jacob.

**JOINT HEIR.** A co-heir.

**JOINT INDICTMENT.** When several
offenders are joined in the same indictment,
such an indictment is called a "joint indict-
ment," as when principals in the first and
second degree, and accessories before and
after the fact, are all joined in the same in-
dictment. 2 Hale, P. C. 173; Brown.

**JOINT LIVES.** This expression is used
to designate the duration of an estate or right
which is granted to two or more persons to
be enjoyed so long as they both (or all) shall
live. As soon as one dies, the interest de-
termines.

**JOINT-STOCK BANKS.** In English
law. Joint-stock companies for the purpose
of banking. They are regulated, according to
the date of their incorporation, by charter,
 or by 7 Geo. IV. c. 46; 7 & 8 Vict. cc. 32,
113; 9 & 10 Vict. c. 45. (in Scotland and Ire-
land:) 20 & 21 Vict. c. 49; and 27 & 28 Vict.
c. 32; or by the "Joint-Stock Companies Act,
1862," (25 & 26 Vict. c. 89.) Wharton.

**JOINT-STOCK COMPANY.** An un-
incorporated association of individuals for
business purposes, resembling a partnership
in many respects, but possessing a common
fund or capital stock, divided into shares,
which are apportioned among the members
according to their respective contributions,
and which are assignable by the owner with-
out the consent of the other members.

An association of a large number of per-
s ons united together for the common purpose
of carrying on a trade or some useful enter-
prise capable of yielding profit. The com-
mon property of the members, applicable to
the purposes of the company, is called its
"joint stock." Wharton.

The words "joint-stock company" have never
been used as descriptive of a corporation created
by special act of the legislature, and authorized to
issue certificates of stock to its shareholders. They
describe a partnership made up of many persons
acting under articles of association, for the
purpose of carrying on a particular business, and hav-
ing a capital stock, divided into shares transferable
at the pleasure of the holder. 131 Mass. 536.

**JOINT-STOCK CORPORATION.**
This differs from a joint-stock company in
being regularly incorporated, instead of be-
ing a mere partnership, but resembles it in
having a capital divided into shares of stock.
Most business corporations (as distinguished
from eleemosynary corporations) are of this
character.

**JOINT TENANCY.** An estate in joint
tenancy is an estate in fee-simple, fee-tail,
for life, for years, or at will, arising by pur-
chase or grant to two or more persons. Joint
tenants have one and the same interest, ac-
cruing by one and the same conveyance,
commencing at one and the same time, and
held by one and the same undivided posses-
sion. The grand incident of joint tenancy
is survivorship, by which the entire tenancy
on the death of any joint tenant remains
to the survivors, and at length to the last
survivor. 2 Bl. Comm. 179.

A joint interest is one owned by several
persons in equal shares, by a title created by
a single will or transfer, when expressly de-
clared in the will or transfer to be a joint
tenancy, or when granted or devised to ex-
cutors or trustees as joint tenants. Civil
Code Cal. § 663.

**JOINT TENANTS.** Two or more per-
sons to whom are granted lands or tenements
to hold in fee-simple, fee-tail, for life, for
years, or at will. 2 Bl. Comm. 179.

Persons who own lands by a joint title
created expressly by one and the same deed
or will. 4 Kent, Comm. 357. Joint tenants
have one and the same interest, accruing by
one and the same conveyance, commencing at one and the same time, and held by one and the same undivided possession. 2 Bl. Comm. 180.

JOINT TRESPASSERS. Two or more who unite in committing a trespass.

JOINT TRUSTEES. Two or more persons who are intrusted with property for the benefit of one or more others.

JOINTRESS, JOINTURESS. A woman who has an estate settled on her by her husband, to hold during her life, if she survive him. Co. Litt. 46.

JOINTURE. A freehold estate in lands or tenements secured to the wife, and to take effect on the decease of the husband, and to continue during her life at the least, unless she be herself the cause of its determination. 21 Me. 369.

A competent livelihood of freehold for the wife of lands and tenements to take effect presently in possession or profit, after the decease of the husband, for the life of the wife at least. Co. Litt. 366; 2 Bl. Comm. 187.

A jointure strictly signifies a joint estate limited to both husband and wife, and such was its original form; but, in its more usual form, it is a sole estate limited to the wife only, expectant upon a life-estate in the husband. 2 Bl. Comm. 137; 1 Steph. Comm. 255.

JONCARIA, or JUNCARIA. Land where rushes grow. Co. Litt. 5a.

JORNAL. As much land as could be plowed in one day. Spelman.

JOUR. A French word, signifying "day." It is used in our old law-books; as "tous jours," forever.

JOUR EN BANC. A day in banc. Distinguished from "jour en pays," (a day in the country,) otherwise called "jour en nist prius."

JOUR IN COURT. In old practice. Day in court; day to appear in court; appearance day. "Every process gives the defendant a day in court." Hale, Anal. § 8.

JOURNAL. A daily book; a book in which entries are made or events recorded from day to day. In maritime law, the journal (otherwise called "log" or "log-book") is a book kept on every vessel, which contains a brief record of the events and occurrences of each day of a voyage, with the nautical observations, course of the ship, account of the weather, etc. In the system of double-entry book-keeping, the journal is an account-book into which are transcribed, daily or at other intervals, the items entered upon the day-book, for more convenient posting into the ledger. In the usage of legislative bodies, the journal is a daily record of the proceedings of either house. It is kept by the clerk, and in it are entered the appointments and actions of committees, introduction of bills, motions, votes, resolutions, etc., in the order of their occurrence.

JOURNEY. The original signification of this word was a day's travel. It is now applied to a travel by land from place to place, without restriction of time. But, when thus applied, it is employed to designate a travel which is without the ordinary habits, business, or duties of the person, to a distance from his home, and beyond the circle of his friends or acquaintances. 53 Ala. 521.

JOURNEY-HOPPERS. In English law. Regrators of yarn. 8 Hen. VI. c. 5.

JOURNEYMAN. A workman hired by the day, or other given time.

JOURNEYS ACCOUNTS. In English practice. The name of a writ (now obsolete) which might be sued out where a former writ had abated without the plaintiff's fault. The length of time allowed for taking it out depended on the length of the journey the party must make to reach the court; whence the name.

JUBERE. Lat. In the civil law. To order, direct, or command. Calvin. The word jubeo, (I order,) in a will, was called a "word of direction," as distinguished from "precatory words." Cod. 6, 43, 2.

To assure or promise.
To decree or pass a law.

JUBILACION. In Spanish law. The privilege of a public officer to be retired, on account of infirmity or disability, retaining the rank and pay of his office (or part of the same) after twenty years of public service, and on reaching the age of fifty.

JUDEUS, JUDEUS. Lat. A Jew.

income] anciently accruing to the king from the Jews. Blount.

**JUDEX.** Lat. In Roman law. A private person appointed by the praetor, with the consent of the parties, to try and decide a cause or action commenced before him. He received from the praetor a written formula instructing him as to the legal principles according to which the action was to be judged. Calvin. Hence the proceedings before him were said to be *in judicio*, as those before the praetor were said to be *in iure*.

In later and modern civil law. A judge, in the modern sense of the term.

In old English law. A juror. A judge, in modern sense, especially—as opposed to *justiciarius*, i. e., a common-law judge—to denote an ecclesiastical judge. Bract. fol. 401, 402.

**JUDEX A QUO.** In modern civil law. The judge from whom, as *judex ad quem* is the judge to whom, an appeal is made or taken. Halifax, Civil Law, b. 3, c. 11, no. 34.

**JUDEX AD QUEM.** A judge to whom an appeal is taken.


*Jude ante oculos aequitatem semper habere debeat*. A judge ought always to have equity before his eyes.

*Jude bonus nihil ex arbitrio suo facti*, nec proposito domesticoe voluntatis, sed juxta leges et jura pronunciet. A good judge should do nothing of his own arbitrary will, nor on the dictate of his personal inclination, but should decide according to law and justice. 7 Coke, 27a.

*Jude damnatur cum nocens absolvitur*. The judge is condemned when a guilty person escapes punishment.

**JUDEX DATUS.** In Roman law. A judge given, that is, assigned or appointed, by the praetor to try a cause.

*Jude debet judicare secundum allegata et probata*. The judge ought to decide according to the allegations and the proofs.

**JUDEX DELEGATUS.** A delegated judge; a special judge.

*Jude est lex loquens*. A judge is the law speaking, [the mouth of the law.] 7 Coke, 4a.

**JUDEX FISCALIS.** A fiscal judge; one having cognizance of matters relating to the *fiscus*, (q. v.)

*Jude habere debet duos sales,—salem sapientiae, ne sit insipidus; et salem conscientiae, ne sit diabolus*. A judge should have two salts,—the salt of wisdom, lest he be insipid; and the salt of conscience, lest he be devilish.

*Jude non potest esse testis in propria causa*. A judge cannot be a witness in his own cause. 4 Inst. 279.

*Jude non potest injuriarn sibi datum punire*. A judge cannot punish a wrong done to himself. See 12 Coke, 114.

*Jude non reddit plus quam quod petens ipse requirit*. A judge does not give more than what the complaining party himself demands. 2 Inst. 286.

**JUDEX ORDINARIUS.** In the civil law. An ordinary judge; one who had the right of hearing and determining causes as a matter of his own proper jurisdiction, (*ex propria jurisdictione*), and not by virtue of a delegated authority. Calvin.

**JUDEX PEDANEUS.** In Roman law. The judge who was commissioned by the praetor to hear a cause was so called, from the low seat which he anciently occupied at the foot of the praetor's tribunal.

**JUDGE.** A public officer, appointed to preside and to administer the law in a court of justice; the chief member of a court, and charged with the control of proceedings and the decision of questions of law or discretion. "Judge" and "justice" (q. v.) are often used in substantially the same sense.

**JUDGE ADVOCATE.** An officer of a court-martial, whose duty is to swear in the other members of the court, to advise the court, and to act as* the public prosecutor; but he is also so far the counsel for the prisoner as to be bound to protect him from the necessity of answering criminal questions, and to object to leading questions when pronounced to other witnesses.

**JUDGE ADVOCATE GENERAL.** The adviser of the government in reference to courts-martial and other matters of military law. In England, he is generally a member
of the house of commons and of the government for the time being.

JUDGE-MADE LAW. A phrase used to indicate judicial decisions which construe away the meaning of statutes, or find meanings in them the legislature never intended. It is sometimes used as meaning, simply, the law established by judicial precedent. Cooley, Const. Lim. 70, note.

JUDGE ORDINARY. By St. 20 & 21 Vict. c. 85, § 9, the judge of the court of probate was made judge of the court for divorce and matrimonial causes created by that act, under the name of the “judge ordinary.”

In Scotland, the title “judge ordinary” is applied to all those judges, whether supreme or inferior, who, by the nature of their office, have a fixed and determinate jurisdiction in all actions of the same general nature, as contradistinguished from the old Scotch privy council, or from those judges to whom some special matter is committed; such as commissioners for taking proofs, and messengers at arms. Bell.

JUDGE’S CERTIFICATE. In English practice. A certificate, signed by the judge who presided at the trial of a cause, that the party applying is entitled to costs. In some cases, this is a necessary preliminary to the taxing of costs for such party.

A statement of the opinion of the court, signed by the judges, upon a question of law submitted to them by the chancellor for their decision. See 3 Bl. Comm. 453.

JUDGE’S MINUTES, or NOTES. Memoranda usually taken by a judge, while a trial is proceeding, of the testimony of witnesses, of documents offered or admitted in evidence, of offers of evidence, and whether it has been received or rejected, and the like matters.

JUDGE’S ORDER. An order made by a judge at chambers, or out of court.

JUDGER. A Cheshire jurymen. Jacob.

JUDGMENT. The official and authentic decision of a court of justice upon the respective rights and claims of the parties to an action or suit therein litigated and submitted to its determination.

The conclusion of law upon facts found, or admitted by the parties, or upon their default in the course of the suit. Tidd, Pr. 290; 32 Md. 147.

The decision or sentence of the law, given by a court of justice or other competent tribunal, as the result of proceedings instituted therein for the redress of an injury. 3 Bl. Comm. 335; 12 Minn. 437, (Gil. 326.)


A judgment is the final consideration and determination of a court of competent jurisdiction upon the matter submitted to it, and it is only evidenced by a record, or that which is by law, as the files and journal entries of this state, substituted in its stead. An order for a judgment is not the judgment, nor does the entry of such order partake of the nature and qualities of a judgment record. This must clearly ascertain not only the determination of the court upon the subject submitted, but the parties in favor of and against whom it operates. 3 Mich. 88.

The term “judgment” is also used to denote the reason which the court gives for its decision; but this is more properly denominated an “opinion.”

Classification. Judgments are either in rem or in personam; as to which see JUDGMENT IN REM, JUDGMENT IN PERSONAM.

Judgments are either final or interlocutory. See Code N. C. § 384.

A final judgment is one which puts an end to the action, or disposes of the whole case, finally and completely, by declaring either that the plaintiff is entitled to recover a specific sum or that he cannot recover, and leaving nothing to be done but the execution of the judgment.

A final judgment is one that disposes of the case, either by dismissing it before a hearing is had upon the merits, or, after the trial, by rendering judgment either in favor of the plaintiff or defendant; but no judgment or order which does not determine the rights of the parties in the case, and prejudice further inquiry as to their rights in the premises, is a final judgment. 7 Neb. 398.

An interlocutory judgment is one given in the progress of a cause upon some plea, proceeding, or default which is only intermediate, and does not finally determine or complete the suit. 3 Bl. Comm. 396.

A judgment may be upon the merits, or it may not. A judgment on the merits is one which is rendered after the substance and matter of the case have been judicially investigated, and the court has decided which party is in the right; as distinguished from a judgment which turns upon some preliminary matter or technical point, or which, in consequence of the act or default of one of the parties, is given without a contest or trial.

Of judgments rendered without a regular
JUDGMENT

trail, or without a complete trial, the several species are enumerated below. And first:

Judgment by default is a judgment obtained by one party when the other party neglects to take a certain necessary step in the action (as, to enter an appearance, or to plead) within the proper time. In Louisiana, the term "contradictory judgment" is used to distinguish a judgment given after the parties have been heard, either in support of their claims or in their defense, from a judgment by default. 11 La. 366.

Judgment by confession is where a defendant gives the plaintiff a cognovit or written confession of the action (or "confession of judgment," as it is frequently called) by virtue of which the plaintiff enters judgment.

Judgment nil dicti is a judgment rendered for the plaintiff when the defendant "says nothing," that is, when he neglects to plead to the plaintiff's declaration within the proper time.

Judgment by non sum informatus is one which is rendered when, instead of entering a plea, the defendant's attorney says he is not informed of any answer to be given to the action. Steph. Pl. 130.

Judgment of nonsuit is of two kinds,—voluntary and involuntary. When plaintiff abandons his case, and consents that judgment go against him for costs, it is voluntary. But when he, being called, neglects to appear, or when he has given no evidence on which a jury could find a verdict, it is involuntary. Freem. Judgm. § 6.

Judgment of retraxit. A judgment rendered where, after appearance and before verdict, the plaintiff voluntarily goes into court and enters on the record that he "withdraws his suit." It differs from a nonsuit. In the latter case the plaintiff may sue again, upon payment of costs; but a retraxit is an open, voluntary renunciation of his claim in court, and by it he forever loses his action.

Judgment of nolle prosequi. This judgment is entered when plaintiff declares that he will not further prosecute his suit, or entry of a stet processus, by which plaintiff agrees that all further proceedings shall be stayed.

Judgment of non pros. (non prosequitur) is one given against the plaintiff for a neglect to take any of those steps which it is incumbent on him to take in due time.

Judgment of cassetur breve or billa (that the writ or bill be quashed) is a judgment rendered in favor of a party pleading in abatement to a writ or action. Steph. Pl. 130, 131.

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Judgment of nil capiat per breve or per billam is a judgment in favor of the defendant upon an issue raised upon a declaration or peremptory plea.

Judgment quod partes replacitent. This is a judgment of repleader, and is given if an issue is formed on so immaterial a point that the court cannot know for whom to give judgment. The parties must then reconstruct their pleadings.

Judgment of respondeat onus is a judgment given against the defendant, requiring him to "answer over," after he has failed to establish a dilatory plea upon which an issue in law has been raised.

Judgment quod recuperet is a judgment in favor of the plaintiff, (that he do recover,) rendered when he has prevailed upon an issue in fact or an issue in law other than one arising on a dilatory plea. Steph. Pl. 126.

Judgment non obstante veredicto is a judgment entered for the plaintiff "notwithstanding the verdict" which has been given for defendant; which may be done where, after verdict and before judgment, it appears by the record that the matters pleaded or replied to, although verified by the verdict, are insufficient to constitute a defense or bar to the action.

Special, technical names are given to the judgments rendered in certain actions. These are explained as follows:

Judgment quod computet is a judgment in an action of account-render that the defendant do account.

Judgment quod partitio fiat is the interlocutory judgment in a writ of partition, that partition be made.

Judgment quando acciderint. If on the plea of plene administravit in an action against an executor or administrator, or on the plea of riens per descent in an action against an heir, the plaintiff, instead of taking issue on the plea, take judgment of assets quando acciderint, in this case, if assets afterwards come to the hands of the executor or heir, the plaintiff must first sue out a seire facias, before he can have execution. If, upon this seire facias, assets be found for part, the plaintiff may have judgment to recover so much immediately, and the residue of the assets in futuro. 1 Sid. 448.

Judgment de melioribus damnis. Where, in an action against several persons for a joint tort, the jury by mistake sever the damages by giving heavier damages against one defendant than against the others, the plaintiff may cure the defect by taking judgment for the greater damages (de melioribus damnis)
against that defendant, and entering a *nolle prosequi* (q. v.) against the others. Sweet.

Judgment *in error* is a judgment rendered by a court of error on a record sent up from an inferior court.

**JUDGMENT-BOOK.** A book required to be kept by the clerk, among the records of the court, for the entry of judgments. Code N. Y. § 279.

**JUDGMENT CREDITOR.** One who is entitled to enforce a judgment by execution, (q. v.) The owner of an unsatisfied judgment.

**JUDGMENT DEBTOR.** A person against whom judgment has been recovered, and which remains unsatisfied.

**JUDGMENT DEBTOR SUMMONS.** Under the English bankruptcy act, 1861, §§ 70–83, these summonses might be issued against both traders and non-traders, and, in default of payment of, or security or agreed composition for, the debt, the debtors might be adjudicated bankrupt. This act was repealed by 32 & 33 Vict. c. 88, § 20. The 32 & 33 Vict. c. 71, however, (bankruptcy act, 1869,) provides (section 7) for the granting of a "debtor's summons," at the instance of creditors, and, in the event of failure to pay or compound, a petition for adjudication may be presented, unless in the events provided for by that section. Wharton.

**JUDGMENT DEBTS.** Debts, whether on simple contract or by specialty, for the recovery of which judgment has been entered up, either upon a *comitia* or upon a warrant of attorney or as the result of a successful action. Brown.

**JUDGMENT DOCKET.** A list or docket of the judgments entered in a given court, methodically kept by the clerk or other proper officer, open to public inspection, and intended to afford official notice to interested parties of the existence or lien of judgments.

**JUDGMENT IN PERSONAM.** A judgment against a particular person, as distinguished from a judgment against a thing or a right or *status*. The former class of judgments are conclusive only upon parties and privies; the latter upon all the world. See next title.

**JUDGMENT IN REM.** A judgment *in rem* is an adjudication, pronounced upon the *status* of some particular subject-matter, by a tribunal having competent authority for that purpose. It differs from a judgment *in personam*, in this: that the latter judgment is in form, as well as substance, between the parties claiming the right; and that it is so *inter partes* appears by the record itself. It is binding only upon the parties appearing to be such by the record, and those claiming by them. A judgment *in rem* is founded on a proceeding instituted, not against the person, as such, but against or upon the thing or subject-matter itself, whose state or condition is to be determined. It is a proceeding to determine the state or condition of the thing itself; and the judgment is a solemn declaration upon the *status* of the thing, and it *ipso facto* renders it what it declares it to be. 2 Vt. 73.

Various definitions have been given of a judgment *in rem*, but all are criticized as either in complete or comprehending too much. It is generally said to be a judgment declaratory of the *status* of some subject-matter, whether this be a person or a thing. Thus, the probate of a will fixes the *status* of the document as a will. The personal rights and interests which follow are mere incidental results of the *status* or character of the paper, and do not appear on the face of the judgment. So, a decree establishing or dissolving a marriage is a judgment *in rem*, because it fixes the *status* of the person. A judgment of forfeiture, by the proper tribunal, against specific articles or goods, for a violation of the revenue laws, is a judgment *in rem*. But it is objected that the customary definition does not fit such a case, because there is no fixing of the *status* of anything, the whole effect being a seizure, whatever the thing may be. In the foregoing instances, and many others, the judgment is conclusive against all the world, without reference to actual presence or participation in the proceedings. If the expression "strictly *in rem*" may be applied to any class of cases, it should be confined to such as these. *A very able writer says: 'The distinguishing characteristic of judgments in *rem* is that, wherever their obligation is recognized and enforced as against any person, it is equally recognized and enforced as against all persons.' It seems to us that the true definition of a "judgment in *rem*" is "an adjudication" against some person or thing, or upon the *status* of some subject-matter; which, wherever and whenever binding upon any person, is equally binding upon all persons." 10 Mo. App. 75.

**JUDGMENT NISI.** At common law, this was a judgment entered on the return of the *nisus prinis* record, which, according to the terms of the *postea*, was to become absolute *unless* otherwise ordered by the court within the first four days of the next succeeding term.

**JUDGMENT NOTE.** A promissory note, embodying an authorization to any attorney, or to a designated attorney, or to the holder, or the clerk of the court, to enter an appearance for the maker and confess a judg
ment against him for a sum therein named, upon default of payment of the note.

JUDGMENT PAPER. In English practice. A sheet of paper containing an *incipit* of the pleadings in an action at law, upon which final judgment is signed by the master. 2 Tidd, Pr. 930.

JUDGMENT RECORD. In English practice. A parchment roll, on which are transcribed the whole proceedings in the cause, deposited and filed of record in the treasury of the court, after signing of judgment. 3 Steph. Comm. 632. In American practice, the record is signed, filed, and docketed by the clerk.

JUDGMENT ROLL. In English practice. A roll of parchment containing the entries of the proceedings in an action at law to the entry of judgment inclusive, and which is filed in the treasury of the court.

See Roll.

Judicandum est legibus, non exemplis. Judgment is to be given according to the laws, not according to examples or precedents. 4 Coke, 33b; 4 Bl. Comm. 405.

JUDICARE. In the civil and old English law. To judge; to decide or determine judicially; to give judgment or sentence.

JUDICATIO. In the civil law. Judging; the pronouncing of sentence, after hearing a cause. Halifax, Civil Law, b. 3, c. 8, no. 7.

JUDICATORES TERRARUM. Persons in the county palatine of Chester, who, on a writ of error, were to consider of the judgment given there, and reform it; otherwise they forfeited £100 to the crown by custom. Jenk. Cent. 71.

JUDICATURE. 1. The state or profession of those officers who are employed in administering justice; the judiciary.

2. A judiciary, tribunal, or court of justice.

3. Jurisdiction; the right of judicial action; the scope or extent of jurisdiction.

JUDICATURE ACTS. The statutes of 36 & 37 Vict. c. 65, and 38 & 39 Vict. c. 77, which went into force November 1, 1875, with amendments in 1877, c. 9; 1879, c. 75; and 1881, c. 68,—made most important changes in the organization of, and methods of procedure in, the superior courts of England, consolidating them to-gether so as to constitute one supreme court of judicature, consisting of two divisions,—her majesty's high court of justice, having chiefly original jurisdiction; and her majesty's court of appeal, whose jurisdiction is chiefly appellate.

Judices non tenentur exprimere causam sententiae suae. Jenk. Cent. 75. Judges are not bound to explain the reason of their sentence.

JUDICES ORDINARI. In the civil law. Ordinary juries; the common juries appointed to try causes, and who, according to Blackstone, determined only questions of fact. 3 Bl. Comm. 315.

JUDICES PEDANEI. In the civil law. The ordinary juries appointed by the prator to try causes.

JUDICES SELECTI. In the civil law. Select or selected juries or judges; those who were used in criminal causes, and between whom and modern jurors many points of resemblance have been noticed. 3 Bl. Comm. 366.


Judici satis poena est, quod Deum habet ultorem. It is punishment enough for a judge that he has God as his avenger. 1 Leon. 235.


Judicia in curia regis non adnihilentur, sed stent in robore suo quousque per errorem aut attinendum quos in regulart. Per judgments in the king's courts are not to be annihilated, but to remain in force until annulled by error or attain. 2 Inst. 539.

Judicia in deliberationibus crebro maturescunt, in accelerato processu vanquam. Judgments frequently become matured by deliberations, never by hurried process or precipitation. 3 Inst. 210.

Judicia posteriora sunt in leges fortiora. 8 Coke, 97. The later decisions are the stronger in law.

Judicia sunt tanquam juris dicta, et pro veritate accepta. Judgments are, as it were, the sayings of the law, and are received as truth. 2 Inst. 537.
JUDICIAL. Belonging to the office of a judge; as judicial authority.

Relating to or connected with the administration of justice; as a judicial officer.

Having the character of judgment or formal legal procedure; as a judicial act.

Proceeding from a court of justice; as a judicial writ, a judicial determination.

JUDICIAL ACTION. Action of a court upon a cause, by hearing it, and determining what shall be adjudged or decreed between the parties, and with which is the right of the case. 12 Pet. 718.

JUDICIAL ACTS. Acts requiring the exercise of some judicial discretion, as distinguished from ministerial acts, which require none.

JUDICIAL ADMISIONS. Admissions made voluntarily by a party which appear of record in the proceedings of the court.

JUDICIAL AUTHORITY. The power and authority appertaining to the office of a judge; jurisdiction; the official right to hear and determine questions in controversy.

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL. In English law. A tribunal composed of members of the privy council, being judges or retired judges, which acts as the queen's adviser in matters of law referred to it, and exercises a certain appellate jurisdiction, chiefly in ecclesiastical causes, though its power in this respect was curtailed by the judicature act of 1873.

JUDICIAL CONFESSION. In the law of evidence. A confession of guilt, made by a prisoner before a magistrate, or in court, in the due course of legal proceedings. 1 Greenl. Ev. § 216.

JUDICIAL CONVENTIONS. Agreements entered into in consequence of an order of court; as, for example, entering into a bond on taking out a writ of sequestration. 6 Mart. (N. S.) 494.

JUDICIAL DECISIONS. The opinions or determinations of the judges in causes before them, particularly in appellate courts.

JUDICIAL DISCRETION. The power confided to a judge to exercise his individual discrimination and opinion in deciding certain minor or collateral matters. This power is not arbitrary, but is confined within narrow limits, within which, however, its exercise is not subject to review.

"Judicial discretion" means a discretion to be exercised in discerning the course prescribed by law. 26 Wend. 148.

JUDICIAL DOCUMENTS. Proceedings relating to litigation. They are divided into (1) judgments, decrees, and verdicts; (2) depositions, examinations, and inquisitions taken in the course of a legal process; (3) writs, warrants, pleadings, etc., which are incident to any judicial proceedings. See 1 Starkie, Ev. 252.

JUDICIAL MORTGAGE. In the law of Louisiana. The lien resulting from judgments, whether rendered on contested cases or by default, whether final or provisional, in favor of the person obtaining them. Civil Code La. art. 3521.

JUDICIAL NOTICE. The act by which a court, in conducting a trial, or framing its decision, will, of its own motion, and without the production of evidence, recognize the existence and truth of certain facts, having a bearing on the controversy at bar, and which, from their nature, are not properly the subject of testimony, or which are universally regarded as established by common notoriety, e. g., the laws of the state, international law, historical events, the constitution and course of nature, main geographical features, etc.

JUDICIAL OFFICER. A person in whom is vested authority to decide causes or exercise powers appropriate to a court.

JUDICIAL POWER. The authority vested in courts and judges, as distinguished from the executive and legislative power.

JUDICIAL PROCEEDINGS. A general term for proceedings relating to, practiced in, or proceeding from, a court of justice; or the course prescribed to be taken in various cases for the determination of a controversy or for legal redress or relief.

JUDICIAL SALE. A judicial sale is 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. 8 How. 495.

JUDICIAL SEPARATION. A separation of man and wife by decree of court, less complete than an absolute divorce; otherwise called a "limited divorce."
JUDICIAL WRITS. In English practice. Such writs as issue under the private seal of the courts, and not under the great seal of England, and are tested or witnessed, not in the king's name, but in the name of the chief judge of the court out of which they issue. The word "judicial" is used in contradistinction to "original;" original writs being such as issue out of chancery under the great seal, and are witnessed in the king's name. See 3 Bl. Comm. 282.

JUDICIARY, adj. Pertaining or relating to the courts of justice, to the judicial department of government, or to the administration of justice.

JUDICIARY, n. That branch of government invested with the judicial power; the system of courts in a country; the body of judges; the bench.

JUDICIARY ACT. The name commonly given to the act of congress of September 24, 1789, (1 St. at Large, 73,) by which the system of federal courts was organized, and their powers and jurisdiction defined.

Judicis posterioribus fides est adhibenda. Faith or credit is to be given to the later judgments. 13 Coke, 14.

JUDICIO SISTI. A caution, or security, given in Scotch courts for the defendant to abide judgment within the jurisdiction. Sim. Law Gloss.

Judicis est in pronuntiando sequi regulam, exceptione non probata. The judge in his decision ought to follow the rule, when the exception is not proved.

Judicis est judicare secundum allegata at probata. Dyer, 12. It is the duty of a judge to decide according to facts alleged and proved.

Judicis est jus dicere, non dare. It is the province of a judge to declare the law, not to give it. Loft, Append. 42.

Judicis officium est opus dei in die suo perifericco. It is the duty of a judge to finish the work of each day within that day. Dyer, 12.

Judicis officium est ut res, ita tempora rerum, querere. It is the duty of a judge to inquire into the times of things, as well as into things themselves. Co. Litt. 171.

JUDICIO. Lat. Judicial authority or jurisdiction; a court or tribunal; a judicial hearing or other proceeding; a verdict or judgment.

Judicium a non suo judice datumnullius est momenti. 10 Coke, 70. A judgment given by one who is not the proper judge is of no force.


JUDICIO DEI. Lat. In old English and European law. The judgment of God; otherwise called "dicium judicium," the "divine judgment." A term particularly applied to the ordeals by fire or hot iron and water, and also to the trials by the cross, the eucharist, and the coroned, and the duellum or trial by battle, (q. v.) it being supposed that the interposition of heaven was directly manifest, in these cases, in behalf of the innocent. Spelman; Burill.

Judicium est quasi juris dictum. Judgment is, as it were, a declaration of law.

Judicium non debet esse illusorium; suum effectum habere debet. A judgment ought not to be illusory; it ought to have its proper effect. 2 Inst. 341.

JUDICIO PARIUM. In old English law. Judgment of the peers; judgment of one's peers; trial by jury. Magna Charta, c. 29.

Judicium redditur in invitum. Co. Litt. 248b. Judgment is given against one, whether he will or not.

Judicium (semper) pro veritate accepit. A judgment is always taken for truth, [that is, as long as it stands in force it cannot be contradicted.] 2 Inst. 380; Co. Litt. 39a, 168a.

JUG. In old English law. A watery place. Domedeyd; Cowell.

JUGE. In French law. A judge.

JUGE DE PAIX. In French law. An inferior judicial functionary, appointed to decide summarily controversies of minor importance, especially such as turn mainly on
questions of fact. He has also the functions of a police magistrate. Ferrière.

**JUGERUM.** An acre. Co. Litt. 5b. As much as a yoke (jugum) of oxen could plow in one day.

**JUGES D'INSTRUCTION.** In French law. Officers subject to the procurer impérial or général, who receive in cases of criminal offenses the complaints of the parties injured, and who summon and examine witnesses upon oath, and, after communication with the procurer impérial, draw up the forms of accusation. They have also the right, subject to the approval of the same superior officer, to admit the accused to bail. They are appointed for three years, but are re-eligible for a further period of office. They are usually chosen from among the regular judges. Brown.

**JUGULATOR.** In old records. A cutthroat or murderer. Cowell.

**JUGUM.** In the civil law. A yoke; a measure of land; as much land as a yoke of oxen could plow in a day. Nov. 17, c. 8.

**JUGUM TERRÆ.** In old English law. A yoke of land; half a plow-land. Domeday; Co. Litt. 5a; Cowell.

**JUICIO.** In Spanish law. A trial or suit. White, New Recop. b. 3, tit. 4, c. 1.

**JUICIO DE APEO.** In Spanish law. The decree of a competent tribunal directing the determining and marking the boundaries of lands or estates.

**JUICIO DE CONCURSO DE ACREDITES.** In Spanish law. The judgment granted for a debtor who has various creditors, or for such creditors, to the effect that their claims be satisfied according to their respective form and rank, when the debtor’s estate is not sufficient to discharge them all in full. Escriche.

**JUMENT.** In old Scotch law. An ox used for tillage. 1 Pt. Crim. Tr. pt. 2, p. 89.

**JUMENTA.** In the civil law. Beasts of burden; animals used for carrying burdens. This word did not include “oxen.” Dig. 32, 65, 5.

**JUMP BAIL.** To abscond, withdraw, or secrete one’s self, in violation of the obligation of a bail-bond. The expression is colloquial, and is applied only to the act of the principal.

**JUNCARIA.** In old English law. The soil where rushes grow. Co. Litt. 5a; Cowell.


**JUNGERE DUELLUM.** In old English law. To join the duellum; to engage in the combat. Fleta, lib. 1, c. 21, § 10.

**JUNIOR.** Younger. This has been held to be no part of a man’s name, but an addition by use, and a convenient distinction between a father and son of the same name. 10 Paige, 170; 7 Johns. 519; 2 Caines, 164.

**JUNIOR BARRISTER.** A barrister under the rank of queen’s counsel. Also the junior of two counsel employed on the same side in a case. Mozley & Whitley.

**JUNIOR COUNSEL.** The younger of the counsel employed on the same side of a case, or the one lower in standing or rank, or who is intrusted with the less important parts of the preparation or trial of the cause.

**JUNIOR CREDITOR.** One whose claim or demand accrued at a date posterior to that of a claim or demand held by another creditor.

**JUNIOR EXECUTION.** One which was issued after the issuance of another execution, on a different judgment, against the same defendant.

**JUNIOR JUDGMENT.** One which was rendered or entered after the rendition or entry of another judgment, on a different claim, against the same defendant.

**JUNIOR WRIT.** One which is issued, or comes to the officer’s hands, at a later time than a similar writ, at the suit of another party, or on a different claim, against the same defendant.

**JUNIPERUS SABINA.** In medical jurisprudence. This plant is commonly called “savín.”

**JUNK-SHOP.** A shop where old cordage and ships’ tackle, old iron, rags, bottles, paper, etc., are kept and sold. A place where odds and ends are purchased and sold. 12 Rich. Law, 470.

**JUNTA, or JUNTO.** A select council for taking cognizance of affairs of great consequence requiring secrecy; a cabal or faction. This was a popular nickname applied
to the Whig ministry in England, between 1689-1695. They clung to each other for mutual protection against the attacks of the so-called "Reactionist Stuart Party."

**JURA.** Rights; laws. 1 Bl. Comm. 123. See Jus.

Jura ecclesiastica limitata sunt infra limites separatos. Ecclesiastical laws are limited within separate bounds. 3 Bulst. 53.

Jura eodem modo destituuntur quo constituuntur. Laws are abrogated by the same means [authority] by which they are made. Broom, Max. 878.

**JURA FISCALIA.** In English law. Fiscal rights; rights of the exchequer. 3 Bl. Comm. 45.

**JURA IN RE.** In the civil law. Rights in a thing; rights which, being separated from the dominium, or right of property, exist independently of it, and are enjoyed by some other person than him who has the dominium. Mackeld. Rom. Law, § 237.

**JURA MIXTI DOMINII.** In old English law. Rights of mixed dominion. The king's right or power of jurisdiction was so termed. Hale, Anal. § 6.

Jura natura sunt immutabilia. The laws of nature are unchangeable. Brunch, Princ.

**JURA PERSONARUM.** Rights of persons; the rights of persons. Rights which concern and are annexed to the persons of men. 1 Bl. Comm. 122.

**JURA PRÆDIORUM.** In the civil law. The rights of estates. Dig. 50, 16, 86.

Jura publica antecedentis privatís. Public rights are to be preferred to private. Co. Litt. 130a. Applied to protections.

Jura publica ex privato [privatís] promiscue decedí non debent. Public rights ought not to be decided promiscuously with private. Co. Litt. 130a, 181b.

**JURA REGALIA.** In English law. Royal rights or privileges. 1 Bl. Comm. 117, 119; 3 Bl. Comm. 44.

**JURA REGIA.** In English law. Royal rights; the prerogatives of the crown. Crabb, Com. Law, 174.

Jura regis specialia non conceduntur per generalia verba. The special rights of the king are not granted by general words. Jenk. Cent. p. 163.

**JURA RERUM.** Rights of things; the rights of things; rights which a man may acquire over external objects or things unconnected with his person. 1 Bl. Comm. 122; 2 Bl. Comm. 1.

Jura sanguinis nullo jure civili dirimi possunt. The right of blood and kindred cannot be destroyed by any civil law. Dig 50, 17, 9; Bac. Max. reg. 11; Broom, Max 533; 14 Allen, 562.

**JURA SUMMI IMPERII.** Rights of supreme dominion; rights of sovereignty. 1 Bl. Comm. 49; 1 Kent, Comm. 211.

**JURAL.** 1. Pertaining to natural or positive right, or to the doctrines of rights and obligations; as "jural relations."

2. Of or pertaining to jurisprudence; juristic; judicial.

3. Recognized or sanctioned by positive law; embraced within, or covered by, the rules and enactments of positive law. Thus, the "jural sphere" is to be distinguished from the "moral sphere," the latter denoting the whole scope or range of ethics or the science of conduct, the former embracing only such portions of the same as have been made the subject of legal sanction or recognition.

4. Founded in law; organized upon the basis of a fundamental law, and existing for the recognition and protection of rights. Thus, the term "jural society" is used as the synonym of "state" or "organized political community."

** JURAMENTÆ CORPORALEÆ.** Corporate oaths, (q. v.)

**JURAMENTUM.** Lat. In the civil law. An oath.

**JURAMENTUM CALUMNII.** In the civil and canon law. The oath of calumny. An oath imposed upon both parties to a suit, as a preliminary to its trial, to the effect that they are not influenced by malice or any sinister motives in prosecuting or defending the same, but by a belief in the justice of their cause. It was also required of the attorneys and proctors.

Juramentum est indivisible; et non est admittendum in parte verum et in parte falsum. An oath is indivisible; it is not to be held partly true and partly false. 4 Inst. 274.

**JURAMENTUM IN LITEM.** In the civil law. An assessment oath; an oath taken by the plaintiff in an action, that the
extent of the damages he has suffered, estimated in money, amounts to a certain sum, which oath, in certain cases, is accepted in lieu of other proof. Mackeld. Rom. Law, § 376.

**JURAMENTUM JUDICIALE.** In the civil law. An oath which the judge, of his own accord, defers to either of the parties.

It is of two kinds: *First,* that which the judge defers for the decision of the cause, and which is understood by the general name "juramentum judiciale," and is sometimes called "suppletory oath," *juramentum suppletorium; second,* that which the judge defers in order to fix and determine the amount of the condemnation which he ought to pronounce, and which is called "juramentum in utem." Poth. Obl. p. 4, c. 3, § 3, art. 3.

**JURAMENTUM NECESSARIUM.** In Roman law. A compulsory oath. A disclosure under oath, which the prator compelled one of the parties to a suit to make, when the other, applying for such an appeal, agreed to abide by what his adversary should swear. 1 Whart. Ev. § 458; Dig. 12, 2, 5, 2.

**JURAMENTUM VOLUNTARIUM.** In Roman law. A voluntary oath. A species of appeal to conscience, by which one of the parties to a suit, instead of proving his case, offered to abide by what his adversary should answer under oath. 1 Whart. Ev. § 458; Dig. 12, 2, 34, 6.

**JURARE.** To swear; to take an oath.

Jurare est Deum in testem vocare, et est actus divini cultus. 3 Inst. 165. To swear is to call God to witness, and is an act of religion.

**JURAT.** The clause written at the foot of an affidavit, stating when, where, and before whom such affidavit was sworn.

**JURATA.** In old English law. A jury of twelve men sworn. Especially, a jury of the common law, as distinguished from the *assisa.*

The jury clause in a *nisi prius* record, so called from the emphatic words of the old forms: "*Jurata ponitur in respectu,*" the jury is put in respite. Townsh. Pl. 487.

Also a jurat, (which see.)

**JURATION.** The act of swearing; the administration of an oath.

Jurato creditur in judicio. He who makes oath is to be believed in judgment. 3 Inst. 79.

**JURATOR.** A juror; a compurgator, (q. c.)


Juratores sunt judices facti. Jenk. Cent. 61. Juries are the judges of fact.

**JURATORY CAUTION.** In Scotch law. A description of caution (security) sometimes offered in a suspension or advocation where the complainant is not in circumstances to offer any better. Bell.

**JURATS.** In English law. Officers in the nature of aldermen, sworn for the government of many corporations. The twelve assistants of the bailiff in Jersey are called "jurats."

**JURE.** Lat. By right; in right; by the law.

**JURE BELLI.** By the right or law of war. 1 Kent, Comm. 126; 1 C. Rob. Adm. 289.

**JURE CIVILI.** By the civil law. Inst. 1, 3, 4; 1 Bl. Comm. 423.

**JURE CORONÆ.** In right of the crown.

**JURE DIVINO.** By divine right. 1 Bl. Comm. 191.

**JURE ECCLESÆ.** In right of the church. 1 Bl. Comm. 401.

**JURE EMPHYTEUTICO.** By the right or law of *emphyteusis.* 3 Bl. Comm. 292. See *Emphyteusis.*

**JURE GENTIUM.** By the law of nations. Inst. 1, 3, 4; 1 Bl. Comm. 423.

Jure naturæ sequum est neminem cum alterius detrimento et injuria fieri locupletiorem. By the law of nature it is not just that any one should be enriched by the detriment or injury of another. Dig. 50, 17, 206.

**JURE PROPINQUITATIS.** By right of propinquity or nearness. 2 Crabb, Real Prop. p. 1019, § 2398.

**JURE REPRESENTATIONIS.** By right of representation; in the right of another person. 2 Bl. Comm. 224, 517; 2 Crabb, Real Prop. p. 1019, § 2398.

**JURE UXORIS.** In right of a wife. 3 Bl. Comm. 210.
Juri non est consonum quod aliquis accessorius in curia regis convincatur antequam aliquis de facto fuerit attunctus. It is not consonant to justice that any necessary should be convicted in the king's court before any one has been attainted of the fact. 2 Inst. 183.

JURIDICAL. Relating to administration of justice, or office of a judge.

Regular; done in conformity to the laws of the country and the practice which is there observed.

JURIDICAL DAYS. Days in court on which the laws are administered.

JURIDICUS. Lat. Relating to the courts or to the administration of justice; juridical; lawful. Dies juridicus, a lawful day for the transaction of business in court; a day on which the courts are open.

JURIS. Lat. Of right; of law.


JURIS ET DE JURE. Of law and of right. A presumption juris et de jure, or an irrebuttable presumption, is one which the law will not suffer to be rebutted by any counter-evidence, but establishes as conclusive; while a presumption juris tantum is one which holds good in the absence of evidence to the contrary, but may be rebutted.

JURIS ET SEISINÆ CONJUNCTIO. The union of seisin or possession and the right of possession, forming a complete title. 2 Bl. Comm. 199, 311.

Jurus ignorantia est cum jus nostrum ignoramus. It is ignorance of the law when we do not know our own rights. 9 Pick. 180.

JURIS POSITIVI. Of positive law; a regulation or requirement of positive law, as distinguished from natural or divine law. 1 Bl. Comm. 439; 2 Steph. Comm. 286.

Jurus praecpta sunt hæc: Honestæ vi votive; alterum non iedere; suum suique tribuere. These are the precepts of the law: To live honorably; to hurt nobody; to render to every one his due. Inst. 1, 1, 3; 1 Bl. Comm. 40.

JURIS PRIVATI. Of private right; subjects of private property. Hale, Anal. § 23.

JURIS PUBLICI. Of common right; of common or public use; such things as, at least in their own use, are common to all the king's subjects; as common highways, common bridges, common rivers, and common ports. Hale, Anal. § 23.

JURIS UTRUM. In English law. An abolished writ which lay for the parson of a church whose predecessor had alienated the lands and tenements thereof. Fitzh. Nat. Brev. 48.

JURISCONSULT. A jurist; a person skilled in the science of law, particularly of international or public law.

JURISCONSULTUS. Lat. In Roman law. An expert in juridical science; a person thoroughly versed in the laws, who was habitually resorted to, for information and advice, both by private persons as his clients, and also by the magistrates, advocates, and others employed in administering justice.

Jurisdictio est potestas de publico introducta, cum necessitate juris dicendi. Jurisdiction is a power introduced for the public good, on account of the necessity of dispensing justice. 10 Coke, 73a.

JURISDICTION. The power and authority constitutionally conferred upon (or constitutionally recognized as existing in) a court or judge to pronounce the sentence of the law, or to award the remedies provided by law, upon a state of facts, proved or admitted, referred to the tribunal for decision, and authorized by law to be the subject of investigation or action by that tribunal, and in favor of or against persons (or a res) who present themselves, or who are brought, before the court in some manner sanctioned by law as proper and sufficient. 1 Black, Judgm. § 215.

Jurisdiction is a power constitutionally conferred upon a judge or magistrate to take cognizance of and determine causes according to law, and to carry his sentence into execution. 6 Pet. 591; 9 Johns. 233; 2 Neb. 135.

The authority of a court as distinguished from the other departments; judicial power considered with reference to its scope and extent as respects the questions and persons subject to it; power given by law to hear and decide controversies. Abbott.

Jurisdiction is the power to hear and determine the subject-matter in controversy between parties to the suit; to adjudicate or exercise any judicial power over them. 12 Pet. 657, 717.

Jurisdiction is the power to hear and determine a cause; the authority by which judicial officers take cognizance of and decide causes. 43 Tex. 440.

JURISDICTION CLAUSE. In equity practice. That part of a bill which is in-
tended to give jurisdiction of the suit to the court, by a general averment that the acts complained of are contrary to equity, and tend to the injury of the complainant, and that he has no remedy, or not a complete remedy, without the assistance of a court of equity, is called the "jurisdiction clause." Mitf. Eq. Pl. 43.

JURISDICTIONAL. Pertaining or relating to jurisdiction; conferring jurisdiction; showing or disclosing jurisdiction; defining or limiting jurisdiction; essential to jurisdiction.

JURISINCEPTOR. A student of the civil law.

JURISPERITUS. Skilled or learned in the law.

JURISPRUDENCE. The philosophy of law, or the science which treats of the principles of positive law and legal relations.

"The term is wrongly applied to actual systems of law, or to current views of law, or to suggestions for its amendment, but is the name of a science. This science is a formal, or analytical, rather than a material, one. It is the science of actual or positive law. It is wrongly divided into 'general' and 'particular,' or into 'philosophical' and 'historical.' It may therefore be defined as the formal science of positive law." Holl. Jur. 12.

In the proper sense of the word, "jurisprudence" is the science of law, namely, that science which has for its function to ascertain the principles on which legal rules are based, so as not only to classify those rules in their proper order, and show the relation in which they stand to one another, but also to settle the manner in which new or doubtful cases should be brought under the appropriate rules. Jurisprudence is more a formal than a material science. It has no direct concern with questions of moral or political policy, for they fall under the province of ethics and legislation; but, when a new or doubtful case arises to which two different rules seem, when taken literally, to be equally applicable, it may be, and often is, the function of jurisprudence to consider the ultimate effect which would be produced if each rule were applied to an indefinite number of similar cases, and to choose that rule which, when so applied, will produce the greatest advantage to the community. Sweet.

JURISPRUDENTIA. In the civil and common law. Jurisprudence, or legal science.

Jurisprudentia est divinarum atque humanarum rerum notitia, justi atque injusti scientia. "Jurisprudence" is the knowledge of things divine and human, the science of what is right and what is wrong. Dig. 1, 1, 10, 2; Inst. 1, 1, 1. This definition is adopted by Bracton, word for word. Bract. fol. 3.

Jurisprudentia legis communis Anglie est scientia socialis et copiosa. The jurisprudence of the common law of England is a science social and comprehensive. 7 Coke, 25a.

JURIST. One who is versed or skilled in law; answering to the Latin "jurisper­tus." (q. v.)

One who is skilled in the civil law, or law of nations. The term is now usually applied to those who have distinguished themselves by their writings on legal subjects.

JURISTIC. Pertaining or belonging to, or characteristic of, jurisprudence, or a jurist, or the legal profession.

JURISTIC ACT. One designed to have a legal effect, and capable thereof.

JURNEDUM. In old English law. A journey; a day's traveling. Cowell.

JURO. In Spanish law. A certain perpetual pension, granted by the king on the public revenues, and more especially on the salt-works, by favor, either in consideration of meritorious services, or in return for money loaned the government, or obtained by it through forced loans. Escriche.

JUROR. One member of a jury. Sometimes, one who takes an oath; as in the term "non-juror," a person who refuses certain oaths.

JUROR'S BOOK. A list of persons qualified to serve on juries.

JURY. In practice. A certain number of men, selected according to law, and sworn (jurati) to inquire of certain matters of fact, and declare the truth upon evidence to be laid before them. This definition embraces the various subdivisions of juries; as grand jury, petit jury, common jury, special jury, coroner's jury, sheriff's jury, (q. v.)

A jury is a body of men temporarily selected from the citizens of a particular district, and invested with power to present or indict a person for a public offense, or to try a question of fact. Code Civil Proc. Cal. § 190.

The terms "jury" and "trial by jury," as used in the constitution, mean twelve competent men, disinterested and impartial, not of kin, nor personal dependents of either of the parties, having their homes within the jurisdictional limits of the court, drawn and selected by officers free from all bias in favor of or against either party, duly impaneled and sworn to render a true verdict according to the law and the evidence. 11 Nev. 29.

A grand jury is a body of men, (twelve to twenty-three in number,) returned in pursu-
ance of law, from the citizens of a county, or city and county, before a court of competent jurisdiction, and sworn to inquire of public offenses committed or triable within the county, or city and county. Code Civil Proc. Cal. § 192.

A trial jury is a body of men returned from the citizens of a particular district before a court or officer of competent jurisdiction, and sworn to try and determine, by verdict, a question of fact. Code Civil Proc. Cal. § 193.

JURY-BOX. In practice. The place in court (strictly an inclosed place) where the jury sit during the trial of a cause. 1 Archb. Pr. K. B. 208; 1 Burrill, Pr. 455.

JURY COMMISSIONER. An officer charged with the duty of selecting the names to be put into the jury wheel, or of drawing the panel of jurors for a particular term of court.

JURY LIST. A paper containing the names of jurors impaneled to try a cause, or it contains the names of all the jurors summoned to attend court.

JURY OF MATRONS. In common-law practice. A jury of twelve matrons or discreet women, impaneled upon a writ de ventre inspiciendo, or where a female prisoner, being under sentence of death, pleaded her pregnancy as a ground for staying execution. In the latter case, such jury inquired into the truth of the plea.

JURY PROCESS. The process by which a jury is summoned in a cause, and by which their attendance is enforced.

JURY WHEEL. A machine containing the names of persons qualified to serve as grand and petit jurors, from which, in an order determined by the hazard of its revolutions, are drawn a sufficient number of such names to make up the panels for a given term of court.

JURYMAN. A juror; one who is impaneled on a jury.

JURYWOMAN. One member of a jury of matrons, (q. v.)

JUS. Lat. In Roman law. Right; justice; law; the whole body of law; also a right. The term is used in two meanings:

1. "Jus" means "law," considered in the abstract; that is, as distinguished from any specific enactment, the science or department of learning, or quasi personified factor in human history or conduct or social development, which we call, in a general sense, "the law." Or it means the law taken as a system, an aggregate, a whole; the sum total of a number of individual laws taken together." Or it may designate some one particular system or body of particular laws; as in the phrases "jus civile," "jus gentium," "jus praeceptorium."

2. In a second sense, "jus" signifies "a right," that is, a power, privilege, faculty, or demand inherent in one person and incident upon another; or a capacity residing in one person of controlling, with the assent and assistance of the state, the actions of another. This is its meaning in the expressions "jus in re," "jus accrescendi," "jus possessione."

It is thus seen to possess the same ambiguity as the words "droit," "recht," and "right," (which see.)

The continental jurists seek to avoid this ambiguity in the use of the word "jus," by calling its former signification "objective," and the latter meaning "subjective." Thus Mackeldey (Rom. Law, § 2) says: "The laws of the first kind [compulsory or positive laws] form law [jus] in its objective sense, [jus est norma agendi, law is a rule of conduct.] The possibility resulting from law in this sense to do or require another to do is law in its subjective sense, [jus est facultas agendi, law is a license to act.] The voluntary action of man in conformity with the precepts of law is called 'justice,' [justitia.]"

Some further meanings of the word are:

An action. Bract. fol. 3. Or, rather, those proceedings in the Roman action which were conducted before the praetor.

Power or authority. Sui juris, in one's own power; independent. Inst. 1, 8, pr.; Bract. fol. 3. Alieni juris, under another's power. Inst. 1, 8, pr.

The profession (ars) or practice of the law. Jus pontitum pro ipsa arte. Bract. fol. 2b.

A court or judicial tribunal, (locus in quo reeditetur jus.) Id. fol. 3.

JUS ABUTENDI. The right to abuse. By this phrase is understood the right to do exactly as one likes with property, or having full dominion over property. 3 Toullier, no. 86.

JUS ACCRESCEUDI. The right of survivorship. The right of the survivor or survivors of two or more joint tenants to the tenancy or estate, upon the death of one or more of the joint tenants.
Jus accruescendi inter mercatores, pro beneficio commercii, locum non habet. The right of survivorship has no place between merchants, for the benefit of commerce. Co. Litt. 182a; 2 Story, Eq. Jur. § 1207; Broom, Max. 455. There is no survivorship in cases of partnership, as there is in joint-tenancy. Story, Partn. § 90.

Jus accruescendi præfertur oneribus. The right of survivorship is preferred to incumbrances. Co. Litt. 185a. Hence no dower or curtesy can be claimed out of a joint estate. 1 Steph. Comm. 316.

Jus accruescendi præfertur ultimæ voluntati. The right of survivorship is preferred to the last will. Co. Litt. 185b. A devise of one’s share of a joint estate, by will, is no severance of the jointure; for no testament takes effect till after the death of the testator, and by such death the right of the survivor (which accrued at the original creation of the estate, and has therefore a priority to the other) is already vested. 2 Bl. Comm. 186; 3 Steph. Comm. 316.

Jus ad Rem. A term of the civil law, meaning “a right to a thing;” that is, a right exercisable by one person over a particular article of property in virtue of a contract or obligation incurred by another person in respect to it, and which is enforceable only against or through such other person. It is thus distinguished from jus in re, which is a complete and absolute dominion over a thing available against all persons.

The disposition of modern writers is to use the term “jus ad rem” as descriptive of a right without possession, and “jus in re” as descriptive of a right accompanied by possession. Or, in a somewhat wider sense, the former denotes an inchoate or incomplete right to a thing; the latter, a complete and perfect right to a thing.

In canon law. A right to a thing. An inchoate and imperfect right, such as is gained by nomination and institution; as distinguished from jus in re, or complete and full right, such as is acquired by corporal possession. 2 Bl. Comm. 312.

Jus Aelianum. A body of laws drawn up by Sextus Elius, and consisting of three parts, wherein were explained, respectively: (1) The laws of the Twelve Tables; (2) the interpretation of and decisions upon such laws; and (3) the forms of procedure. In date, it was subsequent to the jus Flavianum, (q. e.) Brown.

Jus Æsneclæ. The right of primogeniture, (q. e.)

Jus Albertus. The droit d’au­­baine, (q. e.) See Albertus Jus.

Jus Anglorum. The laws and customs of the West Saxons, in the time of the Heptarchy, by which the people were for a long time governed, and which were preferred before all others. Wharton.

Jus Aquæductus. In the civil law. The name of a servitude which gives to the owner of land the right to bring down water through or from the land of another.

Jus Banci. In old English law. The right of bench. The right or privilege of having an elevated and separate seat of judgment, anciently allowed only to the king’s judges, who hence were said to administer high justice, (summam administrat justitiam.) Bont.

Jus Belli. The law of war. The law of nations as applied to a state of war, defining in particular the rights and duties of the belligerent powers themselves, and of neutral nations.

The right of war; that which may be done without injustice with regard to an enemy. Gro. de Jure B. lib. 1, c. 1, § 3.

Jus Bellum Dicendi. The right of proclaiming war.

Jus Canonicum. The canon law.

Jus Civile. Civil law. The system of law peculiar to one state or people. Inst. 1, 2, 1. Particularly, in Roman law, the civil law of the Roman people, as distinguished from the jus gentium. The term is also applied to the body of law called, emphatically, the “civil law.”

The jus civile and the jus gentium are distinguished in this way. All people ruled by statutes and customs use a law partly peculiar to themselves, partly common to all men. The law each people has settled for itself is peculiar to the state itself, and is called “jus civile,” as being peculiar to that very state. The law, again, that natural reason has settled among all men,—the law that is guarded among all peoples quite alike,—is called the “jus gentium,” and all nations use it as if law. The Roman people, therefore, use a law that is partly peculiar to itself, partly common to all men. Hunter, Rom. Law, 88.

But this is not the only, or even the general, use of the words. What the Roman jurists had chiefly in view, when they spoke of “jus civile,” was not local as opposed to cosmopolitan law, but the old law of the city as contrasted with the newer law introduced by the praetor, (jus prætorium, jus honorarium.) Large, no doubt, the jus gentium corresponds with the jus prætorium; but the correspondence is not perfect. Id. 39.
Jus civile est quod sibi populus constituit. The civil law is what a people establishes for itself. Inst. 1, 2, 1; 1 Johns. 424, 425.

JUS CIVITATUS. The right of citizenship; the freedom of the city of Rome. It differs from jus quiritium, which comprehended all the privileges of a free native of Rome. The difference is much the same as between “denization” and “naturalization” with us. Wharton.

JUS CLOACE. In the civil law. The right of sewerage or drainage. An easement consisting in the right of having a sewer, or of conducting surface water, through the house or over the ground of one's neighbor. Mackeld. Rom. Law, § 317.

JUS COMMUNE. In the civil law. Common right; the common and natural rule of right, as opposed to jus singulare, (q. e.) Mackeld. Rom. Law, § 196.

In English law. The common law, answering to the Saxon “folcright.” 1 Bl. Comm. 67.

Jus constitut oporpet in his que ut plurimum accidunt non quae ex inopinato. Laws ought to be made with a view to those cases which happen most frequently, and not to those which are of rare or accidental occurrence. Dig. 1, 3, 3; Broom, Max. 43.

JUS CORONÆ. In English law. The right of the crown, or to the crown; the right of succession to the throne. 1 Bl. Comm. 191; 2 Steph. Comm. 434.

JUS CUDENDÆ MONETÆ. In old English law. The right of coining money. 2 How. State Tr. 118.

JUS CURIALITATIS. In English law. The right of curtesy. Spelman.

JUS DARE. To give or to make the law; the function and prerogative of the legislative department.

JUS DELIBERANDI. In the civil law. The right of deliberating. A term granted by the proper officer at the request of him who is called to the inheritance, (the heir,) within which he has the right to investigate its condition and to consider whether he will accept or reject it. Mackeld. Rom. Law, § 742; Civil Code La. art. 1028.


JUS DEVOLUTUM. The right of the church of presenting a minister to a vacant parish, in case the patron shall neglect to exercise his right within the time limited by law.

JUS DICERE. To declare the law; to say what the law is. The province of a court or judge. 2 Eden, 29; 3 P. Wms. 485.

JUS DISPONENDI. The right of disposing. An expression used either generally to signify the right of alienation, as when we speak of depriving a married woman of the jus disponendi over her separate estate, or specially in the law relating to sales of goods, where it is often a question whether the vendor of goods has the intention of reserving to himself the jus disponendi; i.e., of preventing the ownership from passing to the purchaser, notwithstanding that he (the vendor) has parted with the possession of the goods. Sweet.

JUS DIVIDENDI. The right of disposing of realty by will. Du Cange.

JUS DUPLICATUM. A double right; the right of possession united with the right of property; otherwise called “droit-droit.” 2 Bl. Comm. 199.

Jus est ars boni et æqui. Law is the science of what is good and just. Dig. 1, 1, 1, 1; Bract. fol. 26.

Jus est norma recti; et quocumque est contra normam recti est injuria. Law is a rule of right; and whatever is contrary to the rule of right is an injury. 3 Bulst. 313.


Jus ex injuria non oritur. A right does (or can) not arise out of a wrong. 4 Bing. 639; Broom, Max. 738, note.

JUS FALCANDI. In old English law. The right of mowing or cutting. Fleta, lib. 4, c. 27, § 1.

JUS FECIALE. In Roman law. The law of arms, or of heralds. A rudimentary species of international law founded on the rites and religious ceremonies of the different peoples.

JUS FIDUCIARIUM. In the civil law. A right in trust; as distinguished from jus legitimum, a legal right. 2 Bl. Comm. 323.
JUS FLAVIANUM. In old Roman law. A body of laws drawn up by Cnelius Flavius, a clerk of Appius Claudius, from the materials to which he had access. It was a popularization of the laws. Mackeld. Rom. Law, § 39.

JUS FLUMINUM. In the civil law. The right to the use of rivers. Locc. de Jure Mar. lib. 1, c. 6.

JUS FOIDIENDI. In the civil and old English law. A right of digging on another's land. Inst. 2, 3, 2; Bract. fol. 222.

JUS GENTIUM. The law of nations. That law which natural reason has established among all men is equally observed among all nations, and is called the "law of nations," as being the law which all nations use. Inst. 1, 2, 1; Dig. 1, 1, 9; 1 Bl. Comm. 43; 1 Kent, Comm. 7; Mackeld. Rom. Law, § 125.

Although this phrase had a meaning in the Roman law which may be rendered by our expression "law of nations," it must not be understood as equivalent to what we now call "international law," its scope being much wider. It was originally a system of law, or more properly equity, gathered by the early Roman lawyers and magistrates from the common ingredients in the customs of the old Italian tribes,—those being the nations, gentes, whom they had opportunities of observing,—to be used in cases where the jus civilis did not apply; that is, in cases between foreigners or between a Roman citizen and a foreigner. The principle upon which they proceeded was that any rule of law which was common to all the nations they knew of must be intrinsically consonant to right reason, and therefore fundamentally valid and just. From this it was an easy transition to the converse principle, viz., that any rule which instinctively commended itself to their sense of justice and reason must be a part of the jus gentium. And so the latter term came eventually to be about synonymous with "equity," (as the Romans understood it,) or the system of prætorian law.

Modern jurists frequently employ the term "jus gentium præcautum" to denote private international law, or that subject which is variously styled the "conflict of laws;" and "jus gentium publicum" for public international law, or the system of rules governing the intercourse of nations with each other as persons.

JUS GLADIUS. The right of the sword; the executory power of the law; the right, power, or prerogative of punishing for crime. 4 Bl. Comm. 177.

JUS HABENDI. The right to have a thing. The right to be put in actual possession of property. Lewin, Trusts, 555.

JUS HABENDI ET RETINENDI. A right to have and to retain the profits, tithes, and offerings, etc. of a rectory or parsonage.

JUS HEREDITATIS. The right of inheritance.

JUS Hauriendi. In the civil and old English law. The right of drawing water. Fleta, lib. 4, c. 27, § 1.

JUS HONORARIUM. The body of Roman law, which was made up of edicts of the supreme magistrates, particularly the praetors.

JUS IMAGINIS. In Roman law. The right to use or display pictures or statues of ancestors; somewhat analogous to the right, in English law, to bear a coat of arms.

JUS IMMUNITATIS. In the civil law. The law of immunity or exemption from the burden of public office. Dig. 50, 6.

JUS IN PERSONAM. A right against a person; a right which gives its possessor a power to obligate another person to give or procure, to do or not to do, something.

JUS IN RE. In the civil law. A right in a thing. A right existing in a person with respect to an article or subject of property, inherent in his relation to it, implying complete ownership with possession, and available against all the world. See JUS AD REM.

Jus in re in heres eosbus usufructuarii. A right in the thing cleaves to the person of the usufructuary.

JUS IN RE PROPRIA. The right of enjoyment which is incident to full ownership or property, and is often used to denote the full ownership or property itself. It is distinguished from Jus in re aliena, which is a mere easement or right in or over the property of another.

JUS INCognitus. An unknown law. This term is applied by the civilians to obsolete laws. Bowyer, Mod. Civil Law, 33.

JUS INDIVIDUUM. An individual or indivisible right; a right incapable of division. 36 Eng. Law & Eq. 25.

Jus jurandi forma verbis differt, reg convenit; hunc enim sensum habere debet: ut Deus invocetur. Grot. de Jur. B., 1, 2, c. 13, § 10. The form of taking an oath differs in language, agrees in meaning; for it ought to have this sense: that the Deity is invoked.

JUS LATII. In Roman law. The right of Latium or of the Latins. The principal privilege of the Latins seems to have been.
the use of their own laws, and their not being subject to the edicts of the praetor, and that they had occasional access to the freedom of Rome, and a participation in her sacred rites. Butl. Hor. Jur. 41.

**JUS LATIUM.** In Roman law. A rule of law applicable to magistrates in Latium. It was either *majus Latium* or *minus Latium*—the *majus Latium* raising to the dignity of Roman citizen not only the magistrate himself, but also his wife and children; the *minus Latium* raising to that dignity only the magistrate himself. Brown.

**JUS LEGITIMUM.** A legal right. In the civil law. A right which was enforceable in the ordinary course of law. 2 Bl. Comm. 328.

**JUS MARITI.** The right of a husband; especially the right which a husband acquires to his wife's movable estate by virtue of the marriage. 1 Forb. Inst. pt. 1, p. 63.

**JUS MERUM.** In old English law. Mers or bare right; the mere right of property in lands, without either possession or even the right of possession. 2 Bl. Comm. 197; Bract. fol. 23.

**JUS NATURÆ.** The law of nature. See Jus Naturale.

**JUS NATURALE.** The natural law, or law of nature; law, or legal principles, supposed to be discoverable by the light of nature or abstract reasoning, or to be taught by nature to all nations and men alike; or law supposed to govern men and peoples in a state of nature, *i. e.*, in advance of organized governments or enacted laws. This concept originated with the philosophical jurists of Rome, and was gradually extended until the phrase came to denote a supposed basis or substratum common to all systems of positive law, and hence to be found, in greater or less purity, in the laws of all nations. And, conversely, they held that if any rule or principle of law was observed in common by all peoples with whose systems they were acquainted, it must be a part of the *jus naturale*, or derived from it. Thus the phrases "*jus naturale*" and "*jus gentium*" came to be used interchangeably.

Jus naturale est quod apud homines eandem habet potentiam. Natural law is that which has the same force among all mankind. 7 Coke, 12.

**JUS NAVIGANDI.** The right of navigating or navigation; the right of commerce by ships or by sea. Locc. de Jure Mar. lib. 1, c. 3.

**JUS NECIS.** In Roman law. The right of death, or of putting to death. A right which a fatheranciently had over his children.

Jus non habenti tute non paretur. One who has no right cannot be safely obeyed. Hob. 146.

Jus non patitur ut idem bis solvatur. Law does not suffer that the same thing be twice paid.

**JUS NON SCRIPTUM.** The unwritten law. 1 Bl. Comm. 64.

**JUS PAPIRIANUM.** The civil law of Papirius. The title of the earliest collection of Roman *leges curiatae*, said to have been made in the time of Tarquin, the last of the kings, by a *pontifex maximus* of the name of Sextus or Publius Papirius. Very few fragments of this collection now remain, and the authenticity of these has been doubted. Mackeld. Rom. Law, § 21.

**JUS PASCENDI.** In the civil and old English law. The right of pasturing cattle. Inst. 2, 3, 5; Bract. fol. 538, 222.

**JUS PATRONATUS.** In English ecclesiastical law. The right of patronage; the right of presenting a clerk to a benefice. Blount.

A commission from the bishop, where two presentations are offered upon the same avoidance, directed usually to his chancellor and others of competent learning, who are to summon a jury of six clergymen and six laymen to inquire into and examine who is the rightful patron. 3 Bl. Comm. 246; 3 Steph. Comm. 517.

**JUS PERSONARUM.** Rights of persons. Those rights which, in the civil law, belong to persons as such, or in their different characters and relations; as parents and children, masters and servants, etc.

**JUS PORTUS.** In maritime law. The right of port or harbor.

**JUS POSSESSIONIS.** The right of possession.

**JUS POSTLIMINII.** In the civil law. The right of postliminy; the right or claim of a person who had been restored to the possession of a thing, or to a former condition, to be considered as though he had never been deprived of it. Dig. 49, 15, 5; 3 Bl. Comm. 107, 210.
In international law. The right by which property taken by an enemy, and re-
captured or rescued from him by the fellow-
subjects or allies of the original owner, is re-
stored to the latter upon certain terms. IKent, Comm. 108.

JUS PRÆSENS. In the civil law. A present or vested right; a right already com-

JUS PRÆTORIUM. In the civil law.
The discretion of the prætor, as distinct from
the leges, or standing laws. 3 Bl. Comm.
49. That kind of law which the prætors in-
troduced for the purpose of aiding, supply-
ing, or correcting the civil law for the public
benefit. Dig. 1, 1, 7. Called, also, “jus
honrorum,” (q. v.)

JUS PRECARIUM. In the civil law.
A right to a thing held for another, for which
there was no remedy. 2 Bl. Comm. 328.

JUS PRESENTATIONIS. The right
of presentation.

JUS PRIVATUM. The civil or munic-
ipal law of Rome.

JUS PROJICIENDI. In the civil law.
The name of a servitude which consists in
the right to build a projection, such as a bal-
coney or gallery, from one's house in the open
space belonging to one's neighbor, but with-
out resting on his house. Dig. 50, 16, 242;
Id. 8, 2, 2; Mackeld. Rom. Law, § 317.

JUS PROPRIETATIS. The right of
property, as distinguished from the jus pos-
sessionis, or right of possession. Bract. fol.
3. Called by Bracton “jus merum,” the mere
19, 176.

JUS PROTEGENDI. In the civil law.
The name of a servitude. It is a right by
which a part of the roof or tiling of one
house is made to extend over the adjoining
house. Dig. 50, 16, 242, 1; Id. 8, 2, 25; Id.
8, 5, 8, 5.

Jus publicum et privatum quod ex
naturalibus preceptis aut gentium aut
civitibus est collectum; et quod in jure
scripto jus appellatur, id in lege Anglice
rectum esse dicitur. Co. Litt. 185. Pub-
lic and private law is that which is collected
from natural principles, either of nations or
in states; and that which in the civil law is
called “jus,” in the law of England is said to
be “right.”

Jus publicum privatorum pactis muta-
tari non potest. A public law or right
cannot be altered by the agreements of pri-
ivate persons.

JUS QUÆSITUM. A right to ask or
recover; for example, in an obligation there
is a binding of the obligor, and a jus quæsi-
tum in the oblige. 1 Bell, Comm. 323.

JUS QUIRITIUM. The old law of
Rome, that was applicable originally to patri-
cians only, and, under the Twelve Tables, to
the entire Roman people, was so called, in
contradistinction to the jus prætorium, (q. v.) or equity. Brown.

Jus quo universitas utuntur est
idem quod habent privati. The law which
governs corporations is the same which
governs individuals. 16 Mass. 44.

JUS RECUPERANDI. The right of re-
covering [lands.]

JUS RELICTÆ. In Scotch law. The
right of a relict; the right or claim of a relict
or widow to her share of her husband's es-
tate, particularly the moveables. 2 Kames,
Eq. 940; 1 Forb. Inst. pt. 1, p. 67.

JUS REPRESENTATIONIS. The
right of representing or standing in the place
of another, or of being represented by an-
other.

JUS RERUM. The law of things. The
law regulating the rights and powers of per-
sons over things; how property is acquired,
 enjoyed, and transferred.

Jus respicit æquitatem. Law regards
equity. Co. Litt. 245; Broom, Max. 151.

JUS SCRIPTUM. In Roman law.
Written law. Inst. 1, 2, 3. All law that
was actually committed to writing, whether
it had originated by enactment or by custom,
in contradistinction to such parts of the law
of custom as were not committed to writing.
Mackeld. Rom. Law, § 126.

In English law. Written law, or statu-
ute law, otherwise called “lex scripta,” as
distinguished from the common law, “lex
non scripta.” 1 Bl. Comm. 62.

JUS SINGULARE. In the civil law.
A peculiar or individual rule, differing from
the jus commune, or common rule of right,
and established for some special reason.
Mackeld. Rom. Law, § 196.

JUS STAPULE. In old European law.
The law of staple; the right of staple. A
right or privilege of certain towns of stopping imported merchandise, and compelling it to be offered for sale in their own markets. Locc. de Jure Mar. lib. 1, c. 10.

JUS STRICTUM. Strict law; law interpreted without any modification, and in its utmost rigor.

Jus superveniens auctori accrescit successori. A right growing to a possessor accrues to the successor. Halk. Lat. Max. 76.

JUS TERTII. The right of a third party. A tenant, bailee, etc., who pleads that the title is in some person other than his landlord, bailor, etc., is said to set up a jus tertii.

Jus testamentorum pertinet ordinario. Yearb. 4 Hen. VII., 135. The right of testaments belongs to the ordinary.

JUS TRIPERTITUM. In Roman law. A name applied to the Roman law of wills, in the time of Justinian, on account of its threefold derivation, viz., from the prætorian edict, from the civil law, and from the imperial constitutions. Maine, Civil Law, 207.

Jus triplex est.—proprietatis, possessi­onsis, et possibilitatis. Right is threefold, of property, of possession, and of possi­bility.

JUS TRIUM LIBERORUM. In Roman law. A right or privilege allowed to the parent of three or more children. 2 Kent, Comm. 85; 2 Bl. Comm. 217. These privileges were an exemption from the trouble of guardianship, priority in bearing offices, and a treble proportion of corn. Adams, Rom. Ant. (Amer. Ed.) 227.

JUS UTENDI. The right to use property without destroying its substance. It is employed in contradistinction to the jus abu­ten­ti. 3 Toullier, no. 86.

JUS VENANDI ET PISCANDI. The right of hunting and fishing.

Jus vendit quod usus approbavit. Elesm. Postn. 35. The law dispenses what use has approved.

JUSJURANDUM. Lat. An oath. 
Jusjurandum inter alios factum nec nocere nec prodesse debet. An oath made between others ought neither to hurt nor profit. 4 Inst. 279.

JUST. Right; in accordance with law and justice.

"The words 'just' and 'justly' do not always mean 'just' and 'justly' in a moral sense, but they not unfrequently, in their connection with other words in a sentence, bear a very different signification. It is evident, however, that the word 'just' in the statute [requiring an affidavit for an attachment to state that plaintiff's claim is just] means 'just' in a moral sense; and from its isolation, being made a separate subdivision of the section, it is intended to mean 'morally just' in the most emphatic terms. The claim must be morally just, as well as legally just, in order to entitle a party to an attachment." 5 Kan. 300.

JUST COMPENSATION. As used in the constitutional provision that private property shall not be taken for public use without "just compensation," this phrase means a full and fair equivalent for the loss sustained by the taking for public use. It may be more or it may be less than the mere money value of the property actually taken. The exercise of the power being necessary for the public good, and all property being held subject to its exercise when and as the public good requires it, it would be unjust to the public that it should be required to pay the owner more than a fair indemnity for the loss he sustains by the appropriation of his property for the general good. On the other hand, it would be equally unjust to the owner if he should receive less than a fair indemnity for such loss. To arrive at this fair indemnity, the interests of the public and of the owner, and all the circumstances of the particular appropriation, should be taken into consideration. Lewis, Em. Dom. § 462.

JUST TITLE. By the term "just title," in cases of prescription, we do not understand that which the possessor may have derived from the true owner, for then no true prescription would be necessary, but a title which the possessor may have received from any person whom he honestly believed to be the real owner, provided the title were such as to transfer the ownership of the property. Civil Code La. art. 3484.

JUSTA. In old English law. A certain measure of liquor, being as much as was sufficient to drink at once. Mon. Angl. t. 1, c. 149.

JUSTA CAUSA. In the civil law. A just cause; a lawful ground; a legal transaction of some kind. Mackeld. Rom. Law, § 283.
JUSTICE. 5. In old English practice. To do justice; to see justice done; to summon one to do justice.

JUSTICE, n. In jurisprudence. The constant and perpetual disposition to render every man his due. Inst. 1, 1, pr.; 2 Inst. 50. The conformity of our actions and our will to the law. Toull. Droit Civil Fr. tit. prélim. no. 5.

In the most extensive sense of the word, it differs little from "virtue," for it includes within itself the whole circle of virtues. Yet the common distinction between them is that that which, considered positively and in itself, is called "virtue," when considered relatively and with respect to others has the name of "justice." But "justice," being in itself a part of "virtue," is confined to things simply good or evil, and consists in a man's taking such a proportion of them as be ought. Bouvier.

Commutative justice is that which should govern contracts. It consists in rendering to every man the exact measure of his dues, without regard to his personal worth or merits, i.e., placing all men on an equality.

Distributive justice is that which should govern the distribution of rewards and punishments. It assigns to each the rewards which his personal merit or services deserve, or the proper punishment for his crimes. It does not consider all men as equally deserving or equally blameworthy, but discriminates between them, observing a just proportion and comparison. This distinction originated with Aristotle. (Eth. Nic. V.) See Fonbl. Eq. 3; Toull. Droit Civil Fr. tit. prélim. no. 7.

In Norman French. Amenable to justice. Kelham.

In feudal law. Jurisdiction; judicial cognizance of causes or offenses.

In common law. The title given in England to the judges of the king's bench and the common pleas, and in America to the judges of the supreme court of the United States and of the appellate courts of many of the states. It is said that this word in its Latin form (justitiae) was properly applicable only to the judges of common-law courts, while the term "judex" designated the judges of ecclesiastical and other courts. See Leg. Hen. I. §§ 24, 63; Co. Litt. 71b. The same title is also applied to some of the judicial officers of the lowest rank and jurisdiction, such as police justices and justices of the peace.

JUSTICE AYRES, (or AIRES.) In Scotch law. Circuits made by the judges of the judicairy courts through the country, for the distribution of justice. Bell.

JUSTICE IN EYLE. From the old French word "éire," i.e., a journey. Those justices who in ancient times were sent by commission into various counties, to hear more especially such causes as were termed "pleas of the crown," were called "justices in eyre." They differed from justices in oyer and terminer, inasmuch as the latter were sent to one place, and for the purpose of trying only a limited number of special causes; whereas the justices in eyre were sent through the various counties, with a more indefinite and general commission. In some respects they resembled our present justices of assize, although their authority and manner of proceeding differed much from them. Brown.

JUSTICE OF THE PEACE. In American law. A judicial officer of inferior rank, holding a court not of record, and having (usually) civil jurisdiction of a limited nature, for the trial of minor cases, to an extent prescribed by statute, and for the conservation of the peace and the preliminary hearing of criminal complaints and the commitment of offenders.

In English law. Judges of record appointed by the crown to be justices within a certain district, (e.g., a county or borough,) for the conservation of the peace, and for the execution of divers things, comprehended within their commission and within divers statutes, committed to their charge. Stone, J. Pr. 2.

JUSTICE SEAT. In English law. The principal court of the forest, held before the chief justice in eyre, or chief itinerant judge, or his deputy; to hear and determine all trespasses within the forest, and all claims of franchises, liberties, and privileges, and all pleas and causes whatsoever therein arising. 3 Bl. Comm. 72; 4 Inst. 291; 3 Steph. Comm. 440.

JUSTICEMENTS. An old general term for all things appertaining to justice.

JUStICER. The old form of justice. Blount.

JUSTICES' COURTS. Inferior tribunals, not of record, with limited jurisdiction, both civil and criminal, held by justices of the peace. There are courts so called in many of the states.

JUSTICES OF APPEAL. The title given to the ordinary judges of the English court of appeal. The first of such ordinary judges are the two former lords justices of appeal in chancery, and one other judge ap-
JUSTICES OF ASSIZE. These justices, or, as they are sometimes called, "justices of nisi prius," are judges of the superior English courts, who go on circuit into the various counties of England and Wales for the purpose of disposing of such causes as are ready for trial at the assizes. See Assize.

JUSTICES OF GAOL DELIVERY. Those justices who are sent with a commission to hear and determine all causes appertaining to persons, who, for any offense, have been cast into gaol. Part of their authority was to punish those who let to mainprise those prisoners who were not bailable by law, and they seem formerly to have been sent into the country upon this exclusive occasion, but afterwards had the same authority given them as the justices of assize. Brown.

JUSTICES OF LABORERS. In old English law. Justices appointed to redress the frowardness of laboring men, who would either be idle or have unreasonable wages. Blount.

JUSTICES OF NISI PRIUS. In English law. This title is now usually coupled with that of justices of assize; the judges of the superior courts acting on their circuits in both these capacities. 3 Bl. Comm. 58, 59.

JUSTICES OF OYER AND TERMINER. Certain persons appointed by the king's commission, among whom were usually two judges of the courts at Westminster, and who went twice in every year to every county of the kingdom, (except London and Middlesex,) and, at what was usually called the "assizes," heard and determined all treasons, felonies, and misdemeanors. Brown.

JUSTICES OF THE BENCH. The justices of the court of common bench or common pleas.

JUSTICES OF THE FOREST. In old English law. Officers who had jurisdiction over all offenses committed within the forest against vert or venison. The court wherein these justices sat and determined such causes was called the "justice seat of the forest." They were also sometimes called the "justices in eyre of the forest." Brown.

JUSTICES OF THE HUNDRED. Hundredors; lords of the hundreds; they who had the jurisdiction of hundreds and held the hundred courts.

JUSTICES OF THE JEWS. Justices appointed by Richard I. to carry into effect the laws and orders which he had made for regulating the money contracts of the Jews. Brown.

JUSTICES OF THE PAVILION. In old English law. Judges of a pyepowder court, of a most transcendent jurisdiction, anciently authorized by the bishop of Winchester, at a fair held on St. Giles' hills near that city. Cowell; Blount.

JUSTICES OF TRAIL-BASTON. In old English law. A kind of justices appointed by King Edward I. upon occasion of great disorders in the realm, during his absence in the Scotch and French wars. They were a kind of justices in eyre, with great powers adapted to the emergency, and which they exercised in a summary manner. Cowell; Blount.

JUSTICESHIP. Rank or office of a justice.

JUSTICIABLE. Proper to be examined in courts of justice.

JUSTICIAR. In old English law. A judge or justice. One of several persons learned in the law, who sat in the aula regis, and formed a kind of court of appeal in cases of difficulty.

JUSTICIARII ITINERANTES. In English law. Justices in eyre, who formerly went from county to county to administer justice. They were so called to distinguish them from justices residing at Westminster, who were called "justicii residentes." Co. Litt. 293.

JUSTICIARII RESIDENTES. In English law. Justices or judges who usually resided in Westminster. They were so called to distinguish them from justices in eyre. Co. Litt. 293.

JUSTICIARY. An old name for a judge or justice. The word is formed on the analogy of the Latin "justiciarius" and French "justicier."

JUSTICIARY COURT. The chief criminal court of Scotland, consisting of five lords of session, added to the justice general and justice clerk; of whom the justice general, and, in his absence, the justice clerk, is president. This court has a jurisdiction over all crimes, and over the whole of Scotland. Bell.
JUSTICIATUS. Judicature; prerogative.

JUSTICIES. In English law. A writ directed to the sheriff, empowering him, for the sake of dispatch, to try an action in his county court for a larger amount than he has the ordinary power to do. It is so called because it is a commission to the sheriff to do the party justice, the word itself meaning, "You may do justice to——," 3 Bl. Comm. 36; 4 Inst. 266.

JUSTIFIABLE. Rightful; warranted or sanctioned by law; that which can be shown to be sustained by law; as justifiable homicide.

JUSTIFIABLE HOMICIDE. Such as is committed intentionally, but without any evil design, and under such circumstances of necessity or duty as render the act proper, and relieve the party from any shadow of blame; as where a sheriff lawfully executes a sentence of death upon a malefactor, or where the killing takes place in the endeavor to prevent the commission of a felony which could not be otherwise avoided.

JUSTIFICATION. A maintaining or showing a sufficient reason in court why the defendant did what he is called upon to answer, particularly in an action of libel. A defense of justification is a defense showing the libel to be true, or in an action of assault showing the violence to have been necessary. See Steph. Pl. 184.

In practice. The proceeding by which bail establish their ability to perform the undertaking of the bond or recognizance.

JUSTIFICATORS. A kind of compurgators, (q. e.) or those who by oath justified the innocence or oaths of others; as in the case of wager of law.

JUSTIFYING BAIL consists in proving the sufficiency of bail or sureties in point of property, etc.

The production of bail in court, who there justify themselves against the exception of the plaintiff.

JUSTINIANIST. A civilian; one who studies the civil law.

JUSTITIA. Lat. Justice. A jurisdiction, or the office of a judge.

Justitia debet esse libera, quia nihil iniquius venali justitia; plena, quia justitia non debet clandicoare; et celeris, quia dilatio est quaedam negatio. Justice ought to be free, because nothing is more iniquitous than venal justice; full, because justice ought not to halt; and speedy, because delay is a kind of denial. 2 Inst. 56.

Justititia est constans et perpetua voluntas jus suum cuique tribuendi. Justice is a steady and unceasing disposition to render to every man his due. Inst. 1, 1, pr.; Dig. 1, 1, 10.

Justititia est duplex, viz., severe puniendis et vere preveniendis. 3 Inst. Epl. Justice is double; punishing severely, and truly preventing.

Justititia est virtus excellens et Altissimo complacens. 4 Inst. 58. Justice is excellent virtue and pleasing to the Most High.

Justititia firmatur solium. 3 Inst. 140. By justice the throne is established.

Justititia nemini neganda est. Jenk. Cent. 178. Justice is to be denied to none.

Justititia non est neganda non differenda. Jenk. Cent. 93. Justice is neither to be denied nor delayed.

Justititia non novit patrem nec matrem; solam veritatem spectat justitia. Justice knows not father nor mother; justice looks at truth alone. 1 Bulst. 199.

JUSTITIA PIEPOUDROUS. Speedy justice. Bract. 333b.

JUSTITIUM. In the civil law. A suspension or intermission of the administration of justice in courts; vacation time. Calvin.

JUSTITIUM FACERE. To hold a plea of anything.

JUSTIZA. In Spanish law. The name anciently given to a high judicial magistrate, or supreme judge, who was the ultimate interpreter of the laws, and possessed other high powers.

JUSTS, or JOUSTS. Exercises between martial men and persons of honor, with spears, on horseback; different from tournaments, which were military exercises between many men in troops. 24 Hen. VIII. c. 13.

Justum non est aliquum antenatum mortuum facere bastardum, qui pro tota vita sua pro legitimo habetur. It is not just to make a bastard after his death one elder born who all his life has been accounted legitimate. 8 Coke, 101.
JUXTA. Lat. Near; following; according to.

JUXTA CONVENTIONEM. According to the covenant. Fleta, lib. 4, c. 16, § 6.

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

JUXTA RATAM. At or after the rate. Dyer, 82.

JUXTA TENOREM SEQUENTEM. According to the tenor following. 2 Salk. 417. A phrase used in the old books when the very words themselves referred to were set forth. Id.; 1 Ld. Raym. 415.

JUZGADO. In Spanish law. The judiciary; the body of judges; the judges who concur in a decree.