K.

K. B. An abbreviation for "King's Bench." (q. v.)

KABANI. A person who, in oriental states, supplies the place of our notary public. All obligations, to be valid, are drawn by him; and he is also the public weigh-master, and everything of consequence ought to be weighed before him. Enc. Lond.

KABOOLEAT. In Hindu law. A written agreement, especially one signifying assent, as the counterpart of a revenue lease, or the document in which a payer of revenue, whether to the government, the zamindar, or the farmer, expresses his consent to pay the amount assessed upon his land. Wils. Ind. Gloss.

KAIA. A key, kay, or quay. Spelman.

KAIAGE, or KAIAGIUM. A wharfage-due.

KAIN. In Scotch law. Poultry renderable by a vassal to his superior, reserved in the lease as the whole or a part of the rent. Bell.

KALALCONNA. A duty paid by shopkeepers in Hindostan, who retail spirituous liquors; also the place where spirituous liquors are sold. Wharton.

KALENæ. In English ecclesiastical law. Rural chapters, or conventions of the rural deans and parochial clergy, which were formerly held on the calends of every month; hence the name. Paroch. Antiq. 604.

KALENDAR. An account of time, exhibiting the days of the week and month, the seasons, etc. More commonly spelled "calendar."

KALENARIUM. In the civil law. A calendar; a book of accounts, memorandum-book, or debt-book; a book in which accounts were kept of moneys loaned out on interest. Dig. 32, 64. So called because the Romans used to let out their money and receive the interest on the calends of each month. Calvin.

KALENS. See CALEND'S.


KARRATA. In old records. A cart-load. Cowell; Blount.

KAST. In Swedish law. Jettison; a literal translation of the Latin "jactus."

KAST-GELD. In Swedish law. Contribution for a jettison; average.

KAY. A quay, or key.

KAZY. A Mohammedan judge or magistrate in the East Indies, appointed originally by the court at Delhi, to administer justice according to their written law. Under the British authorities their judicial functions ceased, and their duties were confined to the preparation and attestation of deeds, and the superintendence and legalization of marriage and other ceremonies among the Mohammedans. Wharton.

KEELAGE. The right to demand money for the privilege of anchoring a vessel in a harbor; also the money so paid.

KEELHALE, KEELHAUL. To drag a person under the keel of a ship by means of ropes from the yard-arms, a punishment formerly practiced in the British navy. Enc. Lond.

KEELS. This word is applied, in England, to vessels employed in the carriage of coals. Jacob.

KEEP. A strong tower or hold in the middle of any castle or fortification, wherein the besieged make their last efforts of defense, was formerly, in England, called a "keep;" and the inner pile within the castle of Dover, erected by King Henry II. about the year 1153, was termed the "King's Keep," so at Windsor, etc. It seems to be something of the same nature with what is called abroad a "citadel." Jacob.

KEEP DOWN INTEREST. The expression "keeping down interest" is familiar in legal instruments, and means the payment of interest periodically as it becomes due; but it does not include the payment of all arrears of interest which may have become due on any security from the time when it was executed. 4 El. & Bl. 211.

KEEP IN REPAIR. When a lessee is bound to keep the premises in repair, he must have them in repair at all times during the term; and, if they are at any time out of re-
pair, he is guilty of a breach of the covenant. 1 Barn. & Ald. 585.

KEEPER OF THE FOREST. In old English law. An officer (called also chief warden of the forest) who had the principal government of all things relating to the forest, and the control of all officers belonging to the same. Cowell; Blount.

KEEPER OF THE GREAT SEAL. In English law. A high officer of state, through whose hands pass all charters, grants, and commissions of the king under the great seal. He is styled “lord keeper of the great seal,” and this office and that of lord chancellor are united under one person: for the authority of the lord keeper and that of the lord chancellor were, by St. 5 Eliz. c. 18, declared to be exactly the same; and, like the lord chancellor, the lord keeper at the present day is created by the mere delivery of the king’s great seal into his custody. Brown.

KEEPER OF THE PRIVY SEAL. In English law. An officer through whose hands pass all charters signed by the king before they come to the great seal. He is a privy councillor, and was anciently called “clerk of the privy seal,” but is now generally called the “lord privy seal.” Brown.


KEEPING HOUSE. The English bankrupt laws use the phrase “keeping house” to denote an act of bankruptcy. It is committed when a trader absents himself from his place of business and retires to his private residence to evade the importunity of creditors. The usual evidence of “keeping house” is refusal to see a creditor who has called on the debtor at his house for money. Robs. Bankr. 119.

KEEPING OPEN. To allow general access to one’s shop, for purposes of traffic, is a violation of a statute forbidding him to “keep open” his shop on the Lord’s day, although the outer entrances are closed. 11 Gray, 308.

To “keep open,” in the sense of such a law, implies a readiness to carry on the usual business in the store, shop, saloon, etc. 16 Mich. 472.

KEEPING TERM. In English law. A duty performed by students of law, consisting in eating a sufficient number of dinners in hall to make the term count for the pur-
KEYAGE. A toll paid for loading and unloading merchandise at a key or wharf.

KEYS, in the Isle of Man, are the twenty-four chief commoners, who form the local legislature. 1 Steph. Comm. 99.

In old English law. A guardian, ward, or keeper.

KEYS OF COURT. In old Scotch law.

Certain officers of courts. See CLAVES CURLE.

KEYUS. A guardian, warden, or keeper.


KHALSA. In Hindu law. An office of government in which the business of the revenue department was transacted under the Mohammedan government, and during the early period of British rule. Kalsas lands are lands, the revenue of which is paid into the exchequer. Wharton.

KIDDER. An engrosser of corn to enhance its price.

KIDDIE. In old English law. A dam or open wear in a river, with a loop or narrow cut in it, accommodated for the laying of engines to catch fish. 2 Inst. 38; Blount.

KIDNAPPING. The forcible abduction or stealing away of a man, woman, or child from their own country, and sending them into another. It is an offense punishable at the common law by fine and imprisonment. 4 Bl. Comm. 219.

In American law, this word is seldom, if at all, applied to the abduction of other persons than children, and the intent to send them out of the country does not seem to constitute a necessary part of the offense. The term is said to include false imprisonment. 2 Bish. Crim. Law, § 671.

KILDERKIN. A measure of eighteen gallons.

KILKETH. An ancient servile payment made by tenants in husbandry. Cowell.

KILL, v. To deprive of life; to destroy the life of an animal. The word "homicide" expresses the killing of a human being.

KILL, n. A Dutch word, signifying a channel or bed of the river, and hence the river or stream itself. It is found used in this sense in descriptions of land in old conveyances. 1 N. Y. 96.

KILLYTH-STALLION. A custom by which lords of manors were bound to provide a stallion for the use of their tenants' mares. Spelman.

KIN. Relation or relationship by blood or consanguinity. "The nearness of kin is computed according to the civil law." 2 Kent, Comm. 413.

KIND. Genus; generic class; description. See IN KIND.

KINDRED. Relatives by blood. "Kindred of the whole blood, preferred to kindred of the half blood." 4 Kent, Comm. 404, notes.

KING. The sovereign, ruler, or chief executive magistrate of a state or nation whose constitution is of the kind called "monarchical" is thus named if a man; if it be a woman, she is called "queen." The word expresses the idea of one who rules singly over a whole people or has the highest executive power; but the office may be either hereditary or elective, and the sovereignty of the king may or may not be absolute, according to the constitution of the country.

KING-CRAFT. The art of governing.

KING-GELD. A royal aid; an escuse. (q. v.)

KING'S BENCH. The supreme court of common law in England, being so called because the king used formerly to sit there in person, the style of the court being "coram ipso rege." It was called the "queen's bench" in the reign of a queen, and during the protectorate of Cromwell it was styled the "upper bench." It consisted of a chief justice and three puisne justices, who were by their office the sovereign conservators of the peace and supreme coroners of the land. It was a remnant of the aula regis, and was not originally fixed to any certain place, but might follow the king's person, though for some centuries past it usually sat at Westminster. It had a very extended jurisdiction both in criminal and civil causes; the former in what was called the "crown side" or "crown office," the latter in the "plea side," of the court. Its civil jurisdiction was gradually enlarged until it embraced all species of personal actions. Since the judicature acts, this court constitutes the "queen's bench division" of the "high court of justice." See 3 Bl. Comm. 41-43.

KING'S CHAMBERS. Those portions of the seas, adjacent to the coasts of Great Britain, which are inclosed within headlands so as to be cut off from the open sea by imaginary straight lines drawn from one promontory to another.
KING'S COUNSEL

KING'S (or QUEEN'S) COUNSEL. Barristers or sergeants who have been called within the bar and selected to be the king's counsel. They answer in some measure to the "advocati fisci," or advocates of the revenue, among the Romans. They must not be employed against the crown without special leave, which is, however, always granted, at a cost of about nine pounds. 3 Bl. Comm. 27.

KING'S EVIDENCE. An accomplice in a felony, who, on an implied promise of pardon if he fully and fairly discloses the truth, is admitted as evidence for the crown against his accomplices. 1 Phil. Ev. 31.

KING'S SILVER. In old English practice. A fine due the king pro licentia concordandi, (for leave to agree,) in the process of levying a fine. 5 Coke, 33, 43; 2 Inst. 511; 2 Bl. Comm. 350.

KING'S WIDOW. In feudal law. A widow of the king's tenant in chief, who was obliged to take oath in chancery that she would not marry without the king's leave.

KINGDOM. A country where an officer called a "king" exercises the powers of government, whether the same be absolute or limited. Wolff, Inst. Nat. § 994. In some kingdoms, the executive officer may be a woman, who is called a "queen."

KINGS-AT-ARM. The principal herald of England was of old designated "king of the heralds," a title which seems to have been exchanged for "kings-at-arms" about the reign of Henry IV. The kings-at-arms at present existing in England are three,—Garter, Clarenceux, and Norroy, besides Bath, who is not a member of the college. Scotland is placed under an officer called "Lyon King-at-Arms," and Ireland is the province of one named "Ulster." Wharton.

KINSBOTE. In Saxon law. A composition or satisfaction paid for killing a kinsman. Spelman.

KINSFOLK. Relations; those who are of the same family.

KINSMAN. A man of the same race or family.

KINSWOMAN. A female relation.

KINTAL, or KINTLE. A hundred pounds in weight. See QUINTAL.

KINTLIDGE. A ship's ballast. See KENTLAGE.

KIPPER-TIME. In old English law. The space of time between the 8d of May and the Epiphany, in which fishing for salmon in the Thames, between Gravesend and Henley-on-Thames, was forbidden. Rot. Parl. 50 Edw. III.

KIRBY'S QUEST. In English law. An ancient record remaining with the remembrancer of the exchequer, being an inquiry or survey of all the lands in England, taken in the reign of Edward I. by John de Kirby, his treasurer. Blount; Cowell.

KIRK-MOTE. In Scotch law. A meeting of parishioners on church affairs.

KIRK-OFFICER. The beadle of a church in Scotland.

KIRK-SESSION. A parochial church court in Scotland, consisting of the ministers and elders of each parish.

KISSING THE BOOK. The ceremony of touching the lips to a copy of the Bible, used in administering oaths. It is the external symbol of the witness' acknowledgment of the obligation of the oath.

KIST. In Hindu law. A stated payment; installment of rent.

KLEPTOMANIA. A species (or symptom) of mania, consisting in an irresistible propensity to steal. See 10 Tex. App. 529.

KNAVE. A rascal; a false, tricky, or deceitful person. The word originally meant a boy, attendant, or servant, but long-continued usage has given it its present signification.

KNAVESHIP. A portion of grain given to a mill-servant from tenants who were bound to grind their grain at such mill.

KNIGHT. In English law. The next personal dignity after the nobility. Of knights there are several orders and degrees. The first in rank are knights of the Garter, instituted by Richard I. and improved by Edward III. in 1344; next follows a knight banneret; then come knights of the Bath, instituted by Henry IV., and revived by George I.; and they were so called from a ceremony of bathing the night before their creation. The last order are knights bachelors, who, though the lowest, are yet the most ancient, order of knighthood; for we find that King Alfred conferred this order upon his son Athelstan. 1 Bl. Comm. 403.

KING-MARSHAL. In English law. An officer in the royal household who has
jurisdiction and cognizance of offenses committed within the household and verge, and of all contracts made therein, a member of the household being one of the parties. Wharton.

KNIGHT-SERVICE. A species of feudal tenure, which differed very slightly from a pure and perfect feud, being entirely of a military nature; and it was the first, most universal, and most honorable of the feudal tenures. To make a tenure by knight-service, a determinate quantity of land was necessary, which was called a "knight's fee," (feodum militare,) the measure of which was estimated at 680 acres. Co. Litt. 69a; Brown.

KNIGHT'S FEE. The determinate quantity of land, (held by an estate of inheritance,) or of annual income therefrom, which was sufficient to maintain a knight. Every man holding such a fee was obliged to be knighted, and attend the king in his wars for the space of forty days in the year, or pay a fine (called "escueage") for his non-compliance. The estate was estimated at £20 a year, or, according to Coke, 689 acres. See 1 Bl. Comm. 404, 410; 2 Bl. Comm. 62; Co. Litt. 69a.

KNIGHTENCOURT. A court which used to be held twice a year by the bishop of Hereford, in England.

KNIGHTENGUILD. An ancient guild or society formed by King Edgar.

KNIGHTHOOD. The rank, order, character, or dignity of a knight.

KNIGHTS BACHELORS. In English law. The most ancient, though lowest, order of knighthood. 1 Bl. Comm. 404.

KNIGHTS BANNERET. In English law. Those created by the sovereign in person on the field of battle. They rank generally, after knights of the Garter. 1 Bl. Comm. 403.

KNIGHTS OF ST. MICHAEL AND ST. GEORGE. An English order of knighthood, instituted in 1818.

KNIGHTS OF ST. PATRICK. Instituted in Ireland by George III., A. D. 1763. They have no rank in England.

KNIGHTS OF THE BATH. An order instituted by Henry IV., and revived by George I. They are so called from the ceremony formerly observed of bathing the night before their creation.

KNIGHTS OF THE CHAMBER. Those created in the sovereign's chamber in time of peace, not in the field. 2 Inst. 666.

KNIGHTS OF THE GARTER. Otherwise called "Knights of the Order of St. George." This order was founded by Richard I., and improved by Edward III., A. D. 1344. They form the highest order of knights.

KNIGHTS OF THE POST. A term for hiring witnesses.

KNIGHTS OF THE SHIRE. In English law. Members of parliament representing counties or shires, in contradistinction to citizens or burgesses, who represent boroughs or corporations. A knight of the shire is so called, because, as the terms of the writ for election still require, it was formerly necessary that he should be a knight. This restriction was coeval with the tenure of knight-service, when every man who received a knight's fee immediately of the crown was constrained to be a knight; but at present any person may be chosen to fill the office who is not an alien. The money qualification is abolished by 21 Vict. c. 25. Wharton.

KNIGHTS OF THE THISTLE. A Scottish order of knighthood. This order is said to have been instituted by Acharus, king of Scotland, A. D. 819. The better opinion, however, is that it was instituted by James V., in 1534, was revived by James VII. (James II. of England) in 1687, and re-established by Queen Anne in 1703. They have no rank in England. Wharton.

KNOCK DOWN. To assign to a bidder at an auction by a knock or blow of the hammer. Property is said to be "knocked down" when the auctioneer, by the fall of his hammer, or by any other audible or visible announcement, signifies to the bidder that he is entitled to the property on paying the amount of his bid, according to the terms of the sale. "Knocked down" and "struck off" are synonymous terms. 7 Hill, 493.

KNOT. In seamen's language, a "knot" is a division of the log-line serving to measure the rate of the vessel's motion. The number of knots which run off from the reel in half a minute shows the number of miles the vessel sails in an hour. Hence when a ship goes eight miles an hour she is said to go "eight knots." Webster.

KNOW ALL MEN. In conveyancing. A form of public address, of great antiquity.
and with which many written instruments, such as bonds, letters of attorney, etc., still commence.

KNOWINGLY. With knowledge; consciously; intelligently. The use of this word in an indictment is equivalent to an averment that the defendant knew what he was about to do, and, with such knowledge, proceeded to do the act charged. 14 Fed. Rep. 128.

KNOWLEDGE. The difference between “knowledge” and “belief” is nothing more than in the degree of certainty. With regard to things which make not a very deep impression on the memory, it may be called “belief.” “Knowledge” is nothing more than a man’s firm belief. The difference is ordinarily merely in the degree, to be judged of by the court, when addressed to the court; by the jury, when addressed to the jury. 9 Gray, 271.

Knowledge may be classified, in a legal sense, as positive and imputed.—Imputed, when the means of knowledge exists, known and accessible to the party, and capable of communicating positive information. When there is knowledge, notice, as legally and technically understood, becomes immaterial. It is only material when, in the absence of knowledge, it produces the same results. However closely actual notice may, in many instances, approximate knowledge, and construct
L. This letter, as a Roman numeral, stands for the number "fifty." It is also used as an abbreviation for "law," "liber," (a book,) "lord," and some other words of which it is the initial.

L. 5. An abbreviation of "Long Quinto," one of the parts of the Year Books.

L. C. An abbreviation which may stand either for "Lord Chancellor," "Lower Canada," or "Leading Cases."

L. J. An abbreviation for "Law Judge;" also for "Law Journal."

L. L. (also L. Lat.) and L. F. (also L. Fr.) are used as abbreviations of the terms "Law Latin" and "Law French."

L. R. An abbreviation for "Law Reports."

L. S. An abbreviation for "Locus sigilli," the place of the seal, i. e., the place where a seal is to be affixed, or a scroll which stands instead of a seal.

LL. The reduplicated form of the abbreviation "L." for "law," used as a plural. It is generally used in citing old collections of statute law; as "LL. Hen. I."

LL.B., LL.M., and LL.D. Abbreviations used to denote, respectively, the three academic degrees in law,—bachelor, master, and doctor of laws.

LA. Fr. The. The definite article in the feminine gender. Occurs in some legal terms and phrases; as "Termes de la Ley," terms of the law.

LA. Fr. There. An adverb of time and place; whereas.

LA CHAMBRE DES ESTEILLES. The star-chamber.

La conscience est la plus changeante des règles. Conscience is the most changeable of rules. Bouv. Dict.

La ley favouir la vie d'un home. The law favors the life of a man. Yearb. M. 10 Hen. VI. 51.


La ley voct plus tost suffer un mischeife que un inconvenience. The law will sooner suffer a mischief than an inconvenience. Litt. § 231. It is holden for an inconvenience that any of the maxims of the law should be broken, though a private man suffer loss. Co. Litt. 152b.

LAAS. A net, gin, or snare.

LABEL. Anything appended to a larger writing, as a codicil; a narrow slip of paper or parchment affixed to a deed or writ, in order to hold the appending seal.

In the vernacular, the word denotes a printed or written slip of paper affixed to a manufactured article, giving information as to its nature or quality, or the contents of a package, name of the maker, etc.

A copy of a writ in the exchequer. 1 Tidd, Pr. 156.

LABINA. In old records. Watery land.

LABOR. Work; toil; service. Continued exertion, of the more onerous and inferior kind, usually and chiefly consisting in the protracted expenditure of muscular force, adapted to the accomplishment of specific useful ends. It is used in this sense in several legal phrases, such as "a count for work and labor," "wages of labor," etc.

"Labor," "business," and "work" are not synonyms. Labor may be business, but it is not necessarily so; and business is not always labor. Labor implies toil; exertion producing weariness; manual exertion of a toilsome nature. Making an agreement for the sale of a chattel is not within a prohibition of common labor upon Sunday, though it is (if by a merchant in his calling) within a prohibition upon business. 2 Ohio St. 387.

LABOR A JURY. In old practice. To tamper with a jury; to endeavor to influence them in their verdict, or their verdict generally.

LABORARIS. An ancient writ against persons who refused to serve and do labor, and who had no means of living; or against such as, having served in the winter, refused to serve in the summer. Reg. Orig. 189.

LABORER. One who, as a means of livelihood, performs work and labor for those who employ him. In English statutes, this term is generally understood to designate a servant employed in husbandry or manufactures, and not dwelling in the home of his employer. Wharton; Mozley & Whitley.

A laborer, as the word is used in the Pennsylvania act of 1872, giving a certain preference of lien,
LADY. In English law. The title belonging to the wife of a peer, and (by courtesy) the wife of a baronet or knight, and also to any woman, married or sole, whose father was a nobleman of a rank not lower than that of earl.

LADY-COURT. In English law. The court of a lady of the manor.

LADY DAY. The 25th of March, the feast of the Annunciation of the Blessed Virgin Mary. In parts of Ireland, however, they so designate the 15th of August, the festival of the Assumption of the Virgin.

LADY'S FRIEND. The style of an officer of the English house of commons, whose duty was to secure a suitable provision for the wife, when her husband sought a divorce by special act of parliament. The act of 1857 abolished parliamentary divorces, and this office with them.

LAESMAJESTAS. Lat. Lat-majesty, or injured majesty; high treason. It is a phrase taken from the civil law, and anciently meant any offense against the king's person or dignity.

LÆSIO ULTRA DIMIDIIUM VEL ENORMIS. In Roman law. The injury sustained by one of the parties to an onerous contract when he had been overreached by the other to the extent of more than one-half of the value of the subject-matter; e.g., when a vendor had not received half the value of property sold, or the purchaser had paid more than double value. Colq. Rom. Civil Law, § 2094.

LESIONE FIDEI, SUITS PRO. Suits in the ecclesiastical courts for spiritual offenses against conscience, for non-payment of debts, or breaches of civil contracts. This attempt to turn the ecclesiastical courts into courts of equity was checked by the constitutions of Clarendon, A. D. 1164. 3 Bl. Comm. 52.

LESIWERP. A thing surrendered into the hands or power of another; a thing given or delivered. Spelman.

LÆT. In old English law. One of a class between servile and free. Palgrave, i. M 354.
LEITERE JERUSALEM. Easter offerings, so called from these words in the hymn of the day. They are also denominated "quadragesimalia." Wharton.

LÆTHE, or LATHE. A division or district peculiar to the county of Kent. Spelman.

LAFORDSWIC. In Saxon law. A betraying of one's lord or master.

LAGA. L. Lat., from the Saxon "lag." Law; a law.

LAGAN. See LIGAN.

LAGE DAY. In old English law. A law day; a time of open court; the day of the county court; a juridical day.


LAGU. In old English law. Law; also used to express the territory or district in which a particular law was in force, as Dena lagu, Mercia lagu, etc.

LAHHSLIT. A breach of law. Cowell. A mulct for an offense, viz., twelve "ores."

LAHMAN, or LAGEMANNUS. An old word for a lawyer. Domesday, i. 189.


LAICUS. A layman. One who is not in holy orders, or not engaged in the ministry of religion.

LAIWITE, or LAIRESITE. A fine for adultery or fornication, anciently paid to the lords of some manors. 4 Inst. 206.

LAIS GENTS. L. Fr. Lay people; a jury.

LAITY. In English law. Those persons who do not make a part of the clergy. They are divided into three states: (1) Civil, including all the nation, except the clergy, the army, and navy, and subdivided into the nobility and the commonalty; (2) military; (3) maritime, consisting of the navy. Wharton.

LAKE. A large body of water, contained in a depression of the earth's surface, and supplied from the drainage of a more or less extended area. Webster.

The fact that there is a current from a higher to a lower level does not make that a river which would otherwise be a lake; and the fact that a river swells out into broad, pond-like sheets, with a current, does not make that a lake which would otherwise be a river. 14 N. H. 477.


LAMB. A sheep, ram, or ewe under the age of one year. 4 Car. & P. 216.

LAMBARD'S ARCHAIONOMIA. A work printed in 1568, containing the Anglo-Saxon laws, those of William the Conqueror, and of Henry I.

LAMBARD'S EIRENARCHA. A work upon the office of a justice of the peace, which, having gone through two editions, one in 1579, the other in 1581, was reprinted in English in 1599.

LAMBETH DEGREE. In English law. A degree conferred by the Archbishop of Canterbury, in prejudice of the universities. 3 Steph. Comm. 65; 1 Bl. Comm. 381.

LAME DUCK. A cant term on the stock exchange for a person unable to meet his engagements.

LAMMAS DAY. The 1st of August. It is one of the Scotch quarter days, and is what is called a "conventional term."

LAMMAS LANDS. Lands over which there is a right of pasturage by persons other than the owner from about Lammas, or reaping time, until sowing time. Wharton.

LANA. Lat. In the civil law. Wool. See Dig. 82, 60, 70, 88.

LANCASTER. A county of England, erected into a county palatine in the reign of Edward III., but now vested in the crown.

LANCETI. In feudal law. Vassals who were obliged to work for their lord one day in the week, from Michaelmas to autumn, either with fork, spade, or flail, at the lord's option. Spelman.

LAND, in the most general sense, comprehends any ground, soil, or earth whatsoever; as meadows, pastures, woods, moors, waters, marshes, furzes, and heath. Co. Litt. 4a.

The word "land" includes not only the soil, but everything attached to it, whether attached by the course of nature, as trees, herbage, and water, or by the hand of man, as buildings and fences. 1 N. Y. 572; 2 Bl. Comm. 16, 17.

Land is the solid material of the earth, whatever may be the ingredients of which it is composed,
whether soil, rock, or other substance. Civil Code Cal. § 659.

Philosophically, it seems more correct to say that the word "land" means, in law, as in the vernacular, the soil; or portion of the earth's crust; and to explain or justify such expressions as that "whoever owns the land owns the buildings above and the minerals below," upon the view, not that these are within the extension of the term "land," but that they are so connected with it by rules of law they pass by a conveyance of the land. This view makes "land," as a term, narrower in signification than "realty;" though it would allow an instrument speaking of land to operate co-extensively with one granting realty or real property by either of those terms. But many of the authorities use the expression "land" as including these incidents to the soil. Abbott.

LAND CERTIFICATE. Upon the registration of freehold land under the English land transfer act, 1875, a certificate is given to the registered proprietor, and similarly upon every transfer of registered land. This registration supersedes the necessity of any further registration in the register counties. Sweet.

LAND COURT. In American law. A court formerly existing in St. Louis, Mo., having a limited territorial jurisdiction over actions concerning real property, and suits for dower, partition, etc.

LAND-GABEL. A tax or rent issuing out of land. Spelman says it was originally a penny for every house. This land-gabel, or land-gazel, in the register of Domesday, was a quit-rent for the site of a house, or the land wherein it stood; the same with what we now call "ground-rent." Wharton.

"LAND-POOR." By this term is generally understood that a man has a great deal of unproductive land, and perhaps is obliged to borrow money to pay taxes; but a man "land-poor" may be largely responsible. 46 Mich. 397, 9 N. W. Rep. 445.

LAND-REEVE. A person whose business it is to overlook certain parts of a farm or estate; to attend not only to the woods and hedge-timber, but also to the state of the fences, gates, buildings, private roads, driftways, and water-courses; and likewise to the stocking of commons, and encroachments of every kind, as well as to prevent or detect waste and spoil in general, whether by the tenants or others; and to report the same to the manager or land steward. Enc. Lond.

LAND STEWARD. A person who overlooks or has the management of a farm or estate.

LAND TAX. A tax laid upon the legal or beneficial owner of real property, and apportioned upon the assessed value of his land.

LAND TENANT. The person actually in possession of land; otherwise styled the "terre-tenant."

LAND TITLES AND TRANSFER ACT. An English statute (38 & 39 Vict. c. 87) providing for the establishment of a registry for titles to real property, and making sundry provisions for the transfer of lands and the recording of the evidences thereof. It presents some analogies to the recording laws of the American states.

LAND WAITER. In English law. An officer of the custom-house, whose duty is, upon landing any merchandise, to examine, taste, weigh, or measure it, and to take an account thereof. In some ports they also execute the office of a coast waiter. They are likewise occasionally styled "searchers," and are to attend and join with the patent searcher in the execution of all cockets for the shipping of goods to be exported to foreign parts; and, in cases where drawbacks on bounties are to be paid to the merchant on the exportation of any goods, they, as well as the patent searchers, are to certify the shipping thereof on the debentures. Enc. Lond.

LAND WARRANT. The evidence which the state, on good consideration, gives that the person therein named is entitled to the quantity of land therein specified, the bounds and description of which the owner of the warrant may fix by entry and survey, in the section of country set apart for its location and satisfaction. 6 Yerg. 205.

LANDA. An open field without wood; a lawnd or lawn. Cowell; Blount.

LANDAGENDE, LANDHLAORD, or LANDRICA. In Saxon law. A proprietor of land; lord of the soil. Anc. Inst. Eng.

LANDBOC. In Saxon law. A charter or deed by which lands or tenements were given or held. Spelman; Cowell; 1 Reeve, Eng. Law, 10.

LANDCHEAP. In old English law. An ancient customary fine, paid either in money or cattle, at every alienation of land lying within some manor, or within the liberty of some borough. Cowell; Blount.
LANDEA. In old English law. A ditch or trench for conveying water from marshy grounds. Spelman.

LANDED. Consisting in real estate or land; having an estate in land.

LANDED ESTATES COURT. The court which deals with the transfer of land and the creation of title thereto in Ireland.

LANDED PROPRIETOR. Any person having an estate in lands, whether highly improved or not. 10 La. Ann. 677.

LANDEFRICUS. A landlord; a lord of the soil.

LANDEGANDMAN. Sax. In old English law. A kind of customary tenant or inferior tenant of a manor. Spelman.

LANDGRAVE. A name formerly given to those who executed justice on behalf of the German emperors, with regard to the internal policy of the country. It was applied, by way of eminence, to those sovereign princes of the empire who possessed by inheritance certain estates called "land-gravates," of which they received investiture from the emperor. Enc. Lond.


LANDING. A place on a river or other navigable water for lading and unlading goods, or for the reception and delivery of passengers; the terminus of a road on a river or other navigable water, for the use of travelers, and the loading and unloading of goods. 1 Strob. 111.

A place for loading or unloading boats, but not a harbor for them. 74 Pa. St. 373.

LANDDIRECTA. In Saxon law. Services and duties laid upon all that held land, including the three obligations called "trinoda necessitas," (q. v.) quasi land rights. Cowell.

LANDLOCKED. An expression sometimes applied to a piece of land belonging to one person and surrounded by land belonging to other persons, so that it cannot be approached except over their land. L. R. 13 Ch. Div. 798; Sweet.

LANDLORD. He of whom lands or tenements are held. He who, being the owner of an estate in land, has leased the same for a term of years, on a rent reserved, to another person, called the "tenant."

When the absolute property in or fee-sim-ple of the land belongs to a landlord, he is then sometimes denominated the "ground landlord," in contradistinction to such a one as is possessed only of a limited or particular interest in land, and who himself holds under a superior landlord. Brown.

LANDLORD AND TENANT. A phrase used to denote the familiar legal relation existing between lessor and lessee of real estate. The relation is contractual, and is constituted by a lease (or agreement therefor) of lands for a term of years, from year to year, for life, or at will.

LANDLORD'S WARRANT. A distress warrant; a warrant from a landlord to levy upon the tenant's goods and chattels, and sell the same at public sale, to compel payment of the rent or the observance of some other stipulation in the lease.

LANDMARK. A monument or erection set up on the boundary line of two adjoining estates, to fix such boundary. The removing of a landmark is a wrong for which an action lies.

LANDS. This term, the plural of "land," is said, at common law, to be a word of less extensive signification than either "tenements" or "hereditaments." But in some of the states it has been provided by statute that it shall include both those terms.

LANDS CLAUSES CONSOLIDATION ACTS. The name given to certain English statutes, (8 Vict. c. 8, amended by 23 & 24 Vict. c. 106, and 32 & 33 Vict. c. 18,) the object of which was to provide legislative clauses in a convenient form for incorporation by reference in future special acts of parliament for taking lands, with or without the consent of their owners, for the promotion of railways, and other public undertakings. Mozley & Whitley.

LANDS, TENEMENTS, AND HEREDITAMENTS. The technical and most comprehensive description of real property, as "goods and chattels" is of personality. Williams, Real Prop. 5.

LANDSLAGH. In Swedish law. A body of common law, compiled about the thirteenth century, out of the particular customs of every province; being analogous to the common law of England. 1 Bl. Comm. 66.

LANDWARD. In Scotch law. Rural. 7 Bell, App. Cas. 2.
LANGEHMAN. A lord of a manor. 1 Inst. 5.

LANGEOLUM. An undergarment made of wool, formerly worn by the monks, which reached to their knees. Mon. Angl. 419.

LANGUAGE. Any means of conveying or communicating ideas; specifically, human speech, or the expression of ideas by written characters. The letter, or grammatical import, of a document or instrument, as distinguished from its spirit; as "the language of the statute."

LANGUIDUS. In practice. The name of a return made by the sheriff when a defendant, whom he has taken by virtue of process, is so dangerously sick that to remove him would endanger his life or health. 3 Chit. Pr. 249, 358.

LANIS DE CRESCENTIA WALLÆ TRADUCENDIS ABSQUE CUSTUMA, etc. An ancient writ that lay to the customer of a port to permit one to pass wool without paying custom, he having paid it before in Wales. Reg. Orig. 279.


LANZAS. In Spanish law. A commutation in money, paid by the nobles and high officers, in lieu of the quota of soldiers they might be required to furnish in war. LAPIDATION. The act of stoning a person to death.

LAPIDICINA. Lat. In the civil law. A stone-quarry. Dig. 7, 1, 9, 2.

LAPILLI. Lat. In the civil law. Precious stones. Dig. 94, 2, 19, 17. Distinguished from "gems," (gemmar.) 1d.

LAPIS MARMORIUS. A marble stone about twelve feet long and three feet broad, placed at the upper end of Westminster Hall, where was likewise a marble chair erected on the middle thereof, in which the English sovereigns anciently sat at their coronation dinner, and at other times the lord chancellor. Wharton.

LAPSE, n. To glide; to pass slowly, silently, or by degrees. To slip; to deviate from the proper path. Webster. To fall or fall.

LAPSE, n. In ecclesiastical law. The transfer, by forfeiture, of a right to present or collate to a vacant benefice from a person vested with such right to another, in conse-

quence of some act of negligence by the former. Ayl. Par. 531.

In the law of wills. The failure of a testamentary gift in consequence of the death of the devisee or legatee during the life of the testator.

In criminal proceedings, "lapse" is used, in England, in the same sense as "abate" in ordinary procedure; i. e., to signify that the proceedings came to an end by the death of one of the parties or some other event.

LAPSE PATENT. A patent for land issued in substitution for an earlier patent to the same land, which was issued to another party, but has lapsed in consequence of his neglect to avail himself of it. 1 Wash. (Va.) 39.

LAPSED DEVISE. A devise which fails, or takes no effect, in consequence of the death of the devisee before the testator; the subject-matter of it being considered as not disposed of by the will. 1 Steph. Comm. 559; 4 Kent, Comm. 541.

LAPSED LEGACY. Where the legatee dies before the testator, or before the legacy is payable, the bequest is said to lapse, as it then falls into the residuary fund of the estate.

LARCENOUS. Having the character of larceny; as a "larcenous taking." Contemplating or intending larceny; as a "larcenous purpose."

LARCENY. In criminal law. The wrongful and fraudulent taking and carrying away by one person of the mere personal goods of another from any place, with a felonious intent to convert them to his (the taker's) use, and make them his property, without the consent of the owner. 2 East, P. C. 553; 4 Wash. C. C. 700.

The felonious taking and carrying away of the personal goods of another. 4 Bi. Comm. 229. The unlawful taking and carrying away of things personal, with intent to deprive the right owner of the same. 4 Steph. Comm. 152. The felonious taking the property of another, without his consent and against his will, with intent to convert it to the use of the taker. 2 Leach, 1089.

The taking and removing, by trespass, of personal property which the trespasser knows to belong either generally or specially to another, with the intent to deprive such owner of his ownership therein; and, perhaps it should be added, for the sake of some advantage to the trespasser,—a proposition on
which the decisions are not harmonious. 2 Bish. Crim. Law, §§ 757, 758.

Larceny is the taking of personal property, accomplished by fraud or stealth, and with intent to deprive another thereof. Pen. Code Dak. § 580.

Larceny is the felonious stealing, taking, carrying, leading, or driving away the personal property of another. Pen. Code Cal. § 484.

Larceny is sometimes divided into "simple" and "compound" or "mixed" larceny; the former term applying to cases of simple theft; the latter to cases of stealing attended with some recognized circumstances of aggravation, such as larceny from a ship or wharf, or from a dwelling-house in the day-time, or from the person.

Larceny was also divided into "grand" and "petit" larceny, the distinction turning on an arbitrary division of the value of the goods stolen. This division is now abolished in England (7 & 8 Geo. IV. c. 29, § 2) and in many of the United States, but still subsists in some jurisdictions.

For the distinction between "larceny" and "burglary," "extortion," "false pretenses," and "robbery," see those titles.

LARCENY BY BAILEE. In Pennsylvania law. The crime of larceny committed where "any person, being a bailee of any property, shall fraudulently take or convert the same to his own use, or to the use of any other person except the owner thereof, although he shall not break bulk or otherwise determine the bailment." Brightly's Purd. Dig. p. 456, § 177.

LARDARIUS REGIS. The king's larder, or clerk of the kitchen. Cowell.

LARDING MONEY. In the manor of Bradford, in Wilts, the tenants pay to their lord a small yearly rent by this name, which is said to be for liberty to feed their hogs with the mast of the lord's wood, the fat of a hog being called "lard;" or it may be a commutation for some customary service of carrying salt or meat to the lord's larder. Mon. Angl. t. 1, p. 321.

LARGE. L. Fr. Broad; the opposite of "estregea," strict or strict. Pures et larges. Britt. c. 34.

LARONS. In old English law. Thieves.

LAS PARTIDAS. In Spanish law. The name of a code of laws, more fully described as "Las Siete Partidas," ("the seven parts," from the number of its divisions,) which was compiled under the direction of Alphonso X., about the year 1250. Its sources were the customary law of all the provinces, the canon law as there administered, and (chiefly) the Roman law. This work has always been regarded as of the highest authority in Spain and in those countries and states which have derived their jurisprudence from Spain.

LASTAGE. A kind of Indian, sailor; the term is also applied to tent pitchers, inferior artillery-men, and others.

LASCIVIOUS CARRIAGE. In Connecticut. A term including those wanton acts between persons of different sexes that flow from the exercise of lustful passions, and which are not otherwise punished as crimes against chastity and public decency. 2 Swift. Dig. 343. It includes, also, indecent acts by one against the will of another. 5 Day, 81.

LASHITE, or LASHLITE. A kind of forfeiture during the government of the Danes in England. Enc. Lond.

LAST, in old English law, signifies a burden; also a measure of weight used for certain commodities of the bulkier sort.

LAST COURT. A court held by the twenty-four jurats in the marshes of Kent, and summoned by the bailiffs, whereby orders were made to lay and levy taxes, impose penalties, etc., for the preservation of the said marshes. Enc. Lond.

LAST HEIR. In English law. He to whom lands come by escheat for want of lawful heirs; that is, in some cases, the lord of whom the lands were held; in others, the sovereign. Cowell.

LAST RESORT. A court from which there is no appeal is called the "court of last resort."

LAST SICKNESS. That illness of which a person dies is so called.

LAST WILL. This term, according to Lord Coke, is most commonly used where lands and tenements are devised, and "testament" where it concerns chattels. Co. Litt. 111a. Both terms, however, are now generally employed in drawing a will either of lands or chattels.

LASTAGE. A custom exacted in some fairs and markets to carry things bought whither one will. But it is more accurately taken for the ballast or lading of a ship. Also custom paid for wares sold by the last, as herrings, pitch, etc. Wharton.
LATA CULPA. Lat. In the law of bailment. Gross fault or neglect; extreme negligence or carelessness, (nimia neglegentia.) Dig. 50, 16, 218, 2.

Lata culpa dolos aequiratur. Gross negligence is equivalent to fraud.

LATCHING. An under-ground survey.

LATE. Defunct; existing recently, but now dead. 17 Ala. 190. Formerly; recently; lately.

"LATELY." This word has been held to have "a very large retrospect, as we say 'lately deceased' of one dead ten or twenty years." Per Cur. 2 Show. 294.

LATENS. Lat. Latent; hidden; not apparent. See AMBIGUITAS.

LATENT. Hidden; concealed; that does not appear upon the face of a thing.

LATENT AMBIGUITY. An ambiguity which arises not upon the words of the will, deed, or other instrument, as looked at in themselves, but upon those words when applied to the object or to the subject which they describe. The term is opposed to the phrase "patent ambiguity." The rule of law is that extrinsic or parol evidence is admissible in all cases to remove a latent ambiguity, but in no case to remove a patent one. Brown.

LATENT DEED. A deed kept for twenty years or more in a man's scrittoir or strong-box. 7 N. J. Law, 177.

LATENT DEFECT. A defect in an article sold, which is known to the seller, but not to the purchaser, and is not discoverable by mere observation. See 21 N. Y. 552.

LATERA. In old records. Sidesmen; companions; assistants. Cowell.

LATERAL RAILROAD. A lateral road is one which proceeds from some point on the main trunk between its termini; it is but another name for a branch road, both being a part of the main road. 14 Ill. 273.

LATERAL SUPPORT. The right of lateral and subjacent support is that right which the owner of land has to have his land supported by the adjoining land or the soil beneath. 27 Grat. 77; 19 Barb. 380; 2 Allen, 131; 12 Amer. & Eng. Enc. Law, 933.

LATERARE. To lie sideways, in opposition to lying endways; used in descriptions of lands.

LATH, LATHE. The name of an ancient civil division in England, intermediate between the county or shire and the hundred. Said to be the same as what, in other parts of the kingdom, was termed a "rape." 1 Bl. Comm. 116; Cowell; Spelman.

LATHREVE. An officer under the Saxon government, who had authority over a lathe. Cowell; 1 Bl. Comm. 116.

LATIFUNDIUM. In the civil law. Great or large possessions; a great or large field; a common. A great estate made up of smaller ones, (fundis,) which began to be common in the latter times of the empire.

LATIFUNDUS. A possessor of a large estate made up of smaller ones. Du Cange.

LATIMER. A word used by Lord Coke in the sense of an interpreter. 2 Inst. 515. Supposed to be a corruption of the French "latiner," or "latiner." Cowell; Blount.

LATIN. The language of the ancient Romans. There are three sorts of law Latin: (1) Good Latin, allowed by the grammarians and lawyers; (2) false or incongruous Latin, which in times past would abate original writs, though it would not make void any judicial writ, declaration, or plea, etc.; (3) words of art, known only to the sages of the law, and not to grammarians, called "Lawyers' Latin." Wharton.

LATINARIUS. An interpreter of Latin.

LATINI JUNIANI. Lat. In Roman law. A class of freedmen (libertini) intermediate between the two other classes of freedmen called, respectively, "Cives Romani" and "Pediticii." Slaves under thirty years of age at the date of their manumission, or manumitted otherwise than by vindicta, census, or testamentum, or not the quirity property of their manumissors at the time of manumission, were called "Latini." By reason of one or other of these three defects, they remained slaves by strict law even after their manumission, but were protected in their liberties first by equity, and eventually by the Lex Junia Norbana, A. D. 19, from which law they took the name of "Juniani" in addition to that of "Latini." Brown.

LATITAT. In old English practice. A writ which issued in personal actions, on the return of non est inventus to a bill of Middlesex; so called from the emphatic word in its recital, in which it was "testified that the defendant lurks [latitat] and wanders about."
LATITATIO. In the civil law and old English practice. A lying hid; lurking, or concealment of the person. Dig. 42, 4, 7, 5; Bract. fol. 126.

LATOR. A bearer; a messenger.

LATRO. In the civil and old English law. A robber. Dig. 50, 16, 118; Fleta, lib. 1, c. 38, § 1. A thief.

LATROCINATION. The act of robbing; a depredation.

LATROCINIUM. The prerogative of adjudging and executing thieves; also larceny; theft; a thing stolen.

LATROCIKY. Larceny.

LATTER-MATH. A second mowing; the aftermath.

LAUDARE. In the civil law. To name; to cite or quote; to show one's title or authority. Calvin.

In feudal law. To determine or pass upon judicially. Laudamentum, the finding or award of a jury. 2 Bl. Comm. 285.

LAUDATIO. In Roman law. Testimony delivered in court concerning an accused person's good behavior and integrity of life. It resembled the practice which prevails in our trials of calling persons to speak to a prisoner's character. The least number of the laudatores among the Romans was ten. Wharton.

LAUDATOR. An arbitrator; a witness to character.

LAUDEMEO. In Spanish law. The tax paid by the possessor of land held by quit-rent or emphyteusis to the owner of the estate, when the tenant alienates his right in the property. Escriche.

LAUDEMIUM. In the civil law. A sum paid by a new emphyteuta (q. v.) who acquires the emphyteusis, not as heir, but as a singular successor, whether by gift, devise, exchange, or sale. It was a sum equal to the fiftieth part of the purchase money, paid to the dominus or proprietor for his acceptance of the new emphyteuta. Mackeld. Rom. Law, § 323. Called, in old English law, "acknowledgment money." Cowell.

LAUDUM. An arbitration or award.

In old Scotch law. Sentence or judgment; dome or doom. 1 Pite, Crim. Tr. pt. 2, p. 8.

LAUGH. Frank-pledge. 2 Reeve, Eng. Law, 17.

LAUNCEGAY. A kind of offensive weapon, now disused, and prohibited by 7 Rich. II. c. 13.

LAUNCH. 1. The act of launching a vessel; the movement of a vessel from the land into the water, especially the sliding on ways from the stocks on which it is built. 2. A boat of the largest size belonging to a ship of war; an open boat of large size used in any service; a lighter.

LAUREATE. In English law. An officer of the household of the sovereign, whose business formerly consisted only in composing an ode annually, on the sovereign's birthday, and on the new year; sometimes also, though rarely, on occasion of any remarkable victory.

LAURELS. Pieces of gold, coined in 1619, with the king's head laureated; hence the name.

LAUS DEO. Lat. Praise be to God. An old heading to bills of exchange.

LAVATORIUM. A laundry or place to wash in; a place in the porch or entrance of cathedral churches, where the priest and other officiating ministers were obliged to wash their hands before they proceeded to divine service.


LAW. 1. That which is laid down, ordained, or established. A rule or method according to which phenomena or actions coexist or follow each other.

2. A system of principles and rules of human conduct, being the aggregate of those commandments and principles which are either prescribed or recognized by the governing power in an organized jural society as its will in relation to the conduct of the members of such society, and which it undertakes to maintain and sanction and to use as the criteria of the actions of such members.

"Law" is a solemn expression of legislative will. It orders and permits and forbids. It announces rewards and punishments. Its provisions generally relate not to solitary or singular cases, but to what passes in the ordinary course of affairs. Civil Code La. arts. 1, 2.

"Law," without an article, properly implies a science or system of principles or rules of human conduct, answering to the Latin "jus," as when it is spoken of as a subject of study or practice. In this sense, it includes the decisions of courts of justice, as well as acts of the legislature. The
judgment of a competent court, until reversed or otherwise superseded, is law, as much as any statute. Indeed, it may happen that a statute may be passed in violation of law, that is, of the fundamental law or constitution of a state; and it is the prerogative of courts in such cases to declare it void, or, in other words, to declare it not to be law. Burrell.

3. A rule of civil conduct prescribed by the supreme power in a state. 1 Steph. Comm. 25; Civil Code Dak. § 2; Pol. Code Cal. § 4466.

A "law," in the proper sense of the term, is a general rule of human action, taking cognizance only of external acts, enforced by a determinate authority, which authority is human, and among human authorities is that which is paramount in a political society. Holl. Jur. 36.

A "law," properly so called, is a command which obliges a person or persons; and, as distinguished from a particular or occasional command, obliges generally to acts or forbearances of a class. Aust. Jur.

A rule or enactment promulgated by the legislative authority of a state; a long-established local custom which has the force of such an enactment. 10 Pet. 18.

4. In another sense the word signifies an enactment; a distinct and complete act of positive law; a statute, as opposed to rules of civil conduct deduced from the customs of the people or judicial precedents.

When the term "law" is used to denote enactments of the legislative power, it is frequently confined, especially by English writers, to permanent rules of civil conduct, as distinguished from other acts, such as a divorce act, an appropriation bill, an estates act. Rep. Eng. St. L. Com. Mar. 1856.

Historically considered. With reference to its origin, "law" is derived either from judicial precedents, from legislation, or from custom. That part of the law which is derived from judicial precedents is called "common law," "equity," or "admiralty," "probate," or "ecclesiastical law," according to the nature of the courts by which it was originally enforced. (See the respective titles.) That part of the law which is derived from legislation is called the "statute law." Many statutes are classed under one of the divisions above mentioned because they have merely modified or extended portions of it, while others have created altogether new rules. That part of the law which is derived from custom is sometimes called the "customary law," as to which, see Custom. Sweet.

The earliest notion of law was not an enumeration of a principle, but a judgment in a particular case. When pronounced in the early ages, by a 

king, it was assumed to be the result of direct divine inspiration. Afterwards came the notion of a custom which a judgment affirms, or punishes its breach. In the outset, however, the only authoritative statement of right and wrong is a judicial sentence rendered after the fact has occurred. It does not presuppose a law to have been violated, but is enacted for the first time by a higher form into the judge's mind at the moment of adjudication. Maine, Anc. Law. (Dwight's Ed.) pp. xv, 5.

Synonyms and distinctions. According to the usage in the United States, the name "constitution" is commonly given to the organic or fundamental law of a state, and the term "law" is used in contradistinction to the former, to denote a statute or enactment of the legislative body.

"Law," as distinguished from "equity," denotes the doctrine and procedure of the common law of England and America, from which equity is a departure.

The term is also used in opposition to "fact." Thus questions of law are to be decided by the court, while it is the province of the jury to solve questions of fact.

Classification. With reference to its subject-matter, law is either public or private. Public law is that part of the law which deals with the state, either by itself or in its relations with individuals, and is divided into (1) constitutional law; (2) administrative law; (3) criminal law; (4) criminal procedure; (5) the law of the state considered in its quasi private personality; (6) the procedure relating to the state as so considered. Holl. Jur. 300.

Law is also divided into substantive and adjective. Substantive law is that part of the law which creates rights and obligations, while adjective law provides a method of enforcing and protecting them. In other words, adjective law is the law of procedure. Holl. Jur. 61, 238.

The ordinary, but not very useful, division of law into written and unwritten rests on the same principle. The written law is the statute law; the unwritten law is the common law, (q. e.) 1 Steph. Comm. 40, following Blackstone.

Kinds of statutes. Statutes are called "general" or "public" when they affect the community at large; and local or special when their operation is confined to a limited region, or particular class or interest.

Statutes are also either prospective or retrospective; the former, when they are intended to operate upon future cases only; the latter, when they may also embrace transactions occurring before their passage. Statutes are called "enabling" when they
confer new powers; "remedial" when their effect is to provide relief or reform abuses; "penal" when they impose punishment, pecuniary or corporal, for a violation of their provisions.

5. In old English jurisprudence, "law" is used to signify an oath, or the privilege of being sworn; as in the phrases "to wage one's law," "to lose one's law."

As to the different kinds of law, or law regarded in its different aspects, see ADJECTIVE LAW; ADMINISTRATIVE LAW; CONSTITUTIONAL LAW; CRIMINAL LAW; INTERNATIONAL LAW; LAW OF NATIONS; LAW OF NATURE; LAW-MERCHANT; MUNICIPAL LAW; POSITIVE LAW; PRIVATE LAW; PUBLIC LAW; RETROSPECTIVE LAW; SUBSTANTIVE LAW.

**LAW AGENTS.** Solicitors practicing in the Scotch courts.

Wing, Max. p. 720, max. 193.

**LAW ARBITRARY.** Opposed to immutable, a law not founded in the nature of things, but imposed by the mere will of the legislature.

**LAW BURROWS.** In Scotch law. Security for the peaceable behavior of a party; security to keep the peace. Properly, a process for obtaining such security. 1 Forb. Inst. pt. 2, p. 198.

**LAW CHARGES.** This phrase is used, under the Louisiana Civil Code, to signify costs incurred in court in the prosecution of a suit, to be paid by the party cast. 17 La. 206; 11 Rob. (La.) 28.

Law construeuth every act to be lawful, when it standeth indifferent whether it should be lawful or not. Wing, Max. p. 722, max. 194; Finch, Law, b. 1, c. 3, n. 76.

Law construeuth things according to common possibility or intentment. Wing, Max. p. 705, max. 189.

Law [the law] construeuth things with equity and moderation. Wing, Max. p. 685, max. 183; Finch, Law, b. 1, c. 3, n. 74.

**LAW COURT OF APPEALS.** In American law. An appellate tribunal, formerly existing in the state of South Carolina, for hearing appeals from the courts of law.

**LAW DAY.** The day prescribed in a bond, mortgage, or defeasible deed for payment of the debt secured thereby, or, in default of payment, the forfeiture of the property mortgaged. But this does not now occur until foreclosure.

In old English law. Law day or lage day denoted a day of open court; especially the courts of a county or hundred.

**Law disfavoruth impossibilities.** Wing, Max. p. 606, max. 155.

**Law disfavoruth improbabilities.** Wing, Max. p. 620, max. 161.

**Law [the law] favoruth charity.** Wing, Max. p. 497, max. 135.

**Law favoruth common right.** Wing, Max. p. 547, max. 144.

**Law favoruth diligence, and therefore hateuth folly and negligence.** Wing, Max. p. 665, max. 172; Finch, Law, b. 1, c. 3, no. 70.

**Law favoruth honor and order.** Wing, Max. p. 739, max. 199.

**Law favoruth justice and right.** Wing, Max. p. 502, max. 141.

**Law favoruth life, liberty, and dower.** 4 Bacon's Works, 345.

**Law favoruth mutual recompense.** Wing, Max. p. 411, max. 108; Finch, Law, b. 1, c. 3, no. 42.

**Law [the law] favoruth possession, where the right is equal.** Wing, Max. p. 375, max. 98; Finch, Law, b. 1, c. 3, no. 36.

**Law favoruth public commerce.** Wing, Max. p. 738, max. 198.

**Law favoruth public quiet.** Wing, Max. p. 742, max. 200; Finch, Law, b. 1, c. 3, no. 54.

**Law favoruth speeding of men's causes.** Wing, Max. p. 673, max. 175.

**Law [the law] favoruth things for the commonwealth, [common weal.]** Wing, Max. p. 729, max. 197; Finch, Law, b. 1, c. 3, no. 53.

**Law favoruth truth, faith, and certainty.** Wing, Max. p. 604, max. 154.

**LAW FRENCH.** The Norman French language, introduced into England by William the Conqueror, and which, for several centuries, was, in an emphatic sense, the language of the English law, being that in which the proceedings of the courts and of parliament were carried on, and in which many of the ancient statutes, reports, abridg-
ments, and treatises were written and printed. It is called by Blackstone a "barbarous dialect," and the later specimens of it fully warrant the appellation, but at the time of its introduction it was, as has been observed, the best form of the language spoken in Normandy. Burrill.


Law hateth new inventions and innovations. Wing. Max. p. 756, max. 204.


LAW LATIN. The corrupt form of the Latin language employed in the old English law-books and legal proceedings. It contained many barbarous words and combinations.

LAW LIST. An annual English publication of a quasic official character, comprising various statistics of interest in connection with the legal profession. It includes (among other information) the following matters: A list of judges, queen's counsel, and sergeants at law; the judges of the county courts; benchers of the inns of court; barristers, in alphabetical order; the names of counsel practicing in the several circuits of England and Wales; London attorneys; country attorneys; officers of the courts of chancery and common law; the magistrates and law officers of the city of London; the metropolitan magistrates and police; recorders; county court officers and circuits; lord lieutenants and sheriffs; colonial judges and officers; public notaries. Mozley & Whitley.

LAW LORDS. Peers in the British parliament who have held high judicial office, or have been distinguished in the legal profession. Mozley & Whitley.

LAW-MARTIAL. The military law; a code of law established for the government of the army and navy.

LAW-MERCHANT. The general system of usages and customs, in relation to commercial transactions, mercantile paper, etc., commonly observed alike among all commercial nations.

Since, however, its character is not local, nor its obligation confined to a particular district, it cannot with propriety be considered as a custom in the technical sense. 1 Steph. Comm. 54. It is a system of law which does not rest essentially on the positive institutions and local customs of any particular country, but consists of certain principles of equity and usages of trade which general convenience and a common sense of justice have established, to regulate the dealings of merchants and mariners in all the commercial countries of the civilized world. 3 Kent, Comm. 2.

LAW OF ARMS. That law which gives precepts and rules concerning war; how to make and observe leagues and truce, to punish offenders in the camp, and such like. Cowell; Blount. Now more commonly called the "law of war." (q. e.)

LAW OF CITATIONS. In Roman law. An act of Valentinian, passed A. D. 426, providing that the writings of only five jurists, viz., Papinian, Paulus, Ulpian, and Modestinus, should be quoted as authorities. The majority was binding on the judge. If they were equally divided, the opinion of Papinian was to prevail; and in such a case, if Papinian was silent upon the matter, then the judge was free to follow his own view of the matter. Brown.


LAW OF MARQUE. A sort of law of reprisal, which entitles him who has received any wrong from another and cannot get ordinary justice to take the shipping or goods of the wrong-doer, where he can find them within his own bounds or precincts, in satisfaction of the wrong. Cowell; Brown.

LAW OF NATIONS. A system of rules and principles established among nations, and intended for the regulation of their mutual intercourse; otherwise called "international law," (q. e.) A code of public instruction which defines the rights and prescribes the duties of nations in their intercourse with each other. 1 Kent, Comm. 1. It is founded for the most part on usage, consent, and agreement, but in an important degree, also, on the principles of natural law. Id. 2.

LAW OF NATURE. A rule of conduct arising out of the natural relations of human beings, established by the Creator, and existing prior to any positive precept. Webster. The foundation of this law is placed by the best writers in the will of God, discovered by right reason, and aided by divine revelation; and its principles, when applicable, apply with equal obligation to individuals and
to nations. 1 Kent, Comm. 2, note; id. 4, note. See Jus Naturale.

We understand all laws to be either human or divine, according as they have man or God for their author; and divine laws are of two kinds, that is to say: (1) Natural laws; (2) positive or revealed laws. A natural law is defined by Bur-lamaqui to be "a rule which so necessarily agrees with the nature and state of man that, without observing its maxims, the peace and happiness of society can never be preserved." And he says that these are called "natural laws" because a knowledge of them may be attained merely by the light of reason, from the fact of their essential agreeableness with the constitution of human nature; while, on the contrary, positive or revealed laws are not founded upon the general constitution of human nature, but only upon the will of God; though in other respects such law is established upon very good reason, and procures the advantage of those to whom it is sent. The ceremonial or political laws of the Jews are of this latter class. 11 Ark. 327.

LAW OF THE LAND. Due process of law. (q. v.)

By the law of the land is most clearly intended the general law which heard before it condemns, which proceeds upon inquiry, and renders judgment only after trial. The meaning is that every citizen shall hold his life, liberty, property, and immunities under the protection of general rules which govern society. Everything which may pass under the form of an enactment is not the law of the land. Sedg. St. & Const. Law, (2d Ed.) 475.

When first used in Magna Charta, the phrase "the law of the land" probably meant the established law of the kingdom, in opposition to the civil or Roman law, which was about being introduced. It is now generally regarded as meaning general public laws binding on all members of the community, in contradistinction from partial or private laws. 3 Tex. 231; 2 Yerg. 370; 6 Halsk. 186.

It means due process of law warranted by the constitution, by the common law adopted by the constitution, or by statutes passed in pursuance of the constitution, 1 N. H. 55.

It means the law as established in a fair, open trial, or after opportunity given for such trial, by due course and process of law; not a bill of attainder. 6 Pa. St. 87.

LAW OF THE STAPLE. Law administered in the court of the mayor of the staple; the law-merchant. 4 Inst. 235. See Staple.

LAW REPORTS. Published volumes containing the reports of cases argued and adjudged in the courts of law.

Law respecteth matter of substance more than matter of circumstance.

LAWFUL GOODS. Whatever is not prohibited to be exported by the positive law.

Weight. Max. p. 382, max. 101; Finch, Law, b. 1, c. 3, no. 39.

Law respecteth possibility of things. Wing. Max. p. 403, max. 104; Finch, Law, b. 1, c. 3, no. 40.

Law [the law] respecteth the bonds of nature. Wing. Max. p. 286, max. 78; Finch, Law, b. 1, c. 3, no. 29.

LAW SPIRITUAL. The ecclesiastical law, or law Christian. Co. Litt. 344.

LAW TERMS. See Terms.

LAW WORTHY. Being entitled to, or having the benefit and protection of, the law.

LAWFUL. Legal; warranted or authorized by the law; having the qualifications prescribed by law; not contrary to nor forbidden by the law.

The principal distinction between the terms "lawful" and "legal" is that the former contemplates the substance of law, the latter the form of law. To say of an act that it is "lawful" implies that it is authorized, sanctioned, or at any rate not forbidden, by law. To say that it is "legal" implies that it is done or performed in accordance with the forms and usages of law, or in a technical manner. In this sense "illegal" approaches the meaning of "invalid." For example, a contractor will, executed without the required formalities, might be said to be invalid or illegal, but could not be described as unlawful. Further, the word "lawful" more clearly implies an ethical content than does "legal." The latter goes no further than to denote compliance with positive, technical, or formal rules; while the former usually imports a moral substance or ethical permissibility. A further distinction is that the word "legal" is used as the synonym of "constructive," which "lawful" is not. Thus "legal fraud" is fraud implied or inferred by law, or made out by construction. "Lawful fraud" would be a contradiction of terms. Again, "legal" is used as the antithesis of "equitable." Thus, we speak of "legal assets," "legal estate," etc., but not of "lawful assets" or "lawful estate." But there are some connections in which the two words are used as exact equivalents. Thus, a "lawful" writ, warrant, or process is the same as a "legal" writ, warrant, or process.

LAWFUL AGE. Full age; majority; generally the age of twenty-one years.

LAWFUL AUTHORITIES. The expression "lawful authorities," used in our treaty with Spain, refers to persons who exercised the power of making grants by authority of the crown. 9 Pet. 711.

LAWFUL DISCHARGE. Such a discharge in insolvency as exonerates the debtor from his debts. 12 Wheat. 370.

LAWFUL GOODS. Whatever is not prohibited to be exported by the positive law.
of the country, even though it be contraband of war; for a neutral has a right to carry such goods at his own risk. 1 Johns. Cas. 1; 2 Johns. Cas. 77; Id. 120.

LAWFUL MAN. A freeman, unattainted, and capable of bearing oath; a legalis homo.

LAWFUL MONEY. Money which is a legal tender in payment of debts; e. g., gold and silver coined at the mint.

LAWING OF DOGS. The cutting several claws of the forefeet of dogs in the forest, to prevent their running at deer.

LAWLESS COURT. An ancient local English court, said to have been held in Essex once a year, at cock-crowing, without a light or pen and ink, and conducted in a whisper. Jacob.

LAWLESS MAN. An outlaw.

LAWNDE, LOWNDE. In old English law. A plain between woods. Co. Litt. 56.

LAWS OF OLERON. A maritime code said to have been drawn up by Richard I. at the Isle of Oleron, whence its name. These laws are constantly quoted in proceedings before the admiralty courts, as are also the Rhodian laws. Co. Litt. 11.

LAWS OF WAR. This term denotes a branch of public international law, and comprises the body of rules and principles observed by civilized nations for the regulation of matters inherent in, or incidental to, the conduct of a public war; such, for example, as the relations of neutrals and belligerents, blockades, captures, prizes, truces and armistices, capitulations, prisoners, and declarations of war and peace.

LAWSUIT. A vernacular term for a suit, action, or cause instituted or depending between two private persons in the courts of law.

LAWYER. A person learned in the law; as an attorney, counsel, or solicitor.

Any person who, for fee or reward, prosecutes or defends causes in courts of record or other judicial tribunals of the United States, or of any of the states, or whose business it is to give legal advice in relation to any cause or matter whatever. Act of July 13, 1860, § 9, (14 St. at Large, 121.)

LAY, n. To state or allege in pleading.

LAY, adj. Relating to persons or things not clerical or ecclesiastical; a person not in ecclesiastical orders. Also non-professional.

LAY, n. A share of the profits of a fishing or whaling voyage, allotted to the officers and seamen, in the nature of wages. 3 Story, 108.

LAY CORPORATION. A corporation composed of lay persons or for lay purposes. They are either civil or eleemosynary. Ang. & A. Corp. 28–30; 1 Bl. Comm. 470.

LAY DAMAGES. To state at the conclusion of the declaration the amount of damages which the plaintiff claims.

LAY DAYS. In the law of shipping. Days allowed in charter-parties for loading and unloading the cargo. 3 Kent, Comm. 202, 203.

LAY FEE. A fee held by ordinary feudal tenure, as distinguished from the ecclesiastical tenure of frankalmoin, by which an ecclesiastical corporation held of the donor. The tenure of frankalmoin is reserved by St. 12 Car. II., which abolished military tenures. 2 Bl. Comm. 101.

LAY IMPROPRIATOR. In English ecclesiastical law. A lay person holding a spiritual appropriation. 3 Steph. Comm. 72.

LAY INVESTITURE. In ecclesiastical law. The ceremony of putting a bishop in possession of the temporalities of his diocese.

LAY OUT. This term has come to be used technically in highway laws as embracing all the series of acts necessary to the complete establishment of a highway. 28 Conn. 375.

LAY PEOPLE. Jurymen.

LAYE. Law.

LAYING THE VENUE. Stating in the margin of a declaration the county in which the plaintiff proposes that the trial of the action shall take place.

LAYMAN. One of the people, and not one of the clergy; one who is not of the legal profession; one who is not of a particular profession.

LAYSTALL. A place for dung or soil.

LAZARET, or LAZARETTO. A pesthouse, or public hospital for persons affected with the more dangerous forms of contagious diseases; a quarantine station for vessels coming from countries where such diseases are prevalent.
LAZZI. A Saxon term for persons of a servile condition.

LE CONGRÈS. A species of proof on charges of impotency in France, coitus coram testibus. Abolished A. D. 1677.

Le contrat fait la loi. The contract makes the law.

LE GUIDON DE LA MER. The title of a French work on marine insurance, by an unknown author, dating back, probably, to the sixteenth century, and said to have been prepared for the merchants of Rouen. It is noteworthy as being the earliest treatise on that subject now extant.

Le ley de Dieu et ley de terre sont tout un; et l'un et l'autre preferre et favoùr le common et publique bien del terre. The law of God and the law of the land are all one; and both preserve and favor the common and public good of the land. Keilw. 191.

Le ley est le plus haut enheritance que le roy ad, car per le ley il mesme et tous ses sujets sont rules; et, si le ley ne fuit, nul roy ne nul enheritance sera. 1 J. H. 6, 63. The law is the highest inheritance that the king possesses, for by the law both he and all his subjects are ruled; and, if there were no law, there would be neither king nor inheritance.

LE ROI, or ROY. The old law-French words for "the king."

LE ROI VEUT EN DELIBERER. The king will deliberate on it. This is the formula which the king of the French used when he intended to veto an act of the legislative assembly. 1 Toullier, no. 42.

LE ROY (or LA REINE) LE VEUT. The king (or the queen) wills it. The form of the royal assent to public bills in parliament.

LE ROY (or LA REINE) REMERCI SES LOYAL SUJETS, ACCEPTE LEUR BENEVOLE, ET AINSI LE VEUT. The king (or the queen) thanks his (or her) loyal subjects, accepts their benevolence, and therefore wills it to be so. The form of the royal assent to a bill of supply.

LE ROY (or LA REINE) S'AVISERA. L. Fr. The king (or queen) will advise upon it. The form of words used to express the refusal of the royal assent to public bills in parliament. 1 Bl. Comm. 184. This is supposed to correspond to the judicial phrase "cura advisari cult," (q. c.) 1 Chit. Bl. Comm. 184. note.

Le salut du peuple est la supreme loi. Montesq. Esprit des Lois, i. xxvii. c. 23. The safety of the people is the highest law.

LEA, or LEY. A pasture. Co. Litt. 4b.

LEAD. The counsel on either side of a litigated action who is charged with the principal management and direction of the party's case, as distinguished from his juniors or subordinates, is said to "lead in the cause," and is termed the "leading counsel" on that side.

LEADING A USE. Where a deed was executed before the levy of a fine of land, for the purpose of specifying to whose use the fine should inure, it was said to "lead" the use. If executed after the fine, it was said to "declare" the use. 2 Bl. Comm. 363.

LEADING CASE. Among the various cases that are argued and determined in the courts, some, from their important character, have demanded more than usual attention from the judges, and from this circumstance are frequently looked upon as having settled or determined the law upon all points involved in such cases, and as guides for subsequent decisions, and from the importance they thus acquire are familiarly termed "leading cases." Brown.

LEADING COUNSEL. That one of two or more counsel employed on the same side in a cause who has the principal management of the cause.

LEADING QUESTION. A question put or framed in such a form as to suggest the answer sought to be obtained by the person interrogating.

Questions are leading which suggest to the witness the answer desired, or which embody a material fact, and may be answered by a mere negative or affirmative, or which involve an answer bearing immediately upon the merits of the cause, and indicating to the witness a representation which will best accord with the interests of the party propounding them. 8 Smedes & M. 104.

A question is leading which puts into a witness' mouth the words that are to be echoed back, or plainly suggests the answer which the party wishes to get from him. 4 Wend. 329, 347.

LEAGUE. 1. A treaty of alliance between different states or parties. It may be offensive or defensive, or both. It is offensive when the contracting parties agree to unite in attacking a common enemy; defensive when the parties agree to act in concert in de
fending each other against an enemy. Wharton.

2. A measure of distance, varying in different countries. The marine league, marking the limit of national jurisdiction on the high seas, is equal to three geographical (or marine) miles of 6,075 feet each.

LEAKAGE. The waste or diminution of a liquid caused by its leaking from the cask, barrel, or other vessel in which it was placed.

Also an allowance made to an importer of liquids, at the custom-house, in the collection of duties, for his loss sustained by the leaking of the liquid from its cask or vessel.

LEAL. Loyal; that which belongs to the law.

LEALTIE. Legality; the condition of a legalis homo, or lawful man.

LEAN. To incline in opinion or preference. A court is sometimes said to "lean against" a doctrine, construction, or view contended for, whereby it is meant that the court regards it with disfavor or repugnance, because of its inexpediency, injustice, or inconsistency.

LEAP-YEAR. See Bisextile.

LEARNED. Possessing learning; erudite; versed in the law. In statutes prescribing the qualifications of judges, "learned in the law" designates one who has received a regular legal education, the almost invariable evidence of which is the fact of his admission to the bar.

LEARNING. Legal doctrine. 1 Leon. 77.

LEASE. A conveyance of lands or tenements to a person for life, for a term of years, or at will, in consideration of a return of rent or some other recompense. The person who so conveys such lands or tenements is termed the "lessor," and the person to whom they are conveyed, the "lessee;" and when the lessor so conveys lands or tenements to a lessee, he is said to lease, demise, or let them. 4 Cruise, Dig. 58.

A conveyance of any lands or tenements, (usually in consideration of rent or other annual recompense,) made for life, for years, or at will, but always for a less time than the lessor has in the premises; for, if it be for the whole interest, it is more properly an assignment than a lease. 2 Bl. Comm. 317; Shep. Touch. 266; Watk. Conv. 220.

A contract in writing, under seal, whereby a person having a legal estate in hereditaments, corporeal or incorporeal, conveys a portion of his interest to another, in consideration of a certain annual rent or render, or other recompense. Archb. Landl. & Ten. 2.

"Lease" or "hire" is a synallagmatic contract, to which consent alone is sufficient, and by which one party gives to the other the enjoyment of a thing, or his labor, at a fixed price. Civil Code La. art. 2699.

When the contract is bipartite, the one part is called the "lease," the other the "counterpart." In the United States, it is usual that both papers should be executed by both parties; but in England the lease is executed by the lessor alone, and given to the lessee, while the counterpart is executed by the lessee alone, and given to the lessor.

A concurrent lease, or lease of a reversion, is one granted for a term which is to commence before the determination of a previous lease of the same land to another person.

An underlease or sublease is one executed by the lessee of an estate to a third person, conveying the same estate for a shorter term than that for which the lessee holds it.

LEASE AND RELEASE. A species of conveyance much used in England, said to have been invented by Serjeant Moore, soon after the enactment of the statute of uses. It is thus construed: A lease, or rather bargain and sale upon some pecuniary consideration for one year, is made by the tenant of the freehold to the lessee or bargaining. This, without any enrolment, makes the bargainor stand seized to the use of the bargainee, and vests in the bargainee the use of the term for one year, and then the statute immediately annexes the possession. Being thus in possession, he is capable of receiving a release of the freehold and reversion, which must be made to the tenant in possession, and accordingly the next day a release is granted to him. The lease and release, when used as a conveyance of the fee, have the joint operation of a single conveyance. 2 Bl. Comm. 339; 4 Kent. Comm. 482; Co. Litt. 207; Cruise, Dig. tit. 32, c. 11.

LEASEHOLD. An estate in realty held under a lease; an estate for a fixed term of years.

LEASING, or LESING. Gleaning.

LEASING-MAKING. In old Scotch criminal law. An offense consisting in slanderous and untrue speeches, to the disdain, reproach, and contempt of the king, his council and proceedings, etc. Bell.

LEAVE. To give or dispose of by will. "The word 'leave,' as applied to the subject-matter, prima facie means a disposition by will." 10 East, 498.

LEAVE AND LICENSE. A defense to an action in trespass setting up the consent of the plaintiff to the trespass complained of.

LEAVE OF COURT. Permission obtained from a court to take some action which, without such permission, would not be allowable.

LECCATOR. A debauched person. Cowell.

LECHERWITE, LAIRWITE, or LEGERWITE. A fine for adultery or fornication, without any aid paid to the lords of certain manors. 4 Inst. 205.

LECTOR DE LETRA ANTIQUA. In Spanish law. A person appointed by competent authority to read and decipher ancient writings, to the end that they may be presented on the trial of causes as documents entitled to legal credit. Escriche.


LECTURER. An instructor; a reader of lectures; also a clergyman who assists rectors, etc., in preaching, etc.

LEDGER. A book of accounts in which a trader enters the names of all persons with whom he has dealings; there being two parallel columns in each account, one for the entries to the debit of the person charged, the other for his credits. Into this book are posted the items from the day-book or journal.

LEDGER-BOOK. In ecclesiastical law. The name of a book kept in the prerogative courts in England. It is considered as a roll of the court, but, it seems, it cannot be read in evidence. Bac. Abr.

LEDGREVIUS. In old English law. A lathe-reeve, or chief officer of a lathe. Spelman.

LEDO. The rising water or increase of the sea.

LEET. In English law. The name of a court of criminal jurisdiction, formerly of much importance, but latterly fallen into disuse. See COURT-LEET.

LEETS. Meetings which were appointed for the nomination or election of ecclesiastical officers in Scotland. Cowell.

LEGA, or LACTA. The alloy of money. Spelman.

LEGABILIS. In old English law. That which may be bequeathed. Cowell.

LEGACY. A bequest or gift of personal property by last will and testament.

The word "legacy" properly imports a gift of personal, as "devise" does a gift of real, property; but it may, by reference and constructions, be descriptive of real estate. 1 Burrows, 285, 272; 3 Term, 716.

Legacies are distinguished and designated, according to their nature, as follows: (1) A legacy of a particular thing, specified, and distinguished from all others of the same kind belonging to the testator, is specific. If such legacy fails, resort cannot be had to the other property of the testator. (2) A legacy is demonstrative when the particular fund or personal property is pointed out, from which it is to be taken or paid. If such fund or property fails, in whole or in part, resort may be had to the general assets, as in case of a general legacy. (3) An annuity is a bequest of certain specified sums periodically. If the fund or property out of which they are payable fails, resort may be had to the general assets, as in case of a general legacy. (4) A residuary legacy embraces only that which remains after all the bequests of the will are discharged. (5) All other legacies are general legacies. Civil Code Dak. § 755.

An absolute legacy is one given without condition, to vest immediately. 1 Vern. 254; 2 Vern. 181; 5 Ves. 401; 19 Ves. 86.

An additional legacy is one given to the same legatee in addition to (not in lieu of) another legacy given before by the same will or in a codicil thereto.

An alternate legacy is one by which the testator gives one of two or more things without designating which.

A conditional legacy is a bequest whose existence depends upon the happening or non-happening of some uncertain event. 1 Rop. Leg. 500.

A cumulative legacy is an additional legacy, this being its more proper technical name.

A demonstrative legacy is a gift of money or other fungible substance in quantity, expressed to be made payable out of a specified sum of money or other specified fungible substance.

A general legacy is one so given as not to amount to a bequest of a particular thing or money of the testator, distinguished from all others of the same kind. 1 Rop. Leg. 170.

An indefinite legacy is one which passes property by a general or collective term, without enumeration of number or quantity; as
a bequest of all the testator's "goods," or his "lank-stock." Lown. Leg. 84.

A 'lapsed' legacy is one which, in consequence of the death of the legatee before the testator or before the period for vesting, has never vested.

A modal legacy is a bequest accompanied with directions as to the mode in which it should be applied for the legatee's benefit; for example, a legacy to A., to put him an apprentice. Lown. Leg. 151.

A pecuniary legacy is a bequest of a sum of money. It may or may not specify the fund from which it is to be drawn. It is not the less a pecuniary legacy if it comprises the specific pieces of money in a designated receptacle, as a purse or chest.

A residuary legacy is a bequest of all the testator's personal estate not otherwise effectually disposed of by his will. Lown. Leg. 10; Bac. Abr. "Legacies," 1; 6 H. L. Cas. 217.

A specific legacy is a gift of a particular portion of the testator's personal estate, specified and distinguished from the rest; or a bequest of ear-marked money or of other ear-marked fungible substance, in mass, or of any non-fungible substance by description.

A trust legacy is a bequest of personal property to trustees to be held upon trust; as to pay the annual income to a beneficiary for life.

LEGACY DUTY. A duty imposed in England upon personal property (other than leaseholds) devolving under any will or intestacy. Brown.

LEGAL. 1. Conforming to the law; according to law; required or permitted by law; not forbidden or disallowed by law; good and effectual in law.

2. Proper or sufficient to be recognized by the law; cognizable in the courts; competent or adequate to fulfill the requirements of the law.

3. Cognizable in courts of law, as distinguished from courts of equity; construed or governed by the rules and principles of law, in contradistinction to rules of equity.

4. Posited by the courts as the inference or imputation of the law, as a matter of construction, rather than established by actual proof; e. g., legal malice. See LAWFUL.

LEGAL ASSETS. That portion of the assets of a deceased party which by law is directly liable, in the hands of his executor or administrator, to the payment of debts and legacies. 1 Story, Eq. Jur. § 551. Such as-

sets as can be reached in the hands of an executor or administrator, by a suit at law against him.

LEGAL CONSIDERATION. One recognized or permitted by the law as valid and lawful; as distinguished from such as are illegal or immoral.

LEGAL CRUELTY. Such as will warrant the granting of a divorce to the injured party; as distinguished from such kinds or degrees of cruelty as do not, under the statutes and decisions, amount to sufficient cause for a decree.

Legal cruelty may be defined to be such conduct on the part of the husband as will endanger the life, limb, or health of the wife, or create a reasonable apprehension of bodily hurt; such acts as render cohabitation unsafe, or are likely to be attended with injury to the person or to the health of the wife. 30 Ga. 286.

LEGAL DEBTS. Those that are recoverable in a court of common law, as debt on a bill of exchange, a bond, or a simple contract.

LEGAL DEFENSE. 1. A defense which is complete and adequate in point of law.

2. A defense which may be set up in a court of law; as distinguished from an "equitable defense," which is cognizable only in a court of equity or court possessing equitable powers.

LEGAL DISCRETION. The discretion to be exercised by a judge in interpreting the law, or in applying equitable principles to the determination of causes or the granting of relief.

LEGAL ESTATE. That kind of estate which is properly cognizable in the courts of common law, though noticed, also, in the courts of equity. 1 Steph. Comm. 217.

LEGAL HEIRS. This phrase, used in a devise or a policy of life insurance, will be held to mean those to whom the law would give the person's property, real and personal, if he should die intestate. 88 Ill. 251; (Tex.) 8 S. W. Rep. 203.

LEGAL HOLIDAY. A day designated by law as exempt from judicial proceedings, service of process, demand and protest of commercial paper, etc.

LEGAL INCAPACITY. This expression implies that the person in view has the right vested in him, but is prevented by some impediment from exercising it; as in the case of minors, fames covert, lunatics, etc.
An administrator has no right until letters are issued to him. Therefore he cannot benefit (as respects the time before obtaining letters) by a saving clause in a statute of limitations in favor of persons under a legal incapacity to sue. 1 Root, 137.

LEGAL INTEREST. That rate of interest prescribed by the laws of the particular state or country as the highest which may be lawfully contracted for or exacted, and which must be paid in all cases where the law allows interest without the assent of the debtor.

LEGAL IRREGULARITY. An irregularity occurring in the course of some legal proceeding. A defect or informality which, in the technical view of the law, is to be accounted an irregularity.

LEGAL MALICE. An expression used as the equivalent of "constructive malice," or "malice in law." 52 Me. 502.

LEGAL MEMORY. See MEMORY.

LEGAL MORTGAGE. A term used in Louisiana. The law alone in certain cases gives to the creditor a mortgage on the property of his debtor, without it being requisite that the parties should stipulate it. This is called "legal mortgage." Civil Code La. art. 3311.

LEGAL NOTICE. Such notice as is adequate in point of law; such notice as the law requires to be given for the specific purpose or in the particular case.

LEGAL REPRESENTATIVE. A person who, in the law, represents the person and controls the rights of another. The phrase is commonly used as the equivalent of "executor" or "administrator."

The term imports a higher authority than "agent," for an agent acts for his principal, who retains the beneficial right; but the legal representative succeeds to the place of the former owner, and is vested with his title.

LEGAL REVERSION. In Scotch law. The period within which a proprietor is at liberty to redeem land adjudged from him for debt.

LEGAL TENDER. That kind of coin, money, or circulating medium which the law compels a creditor to accept in payment of his debt, when tendered by the debtor in the right amount.

LEGALIS HOMO. Lat. A lawful man; a person who stands rectus in curia; a person not outlawed, excommunicated, or infamous.

It occurs in the phrase, "probi et legales homines," (good and lawful men, competent jurors,) and "legality" designates the condition of such a man. Jacob.

LEGALIS MONETA ANGLIE. Lawful money of England. 1 Inst. 207.

LEGALITY, or LEGALNESS. Lawfulness.

LEGALIZATION. The act of legalizing or making legal or lawful. See LEGALIZE.

LEGALIZE. To make legal or lawful; to confirm or validate what was before void or unlawful; to add the sanction and authority of law to that which before was without or against law.

LEGALLY. Lawfully; according to law.

LEGANTINE CONSTITUTIONS. The name of a code of ecclesiastical laws enacted in national synods, held under legates from Pope Gregory IX. and Clement IV., in the reign of Henry III., about the years 1220 and 1238. 1 Bl. Comm. 83.

LEGARE. Lat. In the civil and old English law. To bequeath; to leave or give by will; to give in anticipation of death. In Scotch phrase, to legate.

LEGATARIUS. Lat. In the civil law. One to whom a thing is bequeathed; a legatee or legatory. Inst. 2, 20, 2, 4, 5, 10; Bract. fol. 40.

In old European law. A legate, messenger, or envoy. Spelman.

LEGATEE. The person to whom a legacy is given.

LEGATES. Nuncios, deputies, or extraordinary ambassadors sent by the pope to be his representatives and to exercise his jurisdiction in countries where the Roman Catholic Church is established by law.

LEGATION. An embassy; a diplomatic minister and his suite; the persons commissioned by one government to exercise diplomatic functions at the court of another, including the minister, secretaries, attachés, interpreters, etc., are collectively styled the "legation" of their government. The word also denotes the official residence of a foreign minister.

LEGATOR. One who makes a will, and leaves legacies.
LEGATORY. The third part of a free-
man's personal estate, which by the custom
of London, in case he had a wife and children,
the freeman might always have disposed of
by will. Bac. Abr. "Customs of London,"
D. 4.

Legatos violare contra jus gentium est.
4 Coke, pref. It is contrary to the law of
nations to injure ambassadors.

LEGATUM. Lat. In the civil law. A
legacy; a gift left by a deceased person, to
be executed by the heir. Inst. 2, 20, 1.

In old English law. A legacy given to
the church, or an accustomed mortuary.
Cowell.

Legatum morte testatoris tantum confi-
firmatur, sicut donatio inter vivos tra-
ditione sola. Dyer, 143. A legacy is con-
firmed by the death of a testator, in the same
manner as a gift from a living person is by
delivery alone.

LEGATUM OPTIONIS. In Roman
law. A legacy to A. B. of any article or
articles that A. B. liked to choose or select
out of the testator's estate. If A. B. died
after the testator, but before making the
choice or selection, his representative (hœres)
could not, prior to Justinian, make the se-
lection for him, but the legacy failed alto-
gether. Justinian, however, made the lega-
ency good, and enabled the representative to
choose. Brown.

Legatus regis vice fungitur a quo des-
tinatur et honorandus est sicut ille cujus
vicem gerit. 12 Coke, 17. An ambassa-
dor fills the place of the king by whom he is
sent, and is to be honored as he is whose
place he fills.

LEGEM AMITTERE. Lat. To lose
one's law; that is, to lose one's privilege of
being admitted to take an oath.

LEGEM FACERE. I. Lat. In old En-
glish law. To make law or oath.

LEGEM FERRE. Lat. In Roman law.
To propose a law to the people for their adop-

LEGEM HABERE. Lat. To be capa-
bile of giving evidence upon oath. Wit-
nesses who had been convicted of crime were
incapable of giving evidence, until 6 & 7 Vict.
c. 85.

LEGEM JUBERE. Lat. In Roman
law. To give consent and authority to a
proposed law; to make or pass it. Tayl. Civil
Law, 9.

LEGEM SCISCERE. Lat. To give
consent and authority to a proposed law; ap-
piled to the consent of the people.

Legem terræ amittentes, perpetuam
infamiae notam inde merito incurrant.
Those who lose the law of the land, then
justly incur the ineffaceable brand of in-
famy. 3 Inst. 221.

LEGEM VADIARE. In old English
law. To wage law; to offer or to give pledge
to make defense, by oath, with compurgators.

LEGES. Lat. Laws. At Rome, the leges
(the decrees of the people in a strict sense)
were laws which were proposed by a magis-
trate presiding in the senate, and adopted by
the Roman people in the comitia centuriata.

LEGES ANGLIÆ. Lat. The laws of
England, as distinguished from the civil law
and other foreign systems.

Leges Angliæ sunt tripartitæ, — jus
commune, consuetudines, ac decreta
comitiorum. The laws of England are
threefold, — common law, customs, and de-
crees of parliament.

Leges figendi et refigendi consuetudo
est periculosissima. The practice of fixing
and refixing [making and remaking] the
laws is a most dangerous one. 4 Coke, pref.

Leges humanae nascentur, vivunt, et
mortuuntur. Human laws are born, live,
and die. 7 Coke, 25; 2 Atk. 674; 11 C. B.
767; 1 Bl. Comm. 89.

Leges nature perfectissimae sunt et
immutabiles; humani vero juris condi-
tio semper in infinitum decurrit, et nihil
est in eo quod perpetuo stare possit.
Leges humanae nascentur, vivunt, mo-
rtuuntur. The laws of nature are most per-
fct and immutable; but the condition of
human law is an unending succession, and
there is nothing in it which can continue
perpetually. Human laws are born, live,
and die. 7 Coke, 25.

LEGES NON SCRIPTÆ. Lat. In
English law. Unwritten or customary laws,
including those ancient acts of parliament
which were made before time of memory.
Hale, Com. Law, 5. See 1 Bl. Comm. 63, 64.

Leges non verbis, sed rebus, sunt im-
positæ. Laws are imposed, not on words,
bout things. 10 Coke, 101; Branch, Princ.
Leges posteriores priores contrarias abrogant. Later laws abrogate prior laws that are contrary to them. Broom, Max. 27, 29.

LEGES SCRIPTÆ. Lat. In English law. Written laws; statute laws, or acts of parliament which are originally reduced into writing before they are enacted, or receive any binding power. Hale, Com. Law, 1, 2.

LEGES SUB GRAVIORI LEGE. Laws under a weightier law. Hale, Com. Law, 46, 44.

Leges suum ligent iatorem. Laws should bind their own maker. Fleta, lib. 1, c. 17, § 11.

LEGES TABELLARÆ. Lat. Roman laws regulating the mode of voting by ballot, (tabellæ.) 1 Kent, Comm. 232, note.

Leges vigilantibus, non dormientibus, subveniunt. The laws aid the vigilant, not the negligent. 5 Johns. Ch. 122, 145; 16 How. Pr. 142, 144.

LEGIBUS SOLUTUS. Lat. Released from the laws; not bound by the laws. An expression applied in the Roman civil law to the emperor. Calvin.

Legibus sumptis desinentibus, lege nature utendum est. When laws imposed by the state fail, we must act by the law of nature. 2 Rolle, 298.

LEGIOSUS. In old records. Litigious, and so subjected to a course of law. Cowell.


Legis interpretatio legis vim obtinet. Ellesm. Postn. 55. The interpretation of law obtains the force of law.

Legis minister non tenetur in executione officii sui, fugere aut retrocedere. The minister of the law is bound, in the execution of his office, not to fly nor to retreat. Branch, Prine.

LEGISLATION. The act of giving or enacting laws.

LEGISLATIVE POWER. The lawmaking power; the department of government whose function is the framing and enactment of laws.

LEGISLATOR. One who makes laws.

Legislatorum est viva vox, rebus et non verbis legem imponere. The voice of legislators is a living voice, to impose laws on things, and not on words. 10 Coke, 101.

LEGISLATURE. The department, assembly, or body of men that makes laws for a state or nation; a legislative body.

LEGISPERITUS. A person skilled or learned in the law; a lawyer or advocate. Feud. lib. 2, tit. 1.

LEGIT VEL NON? In old English practice, this was the formal question propounded to the ordinary when a prisoner claimed the benefit of clergy,—does he read or not? If the ordinary found that the prisoner was entitled to clergy, his formal answer was, "Legit ut clericus," he reads like a clerk.

LEGITIM. In Scotch law. The children's share in the father's moveables.

LEGITIMACY. Lawful birth; the condition of being born in wedlock; the opposite of illegitimacy or bastardy.

LEGITIMATE, v. To make lawful; to confer legitimacy; to place a child born before marriage on the footing of those born in lawful wedlock. 26 Vt. 653, 657, 658.

LEGITIMATE, adj. That which is lawful, legal, recognized by law, or according to law; as legitimate children, legitimate authority, or lawful power.

LEGITIMATION. The making legitimate or lawful that which was not originally so; especially the act of legalizing the status of a bastard.

LEGITIMATION PER SUBSEQUENS MATRIMONIUM. The legitimation of a bastard by the subsequent marriage of his parents. Bell.

LEGITIME. Lat. In the civil law. That portion of a parent's estate of which he cannot disinherit his children without a legal cause.

Legitime imperanti parere necesse est. Jenk. Cent. 120. One lawfully commanding must be obeyed.

LEGITIMI HÆREDES. Lat. In Roman law. Legitimate heirs; the agnate relations of the estate-leeaver; so called because the inheritance was given to them by a law of the Twelve Tables.

LEGITIMUS. Lawful; legitimate. Legitimus hæres et filius est quem nuptis
demonstrant, a lawful son and heir is he whom the marriage points out to be lawful. Bract. fol. 63.

LEGO. Lat. In Roman law. I bequeath. A common term in wills. Dig. 30, 36, 81, et seq.

LEGRUITA. In old records. A fine for criminal conversation with a woman.

LEGULEIUS. A person skilled in law, (in legibus versatus;) one versed in the forms of law. Calvin.

LEIDGRAVE. An officer under the Saxon government, who had jurisdiction over a lath. Enc. Lond. See LATH.

LEIPA. In old English law. A fugitive or runaway.

LENDER. He from whom a thing is borrowed. The bailor of an article loaned.

LENT. The quadragesimal fast; a time of abstinence; the time from Ash-Wednesday to Easter.

LEOD. People; a people; a nation. Spelman.

LEODES. In old European law. A vassal, or liege man; service; a were or were-gild. Spelman.


LEONINA SOCIETAS. Lat. An attempted partnership, in which one party was to bear all the losses, and have no share in the profits. This was a void partnership in Roman law; and, apparently, it would also be void as a partnership in English law, as being inherently inconsistent with the notion of partnership. (Dig. 17, 2, 29, 2.) Brown.

LEP AND LACE. A custom in the manor of Writtle, in Essex, that every cart which goes over Greenbury within that manor (except it be the cart of a nobleman) shall pay 4d. to the lord. Blount.

LEPORARIUS. A greyhound. Cowell.

LEPORIUM. A place where hares are kept. Mon. Angl. t. 2, p. 1035.

LEPROSO AMOVENDO. An ancient writ that lay to remove a leper or lazar, who thrust himself into the company of his neighbors in any parish, either in the church or at other public meetings, to their annoyance. Reg. Orig. 237.

LESCHEWES. Trees fallen by chance or wind-falls. Brooke, Abr. 341.

LESE MAJESTY. The old English and Scotch translation of "lesa majestas," or high treason. 2 Reeve, Eng. law. 6.


In the civil law. The injury suffered by one who does not receive a full equivalent for what he gives in a commutative contract. Civil Code La. art. 1860.

Inequality in contracts. Poth. Obl. no. 33.

LESPEGEND. An inferior officer in forests to take care of the vert and venison therein, etc. Wharton.

LESSEE. He to whom a lease is made. He who holds an estate by virtue of a lease.

LESSOR. He who grants a lease.

LESSOR OF THE PLAINTIFF. In the action of ejectment, this was the party who really and in effect prosecuted the action and was interested in its result. The reason of his having been so called arose from the circumstance of the action having been carried on in the name of a nominal plaintiff, (John Doe,) to whom the real plaintiff had granted a fictitious lease, and thus had become his lessor.


LESTAGE, LASTAGE. A custom for carrying things in fairs and markets. Fleta, l. 1, c. 47; Termes de la Ley.

LESTAGEFRY. Lestage free, or exempt from the duty of paying ballast money. Cowell.

LESTAGIUM. Lastage or lestage; a duty laid on the cargo of a ship. Cowell.

LESWES. Pastures. Domesday; Co. Litt. 46. A term often inserted in old deeds and conveyances. Cowell.

LET, c. In conveyancing. To demise or lease. "To let and set" is an old expression.

In practice. To deliver. "To let to bail" is to deliver to bail on arrest.

In contracts. To award to one of several persons, who have submitted proposals therefor, the contract for erecting public works or doing some part of the work connected therewith, or rendering some other service to government for a stipulated compensation.
LETTER. 1. One of the arbitrary marks or characters constituting the alphabet, and used in written language as the representatives of sounds or articulations of the human organs of speech. Several of the letters of the English alphabet have a special significance in jurisprudence, as abbreviations and otherwise, or are employed as numerals.

2. A dispatch or epistle; a written or printed message; a communication in writing from one person to another at a distance.

3. In the imperial law of Rome, “letter” or “epistle” was the name of the answer returned by the emperor to a question of law submitted to him by the magistrates.

4. A commission, patent, or written instrument containing or attesting the grant of some power, authority, or right. The word appears in this generic sense in many compound phrases known to commercial law and jurisprudence; e.g., letter of attorney, letter missive, letter of credit, letters patent. The plural is frequently used.

5. Metaphorically, the verbal expression; the strict literal meaning. The letter of a statute, as distinguished from its spirit, means the strict and exact force of the language employed, as distinguished from the general purpose and policy of the law.

6. He who, being the owner of a thing, lets it out to another for hire or compensation. Story, Bailm. § 369.

LETTER-BOOK. A book in which a merchant or trader keeps copies of letters sent by him to his correspondents.

LETTER-CARRIER. An employe of the post-office, whose duty it is to carry letters from the post-office to the persons to whom they are addressed.

LETTER MISSIVE. In English law. A letter from the king or queen to a dean and chapter, containing the name of the person whom he would have them elect as bishop.

LETTER OF ADVOCATION. In Scotch law. The process or warrant by which, on appeal to the supreme court or court of session, that tribunal assumes to itself jurisdiction of the cause, and discharges the lower court from all further proceedings in the action. Ersk. Inst. 732.

LETTER OF ATTORNEY. A power of attorney; a written instrument by which one person constitutes another his true and lawful attorney, in order that the latter may do for the former, and in his place and stead, some lawful act.

LETTER OF CREDENCE. In international law. The document which accredits an ambassador, minister, or envoy to the court or government to which he is sent; i.e., certifies to his appointment and qualification, and bespeaks credit for his official actions and representations.

LETTER OF CREDIT. An open or sealed letter, from a merchant in one place, directed to another, in another place or country, requiring him, if a person therein named, or the bearer of the letter, shall have occasion to buy commodities, or to want
LETTER OF CREDIT. A letter of credit is a written instrument, addressed by one person to another, requesting the latter to give credit to the person in whose favor it is drawn. Civil Code Cal. § 2858.

LETTER OF EXCHANGE. A bill of exchange, (q. v.)

LETTER OF LICENSE. A letter or written instrument given by creditors to their debtor, who has failed in trade, etc., allowing him longer time for the payment of his debts, and protecting him from arrest in the mean time. Tomlins; Holthouse.

LETTER OF MARQUE. A commission given to a private ship by a government to make reprisals on the ships of another state; hence, also, the ship thus commissioned.

LETTER OF RECALL. A document addressed by the executive of one nation to that of another, informing the latter that a minister sent by the former has been recalled.

LETTER OF RECOMMENDATION. A writing whereby one person certifies concerning another that he is of good character, solvent, possessed of commercial credit, skilled in his trade or profession, or otherwise worthy of trust, aid, or employment. It may be addressed to an individual or to whom it may concern, and is designed to aid the person commended in obtaining credit, employment, etc. See 13 How. 198.

LETTER OF RECREDENTIALS. A document embodying the formal action of a government upon a letter of recall of a foreign minister. It, in effect, accredits him back to his own government. It is addressed to the latter government, and is delivered to the minister by the diplomatic secretary of the state from which he is recalled.

LETTERS AD COLLIGENDUM. BONA DEFUNCTI. In practice. In default of the representatives and creditors to administer to the estate of an intestate, the officer entitled to grant letters of administration may grant, to such persons as he approves, letters to collect the goods of the deceased, which neither make him executor nor administrator; his only business being to collect the goods and keep them in his safe custody. 2 Bl. Comm. 505.

LETTERS CLOSE. In English law. Close letters are grants of the king, and, being of private concern, they are thus distinguished from letters patent.

LETTERS OF ABSOLUTION. Absolvatory letters, used in former times, when an abbot released any of his brethren ob omnia subjectio et obedientia, etc., and made them capable of entering into some other order of religion. Jacob.

LETTERS OF ADMINISTRATION. The instrument by which an administrator or administratrix is authorized by the probate court, surrogate, or other proper officer, to have the charge and administration of the goods and chattels of an intestate.

LETTERS OF CORRESPONDENCE. In Scotch law. Letters are admissible in evidence against the panel, i.e., the prisoner at the bar, in criminal trials. A letter written by the panel is evidence against him; not so one from a third party found in his possession. Bell.

LETTERS OF FIRE AND SWORD. See FIRE AND SWORD.

LETTERS OF HORNING, in the law of Scotland, are letters running in the sovereign's name and passing the signet. They are directed to messengers at arms, as sheriffs in that part, (i.e., persons specially appointed to perform particular duties appertaining to the office of sheriff,) to charge the person against whom the letters are directed to pay or perform in terms of the "will" of the letters, which must be consistent with the warrant on which the letters proceed. The warrant on which the letters proceed is a decree either of the court of session or of some inferior court. Bell.

LETTERS OF REQUEST. A formal instrument by which an inferior judge of ecclesiastical jurisdiction requests the judge of a superior court to take and determine any matter which has come before him, thereby waiving or remitting his own jurisdiction. This is a mode of beginning a suit originally in the court of arches, instead of the consistory court.

LETTERS OF SAFE CONDUCT. No subject of a nation at war with England can, by the law of nations, come into the realm,

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nor can travel himself upon the high seas, or
send his goods and merchandise from one
place to another, without danger of being
seized, unless he has letters of safe conduct,
which, by divers old statutes, must be granted
under the great seal, and enrolled in chan-
cery, or else are of no effect; the sovereign
being the best judge of such emergencies as
counterparts from the general law
of arms. But passports or licenses from the
ambassadors abroad are now more usually ob-
tained, and are allowed to be of equal val-
ue.

LETTERS OF SLAINS, or SLANES.
Letters subscribed by the relatives of a per-
son who had been slain, declaring that they
had received an assemblage, and concurring
in an application to the crown for a pardon
to the offender. These or other evidences of
their concurrence were necessary to found
the application. Bell.

LETTERS PATENT. Open letters, as
distinguished from letters close. An instru-
ment proceeding from the government, and
conveying a right, authority, or grant to an
individual, as a patent for a tract of land, or
for the exclusive right to make and sell a new
invention. Familiarly termed a "patent."

LETTERS ROGATORY. A formal
communication in writing, sent by a court
in which an action is pending to a court or
judge of a foreign country, requesting that
the testimony of a witness resident within
the jurisdiction of the latter court may be
there formally taken under its direction and
transmitted to the first court for use in the
pending action. This process was also in
use, at an early period, between the several
states of the Union. The request rests en-
tirely upon the comity of courts towards each
other.

LETTERS TESTAMENTARY. The
formal instrument of authority and appoint-
ment given to an executor by the proper
court, empowering him to enter upon the
discharge of his office as executor. It corre-
sponds to letters of administration granted
to an administrator.

LETTING OUT. The act of awarding
a contract; e. g., a construction contract, or
contract for carrying the mails.

LETTRE. In French law. A letter. It
is used, like our English "letter," for a formal
instrument giving authority.

LETTRES DE CACHET. Letters is-
issued and signed by the kings of France, and
countersigned by a secretary of state, authoriz-
ing the imprisonment of a person. It is
said that they were devised by Père Joseph,
under the administration of Richelieu. They
were at first made use of occasionally as a
means of delaying the course of justice; but
during the reign of Louis XIV, they were
obtained by any person of sufficient influence
with the king or his ministers. Under them,
persons were imprisoned for life or for a long
period on the most frivolous pretexts, for the
gratification of private pique or revenge, and
without any reason being assigned for such
punishment. They were also granted by the
king for the purpose of shielding his favor-
ites or their friends from the consequences
of their crimes; and thus were as perilous
in their operation as the protection afforded
by the church to criminals in a former age.
Abolished during the Revolution of 1789.
Wharton.

LEUCAL. In old French law. A
league, consisting of fifteen hundred paces.
Spelman.

In old English law. A league or mile of
a thousand paces. Domesday; Spelman.
A privileged space around a monastery of
a league or mile in circuit. Spelman.

LEVANDÆ NAVIS CAUSA. Lat.
For the sake of lightening the ship; denotes
a purpose of throwing overboard goods,
which renders them subjects of general av-
erage.

LEVANT ET COUCHANT. L. Fr.
Rising up and lying down. A term applied
to trespassing cattle which have remained
long enough upon land to have lain down to
rest and risen up to feed; generally the space
of a night and a day, or, at least, one night.

LEVANTES ET CUBANTES. Rising
up and lying down. A term applied to cat-
tle. 3 Bl. Comm. 9.

LEVARI FACIAS. Lat. In English
practice. A writ of execution directing the
sheriff to cause to be made of the lands and
chattels of the judgment debtor the sum re-
covered by the judgment.
Also a writ to the bishop of the diocese,
commanding him to enter into the benefit of
a judgment debtor, and take and sequester
the same into his possession, and hold the
same until he shall have levied the amount
of the judgment out of the rents, tithes, and
profits thereof.

In American law. A writ used to sell
lands mortgaged, after a judgment has been
obtained by the mortgagee, or his assignee, against the mortgagor, under a peculiar proceeding authorized by statute. 3 Bouv. Inst. no. 3396.

LEVARI FACIAS DAMNA DE DIS-SEISITORIBUS. A writ formerly directed to the sheriff for the levying of damages, which a disseisor had been condemned to pay to the disseisee. Cowell.

LEVARI FACIAS QUANDO VICE-COMES RETURNAVIT QUOD NON HABUIT EMPTORES. An old writ commanding the sheriff to sell the goods of a debtor which he had already taken, and had returned that he could not sell them; and as much more of the debtor's goods as would satisfy the whole debt. Cowell.

LEVARI FACIAS RESIDUUM DEB-ITI. An old writ directed to the sheriff for levying the remnant of a partly-satisfied debt upon the lands and tenements or chattels of the debtor. Cowell.

LEVATO VELO. Lat. An expression used in the Roman law, and applied to the trial of wreck and salvage. Commentators disagree about the origin of the expression; but all agree that its general meaning is that these causes shall be heard summarily. The most probable solution is that it refers to the place where causes were heard. A sail was spread before the door and officers employed to keep strangers from the tribunal. When these causes were heard, this sail was raised, and suitors came directly to the court, and their causes were heard immediately. As applied to maritime courts, its meaning is that causes should be heard without delay. These causes require dispatch, and a delay amounts practically to a denial of justice. (See Cod. 11, 4, 5.) Bouvier.

LEVIALE. That which may be levied.

LEVIR. In Roman law. A husband's brother; a wife's brother-in-law. Calvin.

LEVIS. Lat. Light; slight; trifling. Levis culpa, slight fault or neglect. Levis-sima culpa, the slightest neglect. Levis nota, a slight mark or brand.

LEVITICAL DEGREES. Degrees of kindred within which persons are prohibited to marry. They are set forth in the eighteenth chapter of Leviticus.

LEVY, n. To raise; execute; exact; collect; gather; take up; seize. Thus, to levy (raise or collect) a tax; to levy (raise or set up) a nuisance; to levy (acknowledge) a fine, to levy (inaugurate) war; to levy an execution, i. e., to levy or collect a sum of money on an execution.

LEVY, n. In practice. A seizure; the raising of the money for which an execution has been issued.

LEVY COURT. A court formerly existing in the District of Columbia. It was a body charged with the administration of the ministerial and financial duties of Washington county. It was charged with the duty of laying out and repairing roads, building bridges, providing poor-houses, laying and collecting the taxes necessary to enable it to discharge these and other duties, and to pay the other expenses of the county. It had capacity to make contracts in reference to any of these matters, and to raise money to meet such contracts. It had perpetual succession, and its functions were those which, in the several states, are performed by "county commissioners," "overseers of the poor," "county supervisors," and similar bodies with other designations. 2 Wall. 507.

LEVYING WAR. In criminal law. The assembling of a body of men for the purpose of effecting by force a reasonable object; and all who perform any part, however minute, or however remote from the scene of action, and who are leagued in the general conspiracy, are considered as engaged in levying war, within the meaning of the constitution. 4 Cranch, 473, 474; Const. art. 3, § 3.

LEWDNESS. Licentiousness; an offense against the public economy, when of an open and notorious character; as by frequenting houses of ill fame, which is an indictable offense, or by some grossly scandalous and public indecency, for which the punishment at common law is fine and imprisonment. Wharton.

LEX. Lat. Law; a law; the law. In the Roman jurisprudence this term was often used as the synonym of "jus," in the sense of a rule of civil conduct authoritatively prescribed for the government of the actions of the members of an organized jural society. In a more limited and particular sense, it was a resolution adopted by the whole Roman "populus" (patricians and plebians) in the comitia, on the motion of a magistrate of senatorial rank, as a consul, a pretor, or a dictator. Such a statute frequently took the name of the proposer; as the lex Falcidia, lex Cornelia, etc.
Other specific meanings of the word in Roman jurisprudence were as follows:

Positive law, as opposed to natural.
That system of law which descended from the Twelve Tables, and formed the basis of all the Roman law.
The terms of a private covenant; the condition of an obligation.
A form of words prescribed to be used upon particular occasions.
In the language of the middle ages, "lex" meant a body or collection of law; not a "code," in the proper sense of that term. Mackeld. Rom. Law, § 98.

In old English law. A body or collection of law; particularly, the Roman or civil law. Also the oath of a party with compurgators; as legem favere, legem vadire, etc. Sometimes in the sense of legal rights; civil rights; the protection of the law; as in the phrase "legem amittere."

LEX AELIA SENTIA. In Roman law. The Aelian Sentient law, respecting wills, proposed by the consuls Aelius and Sentius, and passed A. U. C. 756, restraining a master from manumitting his slaves in certain cases. Calvin.

LEX AGRARIA. In Roman law. The agrarian law. A law proposed by Tiberius Gracchus, A. U. C. 620, that no one should possess more than five hundred acres of land; and that three commissioners should be appointed to divide among the poorer people what any one had above that extent.

LEX ALAMANNORUM. The law of the Alemanni; first reduced to writing from the customs of the country, by Theodoric, king of the Franks, A. D. 512. Amended and re-enacted by Clotaire II. Spelman.
Lex aliquando sequitur aequitatem. Law sometimes follows equity. 3 Will. 119.
LEX AMISSA. One who is an infamous, perjured, or outlawed person. Bract. lib. 4, c. 19.

LEX ANGLIE. The law of England. The common law. Or, the curtesy of England.
Lex Anglie est lex misericordiae. 2 Inst. 315. The law of England is a law of mercy.
Lex Anglie non patitur absurdum. 9 Coke, 22a. The law of England does not suffer an absurdity.

Lex Angliee nunquam matris sed semper patris conditionem imitari partum judicat. Co. Litt. 123. The law of England rules that the offspring shall always follow the condition of the father, never that of the mother.

Lex Angliee nunquam sine parliamento mutari potest. 2 Inst. 218. The law of England cannot be changed but by parliament.

LEX APOSTATA. A thing contrary to law. Jacob.

LEX APPAREN8. In old English and Norman law. Apparent or manifest law. A term used to denote the trial by battal or duel, and the trial by ordeal. "lex" having the sense of process of law. Called "apparent" because the plaintiff was obliged to make his right clear by the testimony of witnesses, before he could obtain an order from the court to summon the defendant. Spelman.

LEX AQUILLA. In Roman law. The Aquillian law; a celebrated law passed on the proposition of the tribune C. Aquilius Gallus, A. U. C. 672, regulating the compensation to be made for that kind of damage called "injurious," in the cases of killing or wounding the slave or beast of another, Inst. 4, 3; Calvin.

LEX ATTILIA. The Atillian law; a law of Rome proposed by the tribune L. Attilius Regulus, A. U. C. 443, regulating the appointment of guardians.

LEX ATINIA. In Roman law. The Atinian law; a law declaring that the property in things stolen should not be acquired by prescription, (usu capione.) Inst. 2, 6, 2; Adams, Rom. Ant. 207.

LEX BAIUVARIORUM, (BAIORIO-RUM, or BOIORUM.) The law of the Bavarians, a barbarous nation of Europe, first collected (together with the law of the Franks and Alemanii) by Theodoric I., and finally completed and promulgated by Dagobert. Spelman.

LEX BARBARA. The barbarian law. The laws of those nations that were not subject to the Roman empire were so called. Spelman.
Lex beneficialis rei consimili remedium praestat. 2 Inst. 689. A beneficial law affords a remedy for a similar case.
LEX BREHONIA

LEX BREHONIA. The Brehon or Irish law, overthrown by King John. See BREHON LAW.

LEX BRETOISE. The law of the ancient Britons, or Marches of Wales. Cowell.

LEX BURGUNDIONUM. The law of the Burgundians, a barbarous nation of Europe, first compiled and published by Gundebald, one of the last of their kings, about A.D. 500. Spelman.

Lex citius tolerare vult privatum damnum quam publicum malum. The law will more readily tolerate a private loss than a public evil. Co. Litt. 152.

LEX COMITATUS. The law of the county, or that administered in the county court before the earl or his deputy. Spelman.

LEX COMMISSORIA. In Roman law. A law by which a debtor and creditor might agree (where a thing had been pledged to the latter to secure the debt) that, if the debtor did not pay at the day, the pledge should become the absolute property of the creditor. 2 Kent, Comm. 583. This was abolished by a law of Constantine.

A law according to which a seller might stipulate that, if the price of the thing sold were not paid within a certain time, the sale should be void. Dig. 18, 3.

LEX COMMUNIS. The common law. See JUS COMMUNE.

Lex contra id quod presumit, probationem non recipit. The law admits no proof against that which it presumes. Loft, 573.

LEX CORNELIA. In Roman law. The Cornelian law; a law passed by the dictator L. Cornelius Sylla, providing remedies for certain injuries, as for battery, forcible entry of another’s house, etc. Calvin.

LEX CORNELIA DE FALSO. In Roman law. The Cornelian law respecting forgery or counterfeiting. Passed by the dictator Sylla. Dig. 48, 10; Calvin.

LEX CORNELIA DE SICARIIS ET VENEFICIS. In Roman law. The Cornelian law respecting assassins and poisoners. Passed by the dictator Sylla. Dig. 48, 8; Calvin.

LEX DANORUM. The law of the Danes; Dane-law or Dane-lage. Spelman.

LEX de futuro, judex de praeterito. The law provides for the future, the judge for the past.


LEX DERAINSIA. The proof of a thing which one denies to be done by him, where another affirms it; defeating the assertion of his adversary, and showing it be against reason or probability. This was used among the old Romans, as well as the Normans. Cowell.

Lex dilatationes semper exhorret. 2 Inst. 240. The law always abhors delays.

LEX DOMICILII. The law of the domicile. 2 Kent, Comm. 112, 433.

Lex est ab aeterno. Law is from everlasting. A strong expression to denote the remote antiquity of the law. Jenk. Cent. p. 34, case 66.

Lex est dictamen rationis. Law is the dictate of reason. Jenk. Cent. p. 117, case 33. The common law will judge according to the law of nature and the public good.

Lex est norma recti. Law is a rule of right. Branch, Princ.

Lex est ratio summa, quae jubet quae sunt utilia et necessaria, et contraria prohibet. Law is the perfection of reason, which commands what is useful and necessary, and forbids the contrary. Co. Litt. 319b; Id. 97b.

Lex est sanctio sancta, jubens honesta, et prohibens contraria. Law is a sacred sanction, commanding what is right, and prohibiting the contrary. 2 Inst. 587.

Lex est tutissima cassis; sub clypeo legis nemo decipitur. Law is the safest helmet; under the shield of the law no one is deceived. 2 Inst. 59.

LEX ET CONSUEUTO PARLAMENTI. The law and custom (or usage) of parliament. The houses of parliament constitute a court not only of legislation, but also of justice, and have their own rules, by which the court itself and the suitors therein are governed. May, Parl. Pr. (6th Ed.) 33-61.

LEX ET CONSUEUTO REGNI. The law and custom of the realm. One of the names of the common law. Hale, Com. Law, 52.
LEX FALCIDIA. In Roman law. The Falcidian law; a law passed on the motion of the tribune P. Falcidius, A. U. C. 713, forbidding a testator to give more in legacies than three-fourths of all his estate, or, in other words, requiring him to leave at least one-fourth to the heir. Inst. 2, 22; Heinecc. Elem. lib. 2, tit. 22.


Lex fingit ubi subsistit sequitas. 11 Coke, 90. The law makes use of a fiction where equity subsists.

LEX FORI. The law of the forum, or court; that is, the positive law of the state, country, or jurisdiction of whose judicial system the court where the suit is brought or remedy sought is an integral part.

"Remedies upon contracts and their incidents are regulated and pursued according to the law of the place where the action is instituted, and the lex loci has no application." 2 Kent, Comm. 462. "The remedies are to be governed by the laws of the country where the suit is brought; or, as it is compendiously expressed, by the lex fori." 8 Pet. 361, 372. "So far as the law affects the remedy, the lex fori, the law of the place where that remedy is sought, must govern. But, so far as the law of the construction, the legal operation and effect, of the contract, is concerned, it is governed by the law of the place where the contract is made." 4 Metc. (Mass.) 594, 597. See Lex Loci Contractus.

LEX FRANCORUM. The law of the Franks; promulgated by Theodoric I., son of Clovis I., at the same time with the law of the Alemanni and Bavarians. Spelman. This was a different collection from the Salic law.

LEX FRISIONUM. The law of the Frisians, promulgated about the middle of the eighth century. Spelman.

LEX FURIA CANINIA. In Roman law. The Furian Caninian law; a law passed in the consilium of P. Furius Camillus and C. Caninius Gallius, A. U. C. 752, prohibiting masters from manumitting by will more than a certain number or proportion of their slaves. This law was abrogated by Justinian. Inst. 1, 7; Heinecc. Elem. lib. 1, tit. 7.

LEX GOTHICA. The Gothic law, or law of the Goths. First promulgated in writing, A. D. 466. Spelman.

LEX HOSTILIA DE FURTIS. A Roman law, which provided that a prosecution for theft might be carried on without the owner's intervention. 4 Steph. Comm. (7th Ed.) 118.

LEX IMPERATORIA. The Imperial or Roman law. Quoted under this name, by Fleta, lib. 1, c. 38, § 15; Id. lib. 3, c. 10, § 3.

Lex intendit vicinum vicini facta scire. The law intends [or presumes] that one neighbor knows what another neighbor does. Co. Litt. 786.

Lex judicat de rebus necessario faciendis quasi re ipsa factis. The law judges of things which must necessarily be done as if actually done. Branch, Princ.

LEX JUDICIALIS. An ordeal.

LEX JULIA MAJESTATIS. In Roman law. The Julian law of majesty; a law promulgated by Julius Caesar, and again published with additions by Augustus, comprehending all the laws before enacted to punish transgressors against the state. Calvin.

LEX LOCI. The law of the place. This may be of the following several descriptions: Lex loci contractus, the law of the place where the contract was made or to be performed; lex loci actus, the law of the place where the act was done; lex loci rei sitae, the law of the place where the subject-matter is situated; lex loci domicilii, the law of the place of domicile.

LEX LOCI CONTRACTUS. The law of the place of the contract. The local law which governs as to the nature, construction, and validity of a contract.

LEX LOCI DELICTUS. The law of the place where the crime took place.

LEX LOCI REI SITAE. The law of the place where a thing is situated. "It is equally settled in the law of all civilized countries that real property, as to its tenure, mode of enjoyment, transfer, and descent, is to be regulated by the lex loci rei sitae." 2 Kent, Comm. 429.

LEX LOCI SOLUTIONIS. The law of the place of solution; the law of the place where payment or performance of a contract is to be made.

LEX LONGOBARDORUM. The law of the Lombards. The name of an ancient code of laws among that people, framed, probably, between the fifth and eighth centuries. It continued in force after the incorporation of Lombardy into the empire of Charlemagne, and traces of its laws and institutions are
LEX MANIFESTA 711

Lex non intendit aliquid impossibile. The law does not intend anything impossible. 12 Coke, 85a. For otherwise the law should not be of any effect.

Lex non patitur fractiones et divisiones statuum. The law does not suffer fractions and divisions of estates. Branch, Princ.; 1 Coke, 87a.

Lex non præcipit inutilia, quia inutilis labor stultus. Co. Litt. 197. The law commands not useless things, because useless labor is foolish.

Lex non requirit verificari quod apparet curiae. The law does not require that to be verified [or proved] which is apparent to the court. 9 Coke, 54b.

LEX NON SCRIPTA. The unwritten or common law, which includes general and particular customs, and particular local laws.

LEX ORDINANDI. The same as lex fori, (q. v.)

LEX PAPIA POPPEA. In Roman law. The Papian Poppean law; a law proposed by the consuls Papius and Poppeaus at the desire of Augustus, A. U. C. 762, enlarging the Lex Praetoria, (q. v.) Inst. 3, 8, 2.

Lex plus laudatur quando ratione probatur. The law is the more praised when it is approved by reason. Broom, Max. 159.

Lex posterior derogat priori. A later statute takes away the effect of a prior one. But the later statute must either expressly repeal, or be manifestly repugnant to, the earlier one. Broom, Max. 29; Mackeld. Rom. Law, § 7.

LEX PRÆTORIA. In Roman law. The Praetorian law. A law by which every freedman who made a will was commanded to leave a moiety to his patron. Inst. 3, 8, 1.

The term has been applied to the rules that govern in a court of equity. Gilb. Ch. pt. 2.

Lex prospicit, non respicit. Jenk. Cent. 284. The law looks forward, not backward.


LEX REGIA. In Roman law. The royal or imperial law. A law enacted (or supposed or claimed to have been enacted) by the Roman people, constituting the emperor a source of law, conferring the legislative power upon him, and according the force and obligation of law to the expression of his
mere will or pleasure. See Inst. 1, 2, 6; Gaius, 1, 5; Mackeld. Rom. Law, § 46; Heiniecc. Rom. Ant. 1. 1, tit. 2, §§ 62-67; 1 Kent, Comm. 544, note.

LEX REI SITÆ. The law of the place of situation of the thing.


Lex respirot æquitatem. Co. Litt. 24b. The law pays regard to equity.

LEX RHODIA. The Rhodian law, particularly the fragment of it on the subject of jettison, (de jactu,) preserved in the Pannects. Dig. 14. 2, 1; 3 Kent, Comm. 232, 233.

LEX SACRAMENTALIS. Purgation by oath.

LEX SALICA. The Salic law, or law of the Salian Franks, a Teutonic race who settled in Gaul in the fifth century. This ancient code, said to have been compiled about the year 420, embraced the laws and customs of that people, and is of great historical value, in connection with the origins of feudalism and similar subjects. Its most celebrated provision was one which excluded women from the inheritance of landed estates, by an extension of which law females were always excluded from succession to the crown of France. Hence this provision, by itself, is often referred to as the "Salic Law."

LEX SCRIPTA. Written law; law deriving its force, not from usage, but from express legislative enactment; statute law. 1 Bl. Comm. 62, 85.

Lex scripta si cesset, id custodiri oportet quod moribus et consuetudine inductum est; et, si qua in re hoo defecerit, tunc id quod proximum et consequens ei est; et, si id non appareat, tunc jus quo urbs Romana utitur servari oportet. 7 Coke, 19. If the written law be silent, that which is drawn from manners and custom ought to be observed; and, if that is in any manner defective, then that which is next and analogous to it; and, if that does not appear, then the law which Rome uses should be followed. This maxim of Lord Coke is so far followed at the present day that, in cases where there is no precedent of the English courts, the civil law is always heard with respect, and often, though not necessarily, followed. Wharten.

Lex semper dabit remedium. The law will always give a remedy. Branch, Princ; Broom, Max. 192.

Lex semper intendit quod convenient rationi. Co. Litt. 75b. The law always intends what is agreeable to reason.

LEX SITUS. Modern law Latin for "the law of the place where property is situated." The general rule is that lands and other immovables are governed by the lex situs; i. e., by the law of the country in which they are situated. Westl. Priv. Int. Law, 62.


Lex succurrit ignoranti. Jenk. Cent. 15. The law assists the ignorant.


LEX TALIONIS. The law of retaliation; which requires the infliction upon a wrongdoer of the same injury which he has caused to another. Expressed in the Mosaic law by the formula, "an eye for an eye; a tooth for a tooth," etc. In modern international law, the term describes the rule by which one state may inflict upon the citizens of another state death, imprisonment, or other hardship, in retaliation for similar injuries imposed upon its own citizens.

LEX TERRÆ. The law of the land. The common law, or the due course of the common law; the general law of the land Bract. fol. 17b. Equivalent to "due process of law."

In the strictest sense, trial by oath; the privilege of making oath. Bracton uses the phrase to denote a freeman's privilege of being sworn in court as a juror or witness, which jurors convicted of perjury forfeited, (legem terræ amittant.) Bract. fol. 292b.

Lex uno ore omnes alloquitur. The law addresses all with one [the same] mouth or voice. 2 Inst. 184.

Lex vigilantibus, non dormientibus, subvenit. Law assists the wakeful, not the sleeping. 1 Story, Cont. § 529.

LEX WALLENSICA. The Welsh law. The law of Wales. Blount.
LEX WISIGOThORUM. The law of
the Visigoths, or Western Goths who settled
in Spain; first reduced to writing A. D. 466.
A revision of these laws was made by Egigas.
Spelman.

LEY. In Spanish law. A law; the law;
law in the abstract.

LEY CIVILE. In old English law.
The civil or Roman law. Yearb. H. 8 Edw.
III. 42. Otherwise termed "ley escripte,"
the written law. Yearb. 10 Edw. III. 24.

LEY GAGER. L. Fr. Law wager;
wager of law; the giving of gage or security
by a defendant that he would make or perfect
his law at a certain day. Litt. § 514; Co.
Litt. 294b, 295a.

LEYES DE ESTILO. In Spanish law.
A collection of laws, usually published as an
appendix to the Fuero Real; treating of the
mode of conducting suits, prosecuting them
to judgment, and entering appeals. Schm.
Civil Law, Introd. 74.

LEZE-MAJESTY. An offense against
sovereign power; treason; rebellion.

LIABILITY. The state of being bound
or obliged in law or justice to do, pay, or
make good something; legal responsibility.
30 Iowa, 226; 36 N. J. Law, 145; 57 Cal. 229.

LIAELE. 1. Bound or obliged in law or
equity; responsible; chargeable; answerable;
compellable to make satisfaction, compensation,
or restitution.
2. Exposed or subject to a given contin-
geney, risk, or casualty, which is more or less
probable.

LIARD. A farthing.

LIBEL, n. In admiralty practice. To pro-
ceed against, by filing a libel; to seize under
admiralty process, at the commencement of a
suit. Also to defame or injure a person's reputation by a published writing.

LIBEL, n. In practice. The initiatory
pleading on the part of the plaintiff or com-
plainant in an admiralty or ecclesiastical
cause, corresponding to the declaration, bill,
or complaint.
In the Scotch law it is the form of the
complaint or ground of the charge on which
either a civil action or criminal prosecution
takes place. Bell.
In torts. That which is written or
printed, and published, calculated to injure
the character of another by bringing him into
ridicule, hatred, or contempt. 15 Mees. &
W. 344.

Libel is a false and unprivileged publica-
tion by writing, printing, picture, effigy, or
other fixed representation to the eye which
exposes any person to hatred, contempt, ridi-
cule, or obloquy, which causes him to be
shunned or avoided, or which has a tendency
to injure him in his occupation. Civil Code
Cal. § 45.

A libel is a false and malicious defamation
of another, expressed in print or writing or
pictures or signs, tending to injure the reputa-
tion of an individual, and exposing him to
public hatred, contempt, or ridicule. The
publication of the libelous matter is essential
to recovery. Code Ga. 1882, § 2974.

A libel is a malicious defamation, expressed
either by writing, printing, or by signs or
pictures, or the like, tending to blacken the
memory of one who is dead, or to impeach
the honesty, integrity, virtue, or reputation,
or publish the natural or alleged defects of
one who is alive, and thereby to expose him
to public hatred, contempt, or ridicule. Pen.
Code Cal. § 248; Rev. Code Iowa 1859,
§ 4097; Bac. Abr. tit. "Libel;" 1 Hawk. P.
C. 1, 73, § 1; 4 Mass. 163; 2 Pick. 113; 25
Wend. 193; 7 Cow. 613.

A libel is a censorious or ridiculing writing,
picture, or sign made with a malicious intent.
4 McCord, 317; 3 Johns. Cas. 354; 9 Johns. 215;
5 Bin. 349; 68 Mo. 291.

Any publication the tendency of which is to de-
grade or injure another person, or to bring him in-
.to contempt, ridicule, or hatred, or which accuses
him of a crime punishable by law, or of an act
odious and disgraceful in society, is a libel. 4
Mason, 118; 3 How. 206, 291.

A libel is a publication, without justification or
lawful excuse, of words calculated to injure the
reputation of another, and expose him to hatred or
contempt. 5 Biss. 330.

Everything, written or printed, which re-
ffects on the character of another, and is pub-
lished without lawful justification or excuse,
is a libel, whatever the intention may have
been. 16 Mees. & W. 435.

LIBEL OF ACCUSATION. In
Scotch law. The instrument which con-
ains the charge against a person accused
of a crime. Libels are of two kinds, name-
ly, indictments and criminal letters.

LIBELANT. The complainant or party
who files a libel in an ecclesiastical or admi-
rality case, corresponding to the plaintiff in
actions at law.

LIBELER. A party against whom a
libel has been filed in an ecclesiastical court
or in admiralty.
LIBELLUS. Lat. In the civil law. A little book. Libellus supplex, a petition, especially to the emperor, all petitions to whom must be in writing. Libellum rescribere, to mark on such petition the answer to it. Libellum agere, to assist or counsel the emperor in regard to such petitions. Libellus accusatorius, an information and accusation of a crime. Libellus dissortitii, a writing of divorce. Libellus rerum, an inventory. Calvin. Libellus or oratio consultoria, a message by which emperors laid matters before the senate. Id.

A writing in which are contained the names of the plaintiff (actor) and defendant, (reus,) the thing sought, the right relied upon, and name of the tribunal before which the action is brought. Calvin. In feudal law. An instrument of alienation or conveyance, as of a fief, or a part of it.

LIBELLUS CONVENTIONIS. In the civil law. The statement of a plaintiff's claim in a petition presented to the magistrate, who directed an officer to deliver it to the defendant.

LIBELLUS FAMOSUS. In the civil law. A defamatory publication; a publication injuriously affecting character; a libel. Inst. 4, 4, 1; Dig. 47, 10; Cod. 9, 36.

LIBELOUS. Defamatory; of the nature of a libel; constituting or involving libel.

LIBER. Lat. A book, of whatever material composed; a main division of a literary work. Also, as an adjective, free or exempt.

LIBER ASSISARUM. The Book of Assizes. A collection of cases that arose on assizes and other trials in the country. It was the fourth volume of the reports of the reign of Edward III. 3 Reeve, Eng. Law, 148.

LIBER BANCUS. In old English law. Free bench. Bract, fol. 97b.

LIBER ET LEGALIS HOMO. In old English law. A free and lawful man. A term applied to a juror, from the earliest period.

LIBER FEUDORUM. The book of feuds. This was a compilation of feudal law, prepared by order of the emperor Frederick I., and published at Milan in 1170. It comprised five books, of which only the first two are now extant with fragmentary portions of the others.

LIBER HOMO. A free man; a freeman lawfully competent to act as juror. Id. Raym. 417; Kebi. 553.

An alodial proprietor, as distinguished from a vassal or feudatory. This was the sense of the term in the laws of the barbarous nations of Europe.

LIBER JUDICIALIS OF ALFRED. Alfred's dome-book. See Domesday.


LIBER NIGER. Black book. A name given to several ancient records.

LIBER NIGER DOMUS REGIS, (the black book of the king's household.) The title of a book in which there is an account of the household establishment of King Edward IV., and of the several musicians retained in his service, as well for his private amusement as for the service in his chapel. Enc. Lond.

LIBER NIGER SCACCIARI. The black book of the exchequer, attributed to Gervase of Tilbury. 1 Reeve, Eng. Law, 220, note.


LIBERA. A livery or delivery of so much corn or grass to a customary tenant, who cut down or prepared the said grass or corn, and received some part or small portion of it as a reward or gratuity. Cowell.

LIBERA BATELLA. In old records. A free boat; the right of having a boat to fish in a certain water; a species of free fishery.

LIBERA CHASEA HABENDA. A judicial writ granted to a person for a free chase belonging to his manor after proof made by inquiry of a jury that the same of right belongs to him. Wharton.

LIBERA ELEEMOSYNA. In old English law. Free alms; frankalmoligne. Bract. fol. 27b.

LIBERA FALDA. In old English law. Frank fold; free fold; free foldage. 1 Leon. 11.

LIBERA LEX. In old English law. Free law; frank law; the law of the land. The law enjoyed by free and lawful men, as
distinguished from such men as have lost the benefit and protection of the law in consequence of crime. Hence this term denoted the status of a man who stood guiltless before the law, and was free, in the sense of being entitled to its full protection and benefit. Amittere liberam legem (to lose one’s free law) was to fall from that status by crime or infancy. See Co. Litt. 94b.


LIBERA WARRENA. In old English law. Free warren, (q. c.)

LIBERAM LEGEM AMITTERE. To lose one’s free law, (called the villainous judgment,) to become discredited or disabled as juror and witness, to forfeit goods and chattels and lands for life, to have those lands wasted, houses razed, trees rooted up, and one’s body committed to prison. It was anciently pronounced against conspirators, but is now disused, the punishment substituted being fine and imprisonment. Hawk. P. C. 61, c. lxxii., s. 9; 3 Inst. 221.

LIBERARE. In the civil law. To free or set free; to liberate; to give one his liberty. Calvin.

In old English law. To deliver, transfer, or hand over. Applied to writs, panels of jurors, etc. Bract. fols. 116, 176b.

Liberata pecunia non liberat offerentem. Co. Litt. 207. Money being restored does not set free the party offering.

LIBERATE. In old English practice. An original writ issuing out of chancery to the treasurer, chamberlains, and barons of the exchequer, for the payment of any annual pension, or other sum. Reg. Orig. 193; Cowell.

A writ issued to a sheriff, for the delivery of any lands or goods taken upon forfeits of recognizance. 4 Coke, 64b.

A writ issued to a gaoler, for the delivery of a prisoner that had put in bail for his appearance. Cowell.

LIBERATIO. In old English law. Livery; money paid for the delivery or use of a thing.

In old Scotch law. Livery; a fee given to a servant or officer. Skene.

Money, meat, drink, clothes, etc., yearly given and delivered by the lord to his domestic servants. Blount.

LIBERATION. In the civil law. The extinguishment of a contract, by which he who was bound becomes free or liberated. Wolff, Inst. Nat. § 749. Synonymous with “payment.” Dig. 50, 16, 47.

LIBERI. In Saxon law. Freemen; the possessors of allodial lands. 1 Reeve, Eng. Law, 5.

In the civil law. Children. The term included “grandchildren.”

LIBERTAS. Liberty; freedom; a privilege; a franchise.

LIBERTAS ECCLESIASTICA. Church liberty, or ecclesiastical immunity.

Libertas est naturalis facultas ejus quod cuique facere libet, nisi quod de jure aut vi prohibetur. Co. Litt. 116. Liberty is that natural faculty which permits everyone to do anything he pleases except that which is restrained by law or force.

Libertas inestimabilis res est. Liberty is an inestimable thing; a thing above price. Dig. 50, 17, 106.


Libertas omnibus rebus favorabilior est. Liberty is more favored than all things, [anything.] Dig. 50, 17, 122.

Libertas regales ad coronam spectantes ex concessione regum à coronâ exierunt. 2 Inst. 496. Royal franchises relating to the crown have emanated from the crown by grant of kings.

LIBERTATIBUS ALLOCANDIS. A writ lying for a citizen or burgess, impeached contrary to his liberty, to have his privilege allowed. Reg. Orig. 292.

LIBERTATIBUS EXIGENDIS IN ITINERE. An ancient writ whereby the king commanded the justices in eyre to admit of an attorney for the defense of another’s liberty. Reg. Orig. 19.

LIBERTI, LIBERTINI. In Roman law. Freedmen. There seems to have been some difference in the use of these two words; the former denoting the manumitted slaves considered in their relations with their former master, who was now called their “patron;” the latter term describing the status of the same persons in the general social economy of Rome.

LIBERTICIDE. A destroyer of liberty.

LIBERTIES. Privileged districts exempt from the sheriff’s jurisdiction.
Libertinum ingratum leges civiles in pristinam servitutem redigunt; sed leges Anglice semel manumissum semper liberum judicant. Co. Litt. 137. The civil laws reduce an ungrateful freedman to his original slavery; but the laws of England regard a man once manumitted as ever after free.

LIBERTY. 1. Freedom; exemption from extraneous control. The power of the will, in its moral freedom, to follow the dictates of its unrestricted choice, and to direct the external acts of the individual without restraint, coercion, or control from other persons.

Civil liberty is the greatest amount of absolute liberty which can, in the nature of things, be equally possessed by every citizen in a state. Bouvier.

The term is frequently used to denote the amount of absolute liberty which is actually enjoyed by the various citizens under the government and laws of the state as administered. 1 Bl. Comm. 125.

Civil liberty is guarantied protection against interference with the interests and rights held dear and important by large classes of civilized men, or by all the members of a state, together with an effectual share in the making and administration of the laws, as the best apparatus to secure that protection. Lieb. Civil Lib. 24.

Natural liberty is the right which nature gives to all mankind of disposing of their persons and property after the manner they judge most consistent with their happiness, on condition of their acting within the limits of the law of nature, and so as not to interfere with an equal exercise of the same rights by other men. Burlamaqui, c. 3, § 15; 1 Bl. Comm. 125.

Personal liberty consists in the power of locomotion, of changing situation, of removing one’s person to whatever place one’s inclination may direct, without imprisonment or restraint unless by due course of law. 1 Bl. Comm. 134.

Political liberty is an effectual share in the making and administration of the laws. Lieb. Civil Lib.

2. The word also means a franchise or personal privilege, being some part of the sovereign power, vested in an individual, either by grant or prescription.

3. In a derivative sense, the term denotes the place, district, or boundaries within which a special franchise is enjoyed, an immunity claimed, or a jurisdiction exercised. In this sense, the term is commonly used in the plural; as “the liberties of the city,” “the northern liberties of Philadelphia.”

LIBERTY OF SPEECH. Freedom accorded by the constitution or laws of a state to express opinions and facts by word of mouth, uncontrolled by any censorship or restrictions of government.

LIBERTY OF THE PRESS. The right to print and publish the truth, from good motives and for justifiable ends. 3 Johns. Cas. 394. The right freely to publish whatever the citizen may please, and to be protected against any responsibility for so doing, except so far as such publications, from their blasphemy, obscenity, or scandalous character, may be a public offense, or as by their falsehood and malice they may injuriously affect the standing, reputation, or pecuniary interests of individuals. Cooley, Const. Lim. p. 422. It is said to consist in this: “That neither courts of justice, nor any judges whatever, are authorized to take notice of writings intended for the press, but are confined to those which are actually printed.” De Lolme, Eng. Const. 254.

LIBERTY OF THE RULES. A privilege to go out of the Fleet and Marshals’ prisons within certain limits, and there reside. Abolished by 5 & 6 Vict. c. 22.

LIBERTY TO HOLD PLEAS. The liberty of having a court of one’s own. Thus, certain lords had the privilege of holding pleas within their own manors.

Liberrum corpus nullam recipit estimationem. Dig. 9, 3, 7. The body of a freeman does not admit of valuation.

Liberrum est quique apud se explorare expediendum sibi consilium. Everyone is free to ascertain for himself whether a recommendation is advantageous to his interests. 6 Johns. 181, 184.


LIBERUM SERVITIUM. Free service. Service of a warlike sort by a feudatory tenant; sometimes called “servitium liberum armorum.” Jacob.

Service not unbecoming the character of a freeman and a soldier to perform; as to serve under the lord in his wars, to pay a sum of money, and the like. 2 Bl. Comm. 60.

LIBERUM TENEMENTUM. In real law. Freehold. Frank-tenement.

In pleading. A plea of freehold. A plea by the defendant in an action of trespass to real property that the locus in quo is his freehold, or that of a third person, under whom he acted. 1 Tidd. Pr. 645.

LIBLAC. In Saxon law. Witchcraft, particularly that kind which consisted in the compounding and administering of drugs and philtres.

LIBLACUM. In Saxon law. Bewitching any person; also a barbarous sacrifice.

LIBRA. In old English law. A pound; also a sum of money equal to a pound sterling.

LIBRA ARSA. In old English law. A pound burned; that is, melted, or assayed by melting, to test its purity. Libra arsa et pensata, pounds burned and weighed. A frequent expression in Domesday, to denote the purer coin in which rents were paid. Spelman; Cowell.

LIBRA NUMERATA. A pound of money counted instead of being weighed. Spelman.

LIBRA PENSA. A pound of money by weight. It was usual in former days not only to sell the money, but to weigh it; because many cities, lords, and bishops, having their mints, coined money, and often very bad money, too, for which reason, though the pound consisted of 20 shillings, they weighed it. Enc. Lond.

LIBRARIUS. In Roman law. A writer or amanuensis; a copyist. Dig. 50, 17, 92.

LIBRATA TERRÆ. A portion of ground containing four oxgangs, and every oxgang fourteen acres. Cowell. This is the same with what in Scotland was called "poundland" of old extent. Wharton.

LIBRI PENS. In Roman law. A weigher or balance-holder. The person who held a brazen balance in the ceremony of emancipation per as et libram. Inst. 2, 10, 1.

Librorum appellaciones continetur omnia volumina, sive in charta, sive in membrana sint, sive in quavis alia materia. Under the name of books are contained all volumes, whether upon paper, or parchment, or any other material. Dig. 32, 52, 13.

LICENCIADO. In Spanish law. An attorney or advocate; particularly, a person admitted to the degree of "Licentiate in Jurisprudence" by any of the literary universities of Spain, and who is thereby authorized to practice in all the courts. Escribano.

LICENSE. In the law of contracts. A permission, accorded by a competent authority, conferring the right to do some act which without such authorization would be illegal, or would be a trespass or a tort. Also the written evidence of such permission.

In real property law. An authority to do a particular act or series of acts upon another's land without possessing any estate therein. Also the written evidence of authority so accorded.

It is distinguished from an "easement," which implies an interest in the land to be affected, and a "lease," or right to take the profits of land. It may be, however, and often is, coupled with a grant of some interest in the land itself, or right to take the profits. 1 Wash. Real Prop. *393.

In pleading. A plea of justification to an action of trespass that the defendant was authorized by the owner of the freehold to commit the trespass complained of.

In the law of patents. A written authority granted by the owner of a patent to another person empowering the latter to make or use the patented article for a limited period or in a limited territory.

In international law. Permission granted by a belligerent state to its own subjects, or to the subjects of the enemy, to carry on a trade interdicted by war. Wheat. Int. Law, 447.

Marriage license. A marriage license is an authority enabling two persons to be married.

LICENSED VICTUALLER. A term applied, in England, to all persons selling any kind of intoxicating liquor under a license from the justices of the peace. Wharton.

LICENSEE. A person to whom a license has been granted.

In patent law. One who has had transferred to him, either in writing or orally, a less or different interest than either the interest in the whole patent, or an undivided part of such whole interest, or an exclusive sectional interest. 4 Blatchf. 211.
LICENSING ACTS. This expression is applied by Hallam (Const. Hist. c. 13) to acts of parliament for the restraint of printing, except by license. It may also be applied to any act of parliament passed for the purpose of requiring a license for doing any act whatever. But, generally, when we speak of the licensing acts, we mean the acts regulating the sale of intoxicating liquors. Mozley & Whitley.

LICENSOR. The person who gives or grants a license.

LICENTIA CONCORDANDI. Lat. In old practice and conveyancing. License or leave to agree; one of the proceedings on levying a fine of lands. 2 Bl. Comm. 350.

LICENTIA LOQUENDI. Lat. In old practice. Leave to speak, (i.e., with the plaintiff,) an imparlance; or rather leave to imparl. 3 Bl. Comm. 299.

LICENTIA SURGENDI. Lat. In old English practice. License to arise; permission given by the court to a tenant in a real action, who had cast an essoin de malo lecti, to arise out of his bed, which he could not do without such permission, and after being viewed by four knights appointed for the purpose. Bract. fol. 355.

LICENTIA TRANSFRETANDI. Lat. A writ or warrant directed to the keeper of the port of Dover, or other seaport, commanding him to let such persons pass over sea as have obtained the royal license thereunto. Reg. Orig. 193.

LICENTIATE. One who has license to practice any art or faculty.

LICENTIOUSNESS. The indulgence of the arbitrary will of the individual, without regard to ethics or law, or respect for the rights of others. In this it differs from "liberty," for the latter term may properly be used only of the exercise of the will in its moral freedom, with justice to all men and obedience to the laws.

In a narrower and more technical sense, the word is equivalent to lewdness or lasciviousness.

LICERE. Lat. To be lawful; to be allowed or permitted by law. Calvin.

LICERE, LICERI. Lat. In Roman law. To offer a price for a thing; to bid for it.

LICET. Lat. From the verb "licere," (q.v.) Although; notwithstanding. Importing, in this sense, a direct affirmation. Also, it is allowed, it is permissible.

Licet dispositio de interesse futuro sit inutilis, tamen potest fieri declaratio praecedens qua sortiatur effectum, interventio novo actu. Although the grant of a future interest be inoperative, yet a declaration precedent may be made, which may take effect provided a new act intervene. Bac. Max. pp. 60, 61. reg. 14; Broom, Max. 498.

LICET SÆPIUS REQUISITUS. (Although often requested.) In pleading. A phrase used in the old Latin forms of declarations, and literally translated in the modern precedents. Yel. 66; 2 Chit. Pl. 90; 1 Chit. Pl. 331. The clause in a declaration which contains the general averment of a request by the plaintiff of the defendant to pay the sums claimed is still called the "licet sæpius requisitus."

Licita bona miscenatur, formula nisi juris obstet. Lawful acts [done by several authorities] are well mingled, [i.e., become united or consolidated into one good act,] unless some form of law forbid. Bac. Max. p. 94, reg. 24.

LICITACION. In Spanish law. The offering for sale at public auction of an estate or property held by co-heirs or joint proprietors, which cannot be divided up without detriment to the whole.

LICITARE. Lat. In Roman law. To offer a price at a sale; to bid; to bid often; to make several bids, one above another. Calvin.

LICITATION. In the civil law. An offering for sale to the highest bidder, or to him who will give most for a thing. An act by which co-heirs or other co-proprietors of a thing in common and undivided between them put it to bid between them, to be adjudged and to belong to the highest and last bidder, upon condition that he pay to each of his co-proprietors a part in the price equal to the undivided part which each of the said co-proprietors had in the estate lietted, before the adjudication. Poth. Cont. Sale, nn. 516, 638.

LICITATOR. In Roman law. A bidder at a sale.

LICKING OF THUMBS. An ancient formality by which bargains were complete.
LIDFORD LAW

A sort of lynch law, whereby a person was first punished and then tried. Wharton.

LIE. To subsist; to exist; to be sustainable; to be proper or available. Thus the phrase "an action will not lie" means that an action cannot be sustained, or that there is no ground upon which to found the action.

LIE IN FRANCHISE. Property is said to "lie in franchise" when it is of such a nature that the persons entitled thereto may seize it without the aid of a court; e.g., wrecks, waifs, estrays.

LIE IN GRANT. Incorporeal hereditaments are said to "lie in grant;" that is, they pass by force of the grant (deed or charter) without livery.

LIE IN LIVERY. A term applied to incorporeal hereditaments, freeholds, etc., signifying that they pass by livery, not by the mere force of the grant.

LIE IN WAIT. See LYING IN WAIT.

LIE TO. To adjoin. A cottage must have had four acres of land laid to it. See 2 Show. 279.

LIEFENTAN. An old form of "lieutenant," and still retained as the vulgar pronunciation of the word.

LIEGE. In feudal law. Bound by a feudal tenure; bound in allegiance to the lord paramount, who owned no superior.

In old records. Full; absolute; perfect; pure. Liege widowhood was pure widowhood. Cowell.

LIEGE HOMAGE. Homage which, when performed by one sovereign prince to another, included fealty and services, as opposed to simple homage, which was a mere acknowledgment of tenure. (1 Bl. Comm. 367; 2 Steph. Comm. 400.) Mooley & Whitley.

LIEGE LORD. A sovereign; a superior lord.

LIEG & POUSTIE. In Scotch law. That state of health which gives a person full power to dispose of, mortis causae or otherwise, his heritable property. Bell.

A deed executed at the time of such a state of health, as opposed to a death-bed conveyance.

The term seems to be derived from the Latin "legitima potestas."

LIEGEMAN. He that oweth allegiance. Cowell.

LIEGER, or Leger. A resident ambassador.

LIEGES, or LIEGE PEOPLE. Subjects.

LIEN. A qualified right of property which a creditor has in or over specific property of his debtor, as security for the debt or charge or for performance of some act.

In every case in which property, either real or personal, is charged with the payment of a debt or duty, every such charge may be denominated a lien on the property. Whitak. Liens, p. 1.

A lien is a charge imposed upon specific property, by which it is made security for the performance of an act. Code Civil Proc. Cal. § 1180.

Lien is the right of one man to retain property in his possession belonging to another, until certain demands of the party in possession are satisfied. 36 Wend. 467. And see 1 Hill. 292.

Lien is familiarly understood to be a binding or attachment of the thing spoken of, for the benefit of him who is entitled thereto. 2 Hawks, 300.

In the Scottish law, the doctrine of lien is known by the name of "restitution," and that of set-off by the name of "compensation."

Liens are either particular, as a right to retain a thing for some charge or claim growing out of, or connected with, the identical thing; or general, as a right to retain a thing not only for such charges and claims, but also for a general balance of accounts between the parties in respect to other dealings of the like nature.

Liens are also either conventional or by operation of law. The former is the case where the lien is raised by the express agreement and stipulation of the parties, in circumstances where the law alone would not create a lien from the mere relation of the parties or the details of their transaction. The latter is the case where the law itself, without the stipulation of the parties, raises a lien, as an implication or legal consequence from the relation of the parties or the circumstances of their dealings. Liens of this species may arise either under the rules of common law or of equity or under a statute. In the first case they are called "common-law liens;" in the second, "equitable liens;" in the third, "statutory liens."

Liens are either possessory or charging; the former, where the creditor has the right to hold possession of the specific property until satisfaction of the debt; the latter, where
the debt is a charge upon the specific property although it remains in the debtor's possession.

Equitable liens are such as exist in equity, and of which courts of equity alone take cognizance.

A lien is neither a *jus in re* nor a *jus ad rem*. It is not property in the thing, nor does it constitute a right of action for the thing. It more properly constitutes a charge upon the thing. Equitable liens most commonly grow out of constructive trusts.

Story, Eq. Jur. § 1215.

Maritime liens. Maritime liens do not include or require possession. The word "lien" is used in maritime law not in the strict legal sense in which we understand it in courts of common law, in which case there could be no lien where there was no possession, actual or constructive, but to express, as if by analogy, the nature of claims which neither presuppose nor originate in possession. 22 Eng. Law & Eq. 62.

The civil law lien. The civil law embraces, under the head of "mortgage and privilege," the peculiar securities which, in the common and maritime law and equity, are termed "liens."

As to Bailee's Lien, Mechanic's Lien, and Vendor's Lien, see those titles.

LIEN OF A COVENANT. The commencement of a covenant stating the names of the covenantors and covenantees, and the character of the covenant, whether joint or several. Wharton.

LIENOR. The person having or owning a lien; one who has a right of lien upon property of another.

LIEU. Fr. Place; room. It is only used with "in;" *in lieu*, instead of. Enc. Lond.

LIEU CONUS. L. Fr. In old pleading. A known place; a place well known and generally taken notice of by those who dwell about it, as a castle, a manor, etc. Whishaw; 1 Ld. Raym. 259.

LIEUTENANCY, COMMISSION OF. See Commission of Array.

LIEUTENANT. 1. A deputy; substitute; an officer who supplies the place of another; one acting by vicarious authority. Etymologically, one who holds the post or office of another, in the place and stead of the latter.

2. The word is used in composition as part of the title of several civil and military officers, who are subordinate to others, and especially where the duties and powers of the higher officer may, in certain contingencies, devolve upon the lower; as lieutenant governor, lieutenant colonel, etc. See the following titles.

3. In the army, a lieutenant is a commissioned officer, ranking next below a captain. In the United States navy, he is an officer whose rank is intermediate between that of an ensign and that of a lieutenant commander. In the British navy, his rank is next below that of a commander.

LIEUTENANT COLONEL. An officer of the army whose rank is above that of a major and below that of a colonel.

LIEUTENANT COMMANDER. A commissioned officer of the United States navy, whose rank is above that of lieutenant and below that of commander.

LIEUTENANT GENERAL. An officer in the army, whose rank is above that of major general and below that of "general of the army." In the United States, this rank is not permanent, being usually created for special persons or in times of war.

LIEUTENANT GOVERNOR. In English law. A deputy-governor, acting as the chief civil officer of one of several colonies under a governor general. Webster.

In American law. An officer of a state, sometimes charged with special duties, but chiefly important as the deputy or substitute of the governor, acting in the place of the governor upon the latter's death, resignation, or disability.

LIFE. That state of animals and plants, or of an organized being, in which its natural functions and motions are performed, or in which its organs are capable of performing their functions. Webster.

The sum of the forces by which death is resisted. Bichat.

LIFE-ANNUITY. An engagement to pay an income yearly during the life of some person; also the sum thus promised.

LIFE-ESTATE. An estate whose duration is limited to the life of the party holding it, or of some other person; a freehold estate, not of inheritance.

LIFE INSURANCE. That kind of insurance in which the risk contemplated is the death of a particular person; upon which event (if it occurs within a prescribed term, or, according to the contract, whenever it occurs,
curs) the insurer engages to pay a stipulated sum to the legal representatives of such person, or to a third person having an insurable interest in the life of such person.

LIFE-INTEREST. A claim or interest, not amounting to ownership, and limited by a term of life, either that of the person in whom the right is vested or that of another.

LIFE-LAND, or LIFE-HOLD. Land held on a lease for lives.

LIFE PEERAGE. Letters patent, conferring the dignity of baron for life only, do not enable the grantee to sit and vote in the house of lords, not even with the usual writ of summons to the house. Wharton.

LIFE POLICY. A policy of life insurance; a policy of insurance upon the life of an individual.

LIFE-RENT. In Scotch law. An estate for life; a right to the use and enjoyment of an estate or thing for one's life, but without destruction of its substance. They are either legal, such as terce and curtesy, (q. v.,) or conventional, i. e., created by act of the parties. Conventional life-rents are either simple, where the owner of an estate grants a life-interest to another, or by reservation, where the owner, in conveying away the fee, reserves a life-estate to himself.

LIFE-RENTER. In Scotch law. A tenant for life without waste. Bell.

LIFT. To raise; to take up. To "lift" a promissory note is to discharge its obligation by paying its amount or substituting another evidence of debt. To "lift the bar" of the statute of limitations, or of an estoppel, is to remove the obstruction which it interposes, by some sufficient act or acknowledgment.

LIGA. In old European law. A league or confederation. Spelman.

LIGAN, LAGAN. Goods cast into the sea tied to a buoy, so that they may be found again by the owners, are so denominated. When goods are cast into the sea in storms or shipwrecks, and remain there, without coming to land, they are distinguished by the barbarous names of "jetsam," "rottsam," and "ligan." 5 Coke, 108; Harg. State Tr. 48; 1 Bl. Comm. 292.

LIGARE. To tie or bind. Bract. fol. 369.

To enter into a league or treaty. Spelman.

AM. DICT. LAW—46
LIGHTERMAN. The master or owner of a lighter. He is liable as a common carrier.

LIGHTS. 1. Windows; openings in the wall of a house for the admission of light.
2. Signal-lamps on board a vessel or at particular points on the coast, required by the navigation laws to be displayed at night.

LIGIUS. A person bound to another by a solemn tie or engagement. Now used to express the relation of a subject to his sovereign.

Ligna et lapides sub "armorum" appellatione non continentur. Sticks and stones are not contained under the name of "arms." Bract. fol. 144b.

LIGNAGIUM. A right of cutting fuel in woods; also a tribute or payment due for the same. Jacob.

LIGNAMINA. Timber fit for building. Du Fresne.

LIGULA. In old English law. A copy, exemplification, or transcript of a court roll or deed. Cowell.

LIMB. A member of the human body. In the phrase "life and limb," the latter term appears to denote bodily integrity in general; but in the definition of "mayhem" it refers only to those members or parts of the body which may be useful to a man in fighting. 1 Bl. Comm. 130.

LIMENARCHA. In Roman law. An officer who had charge of a harbor or port. Dig. 50, 4, 18, 10; Cod. 7, 16, 38.

LIMIT, v. To mark out; to define; to fix the extent of. Thus, to limit an estate means to mark out or to define the period of its duration, and the words employed in deeds for this purpose are thence termed "words of limitation," and the act itself is termed "limiting the estate." Brown.

LIMIT, n. A bound; a restraint; a circumscription; a boundary. 22 N. Y. 429.

LIMITATION. Restriction or circumspection; settling an estate or property; a certain time allowed by a statute for litigation.

In estates. A limitation, whether made by the express words of the party or existing in intendment of law, circumscribes the continuance of time for which the property is to be enjoyed, and by positive and certain terms, or by reference to some event which possibly may happen, marks the period at which the time of enjoyment shall end. Prest. Estates, 25.

LIMITATION IN LAW. A limitation in law, or an estate limited, is an estate to be held only during the continuance of the condition under which it was granted, upon the determination of which the estate vests immediately in him in expectancy. 2 Bl. Comm. 155.

LIMITATION OF ACTIONS. The restriction by statute of the right of action to certain periods of time, after the accruing of the cause of action, beyond which, except in certain specified cases, it will not be allowed.

Also the period of time so limited by law for the bringing of actions.

LIMITATION OF ASSIZE. In old practice. A certain time prescribed by statute, within which a man was required to allege himself or his ancestor to have been seized of lands sued for by a writ of assize. Cowell.

LIMITATION OF ESTATE. The restriction or circumscription of an estate, in the conveyance by which it is granted, in respect to the interest of the grantee or its duration; the specific curtailment or confinement of an estate, by the terms of the grant, so that it cannot endure beyond a certain period or a designated contingency.

A conditional limitation (in the generic sense of the term) is where one estate is limited to end and another to commence on the doing of some act or the happening of some event.

A collateral limitation is one which marks the extreme duration of an estate, and at the same time indicates an uncertain event, the happening of which will put an end to it before the expiration of that period. Sweet.

LIMITATION, WORDS OF. Those which operate by reference to, or in connection with, other words, and extend or modify an estate given by such other words, as "heirs," "heirs of the body."

LIMITED. Restricted; bounded; prescribed. Confined within positive bounds; restricted in duration, extent, or scope.

LIMITED ADMINISTRATION. An administration of a temporary character, granted for a particular period, or for a special or particular purpose. Holdhouse.
LIMITED COMPANY. A company in which the liability of each shareholder is limited by the number of shares he has taken, so that he cannot be called on to contribute beyond the amount of his shares. In England, the memorandum of association of such company may provide that the liability of the directors, manager, or managing director thereof shall be unlimited. 30 & 31 Vict. c. 131; 1 Limil. Partn. 383. Mozley & Whitley.

LIMITED DIVORCE. A divorce from bed and board; or a judicial separation of husband and wife not dissolving the marriage tie.

LIMITED EXECUTOR. An executor whose appointment is qualified by limitations as to the time or place wherein, or the subject-matter wherein, the office is to be exercised; as distinguished from one whose appointment is absolute, i.e., certain and immediate, without any restriction in regard to the testator's effects or limitation in point of time. 1 Williams, Ex'r's, 249, et seq.

LIMITED FEE. An estate of inheritance in lands, which is clogged or confined with some sort of condition or qualification. Such estates are base or qualified fees, conditional fees, and fees-tail. The term is opposed to "fee-simple." 2 Bl. Comm. 109.

LIMITED JURISDICTION. This term is ambiguous, and the books sometimes use it without due precision. It is sometimes carelessly employed instead of "special." The true distinction between courts is between such as possess a general and such as have only a special jurisdiction for a particular purpose, or are clothed with special powers for the performance. 18 N. J. Law, 73.

LIMITED LIABILITY. The liability of the members of a joint-stock company may be either unlimited or limited; and, if the latter, then the limitation of liability is either the amount, if any, unpaid on the shares, (in which case the limit is said to be "by shares," or such an amount as the members guarantee in the event of the company being wound up, (in which case the limit is said to be "by guaranty.") Brown.

LIMITED OWNER. A tenant for life, in tail, or by the curtesy, or other person not having a fee-simple in his absolute disposition.

LIMITED PARTNERSHIP. A partnership consisting of one or more general partners, jointly and severally responsible as ordinary partners, and by whom the business is conducted, and one or more special partners, contributing in cash payments a specific sum as capital to the common stock, and who are not liable for the debts of the partnership beyond the fund so contributed. 1 Rev. St. N. Y. 764.

LIMOGIA. Enamel. Du Cange.

LINARIUM. In old English law. A flax plat, where flax is grown. Du Cange.

LINCOLN'S INN. An inn of court. See INNS OF COURT.

LINE. In descents. The order or series of persons who have descended one from the other or all from a common ancestor, considered as placed in a line of succession in the order of their birth, the line showing the connection of all the blood-relatives.

Measures. A line is a linear measure, containing the one-twelfth part of an inch.

In estates. The boundary or line of division between two estates.

LINA. Lat. A line; line of descent.

See LINE.

LINEA OBliqua. In the civil law. The oblique line. More commonly termed "linea transversalis," (q. v.)

LINEA RECTA. The direct line; the vertical line. In computing degrees of kindred and the succession to estates, this term denotes the direct line of ascendants and descendants.

Where a person springs from another immediately, or mediately through a third person, they are said to be in the direct line, (linea recta,) and are called "ascendants" and "descendants." Mackeld. Rom. Law, § 129.

Linea recta est index sui et obliqui; lex est linea recti. Co. Litt. 158. A right line is a test of itself, and of an oblique; a law is a line of right.

Linea recta semper prefertur transversali. The right line is always preferred to the collateral. Co. Litt. 10; Broom. Max. 520.

LINEA TRANSVERSALIS. A collateral, transverse, or oblique line. Where two persons are descended from a third, they are called "collaterals," and are said to be related in the collateral line, (linea transversa or obliqua.)
LINEAGE. Race; progeny; family, ascending or descending.

LINEAL. That which comes in a line; especially a direct line, as from father to son. Collateral relationship is not called "lineal," though the expression "collateral line," is not unusual.

LINEAL CONSANGUINITY. That kind of consanguinity which subsists between persons of whom one is descended in a direct line from the other; as between a particular person and his father, grandfather, great-grandfather, and so upward, in the direct ascending line; or between the same person and his son, grandson, great-grandson, and so downwards in the direct descending line. 2 Bl. Comm. 203.

LINEAL DESCENT. Descent in a right line, as where an estate descends from ancestor to heir in one line of succession, as opposed to collateral descent.

LINEAL WARRANTY. A warranty by an ancestor from whom the title did or might have come to the heir. 2 Bl. Comm. 301; Rawle, Cov. 30.

LINES AND CORNERS. In surveying and conveying. Boundary lines and their terminating points, where an angle is formed by the next boundary line.

LINK. A unit in a connected series; anything which serves to connect or bind together the things which precede and follow it. Thus, we speak of a "link in the chain of title."

LIQUERE. Lat. In the civil law. To be clear, evident, or satisfactory. When a judex was in doubt how to decide a case, he represented to the prætor, under oath, sibi non liquere, (that it was not clear to him,) and was thereupon discharged. Calvin.

LIQUET. It is clear or apparent; it appears. Satis liquet, it sufficiently appears. 1 Strange, 412.

LIQUIDATE. To adjust or settle an indebtedness; to determine an amount to be paid; to clear up an account and ascertain the balance; to fix the amount required to satisfy a judgment.

To clear away; to lessen; to pay. "To liquidate a balance means to pay it." 8 Wheat. 338, 352.

LIQUIDATED. Ascertained; determined; fixed; settled; made clear or manifest. Cleared away; paid; discharged.

LIQUIDATED ACCOUNT. An account whereof the amount is certain and fixed, either by the act and agreement of the parties or by operation of law; a sum which cannot be changed by the proof; it is so much or nothing; but the term does not necessarily refer to a writing. 1 Ga. 287.

LIQUIDATED DAMAGES. Agreed or settled damages; a specific sum of money expressly stipulated by the parties to a bond or other contract, as the amount of damages to be recovered by either party for a breach of the agreement by the other. It is generally distinguished from a penalty.

LIQUIDATED DEBT. A debt is liquidated when it is certain what is due and how much is due. 20 Ga. 502.

LIQUIDATED DEMAND. A demand is a liquidated one if the amount of it has been ascertained—settled—by the agreement of the parties to it, or otherwise. 20 Ga. 53.

LIQUIDATING PARTNER. The partner who upon the dissolution or insolvency of the firm, is appointed to settle its accounts, collect assets, adjust claims, and pay debts.

LIQUIDATION. The act or process of settling or making clear, fixed, and determine that which before was uncertain or unascertained.

As applied to a company, (or sometimes to the affairs of an individual,) liquidation is used in a broad sense as equivalent to "winding up;" that is, the comprehensive process of settling accounts, ascertaining and adjusting debts, collecting assets, and paying off claims.

LIQUIDATOR. A person appointed to carry out the winding up of a company.

LIQUOR. This term, when used in statutes forbidding the sale of liquors, refers only to spirituous or intoxicating liquors. 18 N. J. Law, 311; 20 Barb. 246; 3 Denio, 407.

LIQUOR-SHOP. A house where spirituous liquors are kept and sold. 6 Baxt. 534.

LIRA. The name of an Italian coin, of the value of about eighteen cents.

LIS. Lat. A controversy or dispute; a suit or action at law.

LIS ALIBI PENDENS. A suit pending elsewhere. The fact that proceedings are pending between a plaintiff and defendant in one court in respect to a given matter is frequently a ground for preventing the plain-
tiff from taking proceedings in another court against the same defendant for the same object and arising out of the same cause of action. Sweet.

**LIS MOTA.** A controversy moved or begun. By this term is meant a dispute which has arisen upon a point or question which afterwards forms the issue upon which legal proceedings are instituted. After such controversy has arisen. (post liitem motam,) it is held, declarations as to pedigree, made by members of the family since deceased, are not admissible. See 4 Camp. 417; 6 Car. & P. 560.

**LIS PENDENS.** A suit pending; that legal process, in a suit regarding land, which amounts to legal notice to all the world that there is a dispute as to the title. In equity the filing of the bill and serving a subpoena creates a lis pendens, except when statutes require some record. Stim. Law Gloss.

In the civil law. A suit pending. A suit was not said to be pending before that stage of it called "litis contestatio," (q. v.) Mackeld. Rom. Law, § 219. Calvin.

**LIST.** A docket or calendar of causes ready for trial or argument, or of motions ready for hearing.

**LISTED.** Included in a list; put on a list, particularly on a list of taxable persons or property.

**LISTERS.** This word is used in some of the states to designate the persons appointed to make lists of taxable. See Rev. St. Vt. 538.

**LITE PENDENTE.** Lat. Pending the suit. Fleta, lib. 2, c. 54, § 23.

**LITEM SUAM FACERE.** Lat. To make a suit his own. Where a judeex, from partiality or enmity, evidently favored either of the parties, he was said litem suam facere. Calvin.

**LITERA.** Lat. A letter. The letter of a law, as distinguished from its spirit. See Letter.

**LITERA PISANA.** The Pisan letter. A term applied to the old character in which the copy of the Pandects formerly kept at Pisa, in Italy, was written. Spelman.

**LITERÆ.** Letters. A term applied in old English law to various instruments in writing, public and private.

**LITERÆ DIMISSORÆ.** Dimissory letters, (q. v.)

**LITERÆ HUMANIORES.** A term including Greek, Latin, general philology, logic, moral philosophy, metaphysics; the name of the principal course of study in the University of Oxford. Wharton.

**LITERÆ MORTUÆ.** Dead letters; fulfilling words of a statute. Lord Bacon observes that "there are in every statute certain words which are as veins, where the life and blood of the statute cometh, and where all doubts do arise, and the rest are literæ mortuae, fulfilling words." Bac. St. Uses, (Works, iv. 189.)

**LITERÆ PATENTES.** Letters patent; literally, open letters.

Literæ patentes regis non grnat vacuæ. 1 Bulst. 6. The king’s letters patent shall not be void.

**LITERÆ PROCURATORÆ.** In old English law. Letters procuratory; letters of procuration; letters of attorney. Bract. fos. 40, 43.


**LITERÆ SCRIPTÆ MANENT.** Written words last.

**LITERÆ SIGILLATÆ.** In old English law. Sealed letters. The return of a sheriff was so called. Fleta, lib. 2, c. 64, § 19.

**LITERAL.** According to language; following expression in words. A literal construction of a document adheres closely to its words, without making differences for extrinsic circumstances; a literal performance of a condition is one which compiles exactly with its terms.

**LITERAL CONTRACT.** In Roman law. A species of written contract, in which the formal act by which an obligation was superinduced on the convention was an entry of the sum due, where it should be specifically ascertained, on the debit side of a ledger. Maine, Anc. Law, 320.

A contract, the whole of the evidence of which is reduced to writing, and binds the party who subscribed it, although he has received no consideration. Lee. El. Dr. Rom. § 887.

**LITERAL PROOF.** In the civil law. Written evidence.
LITÉRAT. Pertaining to polite learning; connected with the study or use of books and writings.

The word "literary," having no legal significance, is to be taken in its ordinary and usual meaning. We speak of literary persons as learned, erudite; of literary property, as the productions of ripe scholars, or, at least, of professional writers; of literary institutions, as those where the positive sciences are taught, or persons eminent for learning associate, for purposes connected with their professions. This we think the popular meaning of the word; and that it would not be properly used as descriptive of a school for the instruction of youth. 8 Ind. 383.

LITERARY PROPERTY may be described as the right which entitles an author and his assigns to all the use and profit of his composition, to which no independent right is, through any act or omission on his or their part, vested in another person. 9 Amer. Law Reg. 44.

A distinction is to be taken between "literary property" (which is the natural, common-law right which a person has in the form of written expression to which he has, by labor and skill, reduced his thoughts) and "copyright," (which is a statutory monopoly, above and beyond natural property, conferred upon an author to encourage and reward a dedication of his literary property to the public.) Abbott.

LITERATE. In English ecclesiastical law. One who qualifies himself for holy orders by presenting himself as a person accomplished in classical learning, etc., not as a graduate of Oxford, Cambridge, etc.

LITÉRATURA. "Ad literaturam ponere" means to put children to school. This liberty was anciently denied to those parents who were servile tenants, without the lord's consent. The prohibition against the education of sons arose from the fear that the son, being bred to letters, might enter into holy orders, and so stop or divert the services which he might otherwise do as heir to his father. Paroch. Antiq. 401.

LITERIS OBLIGATI. In Roman law. The contract of nomen, which was constituted by writing, (scripturâ.) It was of two kinds, viz.: (1) A re in personam, when a transaction was transferred from the day-book (adversaria) into the ledger (codex) in the form of a debt under the name or heading of the purchaser or debtor, (nomen;) and (2) a personâ in personam, where a debt already standing under one nomen or heading was transferred in the usual course of nocatio from that nomen to another and substituted nomen. By reason of this transferring, these obligations were called "nomina transcripti-
tia." No money was, in fact, paid to constitute the contract. If ever money was paid, then the nomen was arcarium, (i.e., a real contract, re contractus,) and not a nomen proprium. Brown.

LITIGANT. A party to a lawsuit; one engaged in litigation; usually spoken of active parties, not of nominal ones.

LITIGARE. Lat. To litigate; to carry on a suit, (item agere,) either as plaintiff or defendant; to claim or dispute by action; to test or try the validity of a claim by action.

LITIGATE. To dispute or contend in form of law; to carry on a suit.

LITIGATION. A judicial controversy. A contest in a court of justice, for the purpose of enforcing a right.

LITIGIOSITY. In Scotch law. The tendency of a suit; it is a tacit legal prohibition of alienation, to the disappointment of an action, or of diligence, the direct object of which is to obtain possession, or to acquire the property of a particular subject. The effect of it is analogous to that of inhibition. Bell.

LITIGIOUS. That which is the subject of a suit or action; that which is contested in a court of justice. In another sense, "litigious" signifies fond of litigation; prone to engage in suits.

LITIGIOUS CHURCH. In ecclesiastical law, a church is said to be litigious where two presentations are offered to the bishop upon the same avoidance. Jenk. Cent. 11.

LITIGIOUS RIGHT. In the civil law. A right which cannot be exercised without undergoing a lawsuit. Civil Code La. arts. 918, 3556.

LITIS ESTIMATIO. The measure of damages.

LITIS CONTESTATIO. In the civil and canon law. Contestation of suit; the process of contesting a suit by the opposing statements of the respective parties; the process of coming to an issue; the attainment of an issue; the issue itself.

In the practice of the ecclesiastical courts. The general answer made by the defendant, in which he denies the matter charged against him in the libel. Halifax, Civil Law, b. 3, c. 11, no. 9.
In admiralty practice. The general issue. 2 Browne, Civil & Adm. Law, 358, and note.

LITIS DOMININUM. In the civil law. Ownership, control, or direction of a suit. A fiction of law by which the employment of an attorney or proctor (procurator) in a suit was authorized or justified, he being supposed to become, by the appointment of his principal (dominus) or client, the dominus litis. Heinecc. Elem. lib. 4, tit. 10, §§ 1246, 1247.

Litis nomen omnem actionem significat, sive in rem, sive in personam sit. Co. Litt. 292. A lawsuit signifies every action, whether it be in rem or in personam.

LITISPENDENCE. An obsolete term for the time during which a lawsuit is going on.

LITISPENDENCIA. In Spanish law. Litispendency. The condition of a suit pending in a court of justice.

LITRE. Fr. A measure of capacity in the metric system, being a cubic decimetre, equal to 61.022 cubic inches, or 2.113 American pints, or 1.75 English pints. Webster.

LITTORAL. Belonging to the shore; as of seas and great lakes. Webster. Corresponding to riparian proprietors on a stream or small pond are littoral proprietors on a sea or lake. But “riparian” is also used co-extensively with “littoral.” 7 Cush. 94. See 17 How. 426.

LITURA. In the civil law. An obliteration or blot in a will or other instrument. Dig. 28, 4, 1, 1.

LITUS. In old European law. A kind of servant; one who surrendered himself into another’s power. Spelman.

In the civil law. The bank of a stream or shore of the sea; the coast.

Litus est quosque maximus fluctus a mari pervenit. The shore is where the highest wave from the sea has reached. Dig. 50, 16, 96. Ang. Tide-Waters, 67.

LITUS MARIS. The sea-shore. “It is certain that that which the sea overflows, either at high spring tides or at extraordinary tides, comes not, as to this purpose, under the denomination of ‘litus maris,’ and consequently the king’s title is not of that large extent, but only to land that is usually overflowed at ordinary tides. That, therefore, I call the ‘shore’ that is between the common high-water and low-water mark, and no more.” Hale de Jure Mar. c. 4.

LIVELODE. Maintenance; support.

LIVERY. 1. In English law. Delivery of possession of their lands to the king’s tenants in capite or tenants by knight’s service.

2. A writ which may be sued out by a ward in chivalry, on reaching his majority, to obtain delivery of the possession of his lands out of the hands of the guardian. 2 Bl. Comm. 68.

3. A particular dress or garb appropriate or peculiar to certain persons, as the members of a guild, or, more particularly, the servants of a nobleman or gentleman.

4. The privilege of a particular guild or company of persons, the members thereof being called “livery-men.”

5. A contract of hiring of work-beasts, particularly horses, to the use of the hirer. It is seldom used alone in this sense, but appears in the compound, “livery-stable.”

LIVERY IN CHIVALRY. In feudal law. The delivery of the lands of a ward in chivalry out of the guardian’s hands, upon the heir’s attaining the requisite age,—twenty-one for males, sixteen for females. 2 Bl. Comm. 68.

LIVERY-MAN. A member of some company in the city of London; also called a “freeman.”

LIVERY OF SEISIN. The appropriate ceremony, at common law, for transferring the corporal possession of lands or tenements by a grantor to his grantee. It was livery in deed where the parties went together upon the land, and there a twig, clod, key, or other symbol was delivered in the name of the whole. Livery in law was where the same ceremony was performed, not upon the land itself, but in sight of it. 2 Bl. Comm. 315, 316.

LIVERY-OFFICE. An office appointed for the delivery of lands.

LIVERY STABLE KEEPER. One whose business it is to keep horses for hire or to let, or to keep, feed, or board horses for others.

LIVRE TOURNOIS. In common law. A coin used in France before the Revolution. It is to be computed in the ad calorem duty on goods, etc., at eighteen and a half cents. M

Act March 2, 1798, § 61; 1 Story, Laws, 629.
Lloyd's. An association in the city of London, the members of which underwrite each other's policies.

Lloyd's Bonds. The name of a class of evidences of debt, used in England; being acknowledgments, by a borrowing company made under its seal, of a debt incurred and actually due by the company to a contractor or other person for work done, goods supplied, or otherwise, as the case may be, with a covenant for payment of the principal and interest at a future time. Brown.

Loadmanage. The pay to loadsmen; that is, persons who sail or row before ships, in barks or small vessels, with instruments for towing the ship and directing her course, in order that she may escape the dangers in her way. Poth. Des Avaries, no. 137.

Loan. A bailment without reward; consisting of the delivery of an article by the owner to another person, to be used by the latter gratuitously, and returned either in specie or in kind. A sum of money confided to another.

A loan of money is a contract by which one delivers a sum of money to another, and the latter agrees to return at a future time a sum equivalent to that which he borrowed. Civil Code Cal. § 1912.

Loan certificates. Certificates issued by a clearing-house to the associated banks to the amount of seventy-five per cent. of the value of the collateralized deposits by the borrowing banks with the loan committee of the clearing-house. Anderson.

Loan for consumption. The loan for consumption is an agreement by which one person delivers to another a certain quantity of things which are consumed by the use, under the obligation, by the borrower, to return to him as much of the same kind and quality. Civil Code La. art. 2910.

Loans are of two kinds,—for consumption or for use. A loan for consumption is where the article is not to be returned in specie, but in kind. This is a sale, and not a bailment. Code Ga. 1882, § 2125.

Loan for exchange. A loan for exchange is a contract by which one delivers personal property to another, and the latter agrees to return to the lender a similar thing at a future time, without reward for its use. Civil Code Cal. § 1902.

Loan for use. The loan for use is an agreement by which a person delivers a thing to another, to use it according to its natural destination, or according to the agreement, under the obligation on the part of the borrower to return it after he shall have done using it. Civil Code La. art. 2893.

A loan for use is a contract by which one gives to another the temporary possession and use of personal property, and the latter agrees to return the same thing to him at a future time, without reward for its use. Civil Code Cal. § 1894.

A loan for use is the gratuitous grant of an article to another for use, to be returned in specie, and may be either for a certain time or indefinitely, and at the will of the grantor. Code Ga. 1882, § 2126.

Loan for use (called "commodaturn" in the civil law) differs from a loan for consumption, (called "mutuaum" in the civil law, in this: that the commodatum must be specifically returned; the mutuaum is to be returned in kind. In the case of a commodatum, the property in the thing remains in the lender; in a mutuaum, the property passes to the borrower. Bouvier.

Loan, gratuitous, (or commodate.) A class of bailment which is called "commodatum" in the Roman law, and is denominated by Sir William Jones a "loan for use," (pret à usage,) to distinguish it from "mutuaum," a loan for consumption. It is the gratuitous lending of an article to the borrower for his own use. Wharton.

Loan societies. In English law. A kind of club formed for the purpose of advancing money on loan to the industrial classes.

Lobbying. "Lobbying" is defined to be any personal solicitation of a member of a legislative body during a session thereof, by private interview, or letter or message, or other means and appliances not addressed solely to the judgment, to favor or oppose, or to vote for or against, any bill, resolution, report, or claim pending, or to be introduced by either branch thereof, by any person who misrepresents the nature of his interest in the matter to such member, or who is employed for a consideration by a person or corporation interested in the passage or defeat of such bill, resolution, report, or claim, for the purpose of procuring the passage or defeat thereof. But this does not include such services as drafting petitions, bills, or resolutions, attending to the taking of testimony, collecting facts, preparing arguments and memorials, and submitting them orally or in writing to a committee or member of the legislature, and other serv-
L'OBLIGATION SANS CAUSE, ETC. 729

LOCALITY

icles of like character, intended to reach the
reason of legislators. Code Ga. 1882, § 4486

L'obligation sans cause, ou sur une
fausse cause, ou sur cause illicite, ne
peut avoir aucun effet. An obligation
without consideration, or upon a false con-
sideration, (which fails,) or upon unlawful
consideration, cannot have any effect. Code
Civil, 3, 3, 4; Chit. Cont. (11th Amer. Ed.)
25, note.

LOCAL. Relating to place; expressive
of place; belonging or confined to a particu-
lar place. Distinguished from "general,"
"personal," and "transitory."

LOCAL ACT OF PARLIAMENT. An
act which has for its object the interest of
some particular locality, as the formation
of a road, the alteration of the course of a river,
the formation of a public market in a particu-
lar district, etc. Brown.

LOCAL ACTION. An action is so
termed when all the principal facts on which
it is founded are of a local nature; as where
possession of land is to be recovered, or dam-
ages for an actual trespass, or for waste af-
fecting land, because in such case the cause
of action relates to some particular locality,
which usually also constitutes the venue of
the action.

LOCAL ALLEGIANCE. That meas-
ure of obedience which is due from a subject
of one government to another government,
within whose territory he is temporarily resi-
dent.

LOCAL CHATTEL. A thing is local
that is fixed to the freehold. Kitchin, 180.

LOCAL COURTS. Courts whose jurisdic-
tion is limited to a particular territory or
district. The expression often signifies the
courts of the state, in opposition to the United
States courts.

LOCAL CUSTOM. A particular or spe-
cial custom; one not general in its nature or
observance, but confined to a particular dis-
trict or locality.

LOCAL FREIGHT. Freight shipped
from either terminus of a railroad to a way
station, or vice versa, or from one way station
to another; that is, over a part of the road
only. 61 Ala. 579.

LOCAL GOVERNMENT. The gov-
ernment or administration of a particular lo-
cality; especially, the governmental authority
of a municipal corporation, as a city or coun-
ty, over its local and individual affairs, ex-
ercised in virtue of power delegated to it for
that purpose by the general government of
the state or nation.

LOCAL IMPROVEMENT. By common
usage, especially as evidenced by the prac-
tice of courts and text-writers, the term "lo-
cal improvements" is employed as signifying
improvements made in a particular locality,
by which the real property adjoining or near
such locality is specially benefited. 22 Minn.
507.

LOCAL LAW. A law which, instead of
relating to and binding all persons, corpora-
tions, or institutions to which it may be ap-
licable, within the whole territorial juris-
diction of the law-making power, is limited
in its operation to certain districts of such
territory or to certain individual persons or
corporations. See GENERAL LAW.

LOCAL OPTION. A privilege accorded
by the legislature of a state to the several
counties or other districts of the state to de-
termine, each for itself, by popular vote,
whether or not licenses should be issued for
the sale of intoxicating liquors within such
districts.

LOCAL PREJUDICE. The "prejudice
or local influence" which will warrant the
removal of a cause from a state court to a
federal court may be either prejudice and in-
fluence existing against the party seeking
such removal or existing in favor of his ad-

LOCAL STATUTE. Such a statute as
has for its object the interest of some par-
ticular locality, as the formation of a road,
the alteration of the course of a river, the
formation of a public market in a particular
district, etc.

LOCAL TAXES. Those assessments
which are limited to certain districts, as
poor-rates, parochial taxes, county rates, mu-
icipal taxes, etc.

LOCAL VENUE. In pleading. A
venue which must be laid in a particular
county. When the action could have arisen
only in a particular county, it is local, and
the venue must be laid in that county. 1
Tidd, Pr. 427.

LOCALITY. In Scotch law. This name
is given to a life-rent created in marriage
contracts in favor of the wife, instead of
leaving her to her legal life-rent of tierce. 1
Bell, Comm. 55.
LOCARE. To let for hire; to deliver or mail a thing for a certain reward or compensation. Bract. fol. 62.

LOCARIUM. In old European law. The price of letting; money paid for the hire of a thing; rent. Spelman.

LOCATAIRE. In French law. A les-see, tenant, or renter.

LOCATARIUS. A depositaire.

LOCATE. To ascertain and fix the position of something, the place of which was before uncertain or not manifest; as to locate the calls in a deed.

To decide upon the place or direction to be occupied by something not yet in being; as to locate a road.

LOCATIO. Lat. In the civil law. Letting for hire. The term is also used by text-writers upon the law of bailment at common law. In Scotch law it is translated “location.” Bell.

LOCATIO-CONDUCTIO. In the civil law. A compound word used to denote the contract of bailment for hire, expressing the action of both parties, viz., a letting by the one, and a hiring by the other. 2 Kent, Comm. 586, note; Story, Bailm. § 368.

LOCATIO CUSTODIÆ. A letting to keep; a bailment or deposit of goods for hire. Story, Bailm. § 442.

LOCATIO OPERIS. In the civil law. The contract of hiring work, i.e., labor and services.

It is a contract by which one of the parties gives a certain work to be performed by the other, who binds himself to do it for the price agreed between them, which he who gives the work to be done promises to pay to the other for doing it. Poth. Lounge, no. 392.

LOCATIO OPERIS FACIENDI. A letting out of work to be done; a bailment of a thing for the purpose of having some work and labor or care and pains bestowed on it for a pecuniary recompense. 2 Kent, Comm. 586, 588; Story, Bailm. §§ 870, 421, 422.

LOCATIO OPERIS MERCIUM VE-HENDARUM. A letting of work to be done in the carrying of goods; a contract of bailment by which goods are delivered to a person to carry for hire. 2 Kent, Comm. 597; Story, Bailm. §§ 870, 457.

LOCATIO REI. A letting of a thing to hire. 2 Kent, Comm. 586. The bailment or letting of a thing to be used by the bailee for a compensation to be paid by him. Story, Bailm. § 370.

LOCATION. In American land law. The designation of the boundaries of a particular piece of land, either upon record or on the land itself. 1 Bibb, 84.

The finding and marking out the bounds of a particular tract of land, upon the land itself, in conformity to a certain description contained in an entry, grant, map, etc.; such description consisting in what are termed “locative calls.”

In mining law. The act of appropriating a “mining claim” (parcel of land containing precious metal in its soil or rock) according to certain established rules. It usually consists in placing on the ground, in a conspicuous position, a notice setting forth the name of the locator, the fact that it is thus taken or located, with the requisite description of the extent and boundaries of the parcel. 104 U. S. 649.

In a secondary sense, the mining claim covered by a single act of appropriation or location. Id.

In Scotch law. A contract by which the temporary use of a subject, or the work or service of a person, is given for an ascertained hire. 1 Bell, Comm. 255.

LOCATIVE CALLS. In a deed, patent, or other instrument containing a description of land, locative calls are specific calls, descriptions, or marks of location, referring to landmarks, physical objects, or other points by which the land can be exactly located and identified.

LOCATOR. In the civil and Scotch law. A letter; one who lets; he who, being the owner of a thing, lets it out to another for hire or compensation.

In American land law. One who locates land, or intends or is entitled to locate. See Location.

LOCK-UP HOUSE. A place used temporarily as a prison.

LOCKMAN. An officer in the Isle of Man, to execute the orders of the governor, much like our under-sheriff. Wharton.

LOCMAN. Fr. In French marine law. A pilot.

LOCO PARENTIS. See In Loco Pa- rentis.
LOCOCESSION. The act of giving place.

LOCULUS. In old records. A coffin; a purse.

LOCUM TENENS. Lat. Holding the place. A deputy, substitute, lieutenant, or representative.

LOCUPLES. Lat. In the civil law. Able to respond in an action; good for the amount which the plaintiff might recover. Dig. 50, 16, 234, 1.

LOCUS. Lat. A place; the place where a thing is done.

LOCUS CONTRACTUS. The place of a contract; the place where a contract is made.

LOCUS CRIMINIS. The locality of a crime; the place where a crime was committed.

LOCUS DELICTI. The place of the offense; the place where an offense was committed. 2 Kent, Comm. 199.

LOCUS IN QUO. The place in which. The place in which the cause of action arose, or where anything is alleged, in pleadings, to have been done. The phrase is most frequently used in actions of trespass quare clausum fregit.

LOCUS PARTITUS. In old English law. A place divided. A division made between two towns or counties to make out in which the land or place in question lies. Fleta, lib. 4, c. 15, § 1; Cowell.

LOCUS PENITENTIAE. A place for repentance; an opportunity for changing one's mind; a chance to withdraw from a contemplated bargain or contract before it results in a definite contractual liability. Also used of a chance afforded to a person, by the circumstances, of relinquishing the intention which he has formed to commit a crime, before the perpetration thereof.

Locus pro solutione redivit aut pecunia secundum conditionem dimissionis aut obligationis est stricte observandus. 4 Coke, 73. The place for the payment of rent or money, according to the condition of a lease or bond, is to be strictly observed.

LOCUS PUBLICUS. In the civil law. A public place. Dig. 43, 8, 1; Id. 43, 8, 2, 8.

LOCUS REGIT ACTUM. In private international law. The rule that, when a legal transaction complies with the formalities required by the law of the country where it is done, it is also valid in the country where it is to be given effect, although by the law of that country other formalities are required. 8 Sav. Syst. § 331: Westl. Priv. Int. Law, 159.

LOCUS REI SITE. The place where a thing is situated. In proceedings in rem, or the real actions of the civil law, the proper forum is the locus rei sitae. 2 Gall. 191, 197.

LOCUS SIGILLI. The place of the seal; the place occupied by the seal of written instruments. Usually abbreviated to "L.S."

LOCUS STANDI. A place of standing; standing in court. A right of appearance in a court of justice, or before a legislative body, on a given question.

LODE. This term, as used in the legislation of congress, is applicable to any zone or belt of mineralized rock lying within boundaries clearly separating it from the neighboring rock. It includes all deposits of mineral matter found through a mineralized zone or belt coming from the same source, impressed with the same forms, and appearing to have been created by the same processes. 4 Sawyer, 312.

LODEMAN, or LOADSMAN. The pilot conducts the ship up the river or into port; but the loadsman is he that undertakes to bring a ship through the haven, after being brought thither by the pilot, to the quay or place of discharge. Jacob.

LODEMANAGE. The hire of a pilot for conducting a vessel from one place to another. Cowell.

LODGER. One who occupies hired apartments in another's house; a tenant of part of another's house.

A tenant, with the right of exclusive possession of a part of a house, the landlord, by himself or an agent, retaining general dominion over the house itself.

LOGDINGS. Habitation in another's house; apartments in another's house, furnished or unfurnished, occupied for habitation; the occupier being termed a "lodger."

LODS ET VENTES. In old French and Canadian law. A fine payable by a roturier on every change of ownership of his land; a mutation or alienation fine. Steph. M Lect. 351.
LOG-BOOK. A ship's journal. It contains a minute account of the ship's course, with a short history of every occurrence during the voyage. 1 Marsh. Ins. 312.

The part of the log-book relating to transactions in the harbor is termed the "harbor log," that relating to what happens at sea, the "sea log." Young. Naut. Dict.

LOG-ROLLING. A misleading legislative practice, of embracing in one bill several distinct matters, none of which, perhaps, could singly obtain the assent of the legislature, and then procuring its passage by a combination of the minorities in favor of each of the measures into a majority that will adopt them all. 60 Ala. 369.

LOGATING. An unlawful game mentioned in St. 33 Hen. VIII. c. 9.


LOGIC. The science of reasoning, or of the operations of the understanding which are subservient to the estimation of evidence. The term includes both the process itself of proceeding from known truths to unknown, and all other intellectual operations, in so far as auxiliary to this.

LOGIUM. In old records. A lodge, hovel, or outhouse.

LOGOGRAPHUS. In Roman law. A public clerk, register, or book-keeper; one who wrote or kept books of accounts. Dig. 50, 4, 18, 10; Cod. 10, 69.

LOGS. Stems or trunks of trees cut into convenient lengths for the purpose of being afterwards manufactured into lumber of various kinds; not including manufactured lumber of any sort, nor timber which is squared or otherwise shaped for use without further change in form. 52 Wis. 398, 9 N. W. Rep. 67.

LOLLARDS. A body of primitive Wesleyans, who assumed importance about the time of John Wycliffe, (1360,) and were very successful in disseminating evangelical truth; but, being implicated (apparently against their will) in the insurrection of the villeins in 1381, the statute De Haretico Comburendo (2 Hen. IV. c. 15) was passed against them, for their suppression. However, they were not suppressed, and their representatives survive to the present day under various names and disguises. Brown.

LOMBARDS. A name given to the merchants of Italy, numbers of whom, during the twelfth and thirteenth centuries, were established as merchants and bankers in the principal cities of Europe.


LONG PARLIAMENT. The name usually given to the parliament which met in November, 1640, under Charles I., and was dissolved by Cromwell on the 10th of April, 1653. The name "Long Parliament" is, however, also given to the parliament which met in 1661, after the restoration of the monarchy, and was dissolved on the 30th of December, 1678. This latter parliament is sometimes called, by way of distinction, the "long parliament of Charles II." Mozley & Whitley.

LONG QUINTO, THE. An expression used to denote part second of the year-book which gives reports of cases in 5 Edw. IV.

LONG VACATION. The recess of the English courts from August 10th to October 24th.


Longa possessio parit jus possidenti, et tollit actionem vero domino. Long possession produces the right of possession, and takes away from the true owner his action. Co. Litt. 110b.

Longum tempus et longus usus qui exceedit memoria hominum sufficit pro jure. Co. Litt. 115a. Long time and long use, exceeding the memory of men, suffices for right.

LOOKOUT. A proper lookout on a vessel is some one in a favorable position to see, stationed near enough to the helmsman to communicate with him, and to receive communications from him, and exclusively employed in watching the movements of vessels which they are meeting or about to pass. 12 How. 462.

LOPWOOD. A right in the inhabitants of a parish within a manor, in England, to lop for fuel, at certain periods of the year, the branches of trees growing upon the waste lands of the manor. Sweet.
LOQUELA. Lat. A colloquy; talk. In old English law, this term denoted the oral altercations of the parties to a suit, which led to the issue now called the "pleadings." It also designated an "imparsial," (q. v.) both names evidently referring to the talking together of the parties. *Loquela sine die,* a postponement to an indefinite time.

*Loquendum ut vulgus; sentiendum ut docti.* We must speak as the common people; we must think as the learned. 7 Coke, 11b. This maxim expresses the rule that, when words are used in a technical sense, they must be understood technically; otherwise, when they may be supposed to be used in their ordinary acceptance.

**LORD.** In English law. A title of honor or nobility belonging properly to the degree of baron, but applied also to the whole peerage, as in the expression "the house of lords." 1 Bl. Comm. 396-400.

A title of office, as lord mayor, lord commissioner, etc.

In feudal law. A feudal superior or proprietor; one of whom a fee or estate is held.

**LORD ADVOCATE.** The chief public prosecutor of Scotland. 2 Alis. Crim. Pr. 84.

**LORD AND VASSAL.** In the feudal system, the grantor, who retained the dominion or ultimate property, was called the "lord," and the grantee, who had only the use or possession, was called the "vassal" or "feudatory."

**LORD CHIEF BARON.** The chief judge of the English court of exchequer, prior to the judicature acts.

**LORD CHIEF JUSTICE.** See Justice.

**LORD HIGH CHANCELLOR.** See Chancellor, The Lord High.

**LORD HIGH STEWARD.** In England, when a person is impeached, or when a peer is tried on indictment for treason or felony before the house of lords, one of the lords is appointed lord high steward, and acts as speaker *pro tempore.* Sweet.

**LORD HIGH TREASURER.** An officer formerly existing in England, who had the charge of the royal revenues and customs duties, and of leasing the crown lands. His functions are now vested in the lords commissioners of the treasury. Mozley & Whitley.

**LORD IN GROSS.** In feudal law. He who is lord, not by reason of any manor, but as the king in respect of his crown, etc. "Very lord" is he who is immediate lord to his tenant; and "very tenant," he who holds immediately of that lord. So that, where there is lord paramount, lord mesne, and tenant, the lord paramount is not very lord to the tenant. Wharton.

**LORD JUSTICE CLERK.** The second judicial officer in Scotland.

**LORD KEEPER,** or keeper of the great seal, was originally another name for the lord chancellor. After Henry II.'s reign they were sometimes divided, but now there cannot be a lord chancellor and lord keeper at the same time, for by St. 5 Eliz. c. 18, they are declared to be the same office. Com. Dig. "Chancery," B. 1.

**LORD LIEUTENANT.** In English law. The viceroy of the crown in Ireland. The principal military officer of a county, originally appointed for the purpose of mastering the inhabitants for the defense of the country.

**LORD MAYOR.** The chief officer of the corporation of the city of London is so called. The origin of the appellation of "lord," which the mayor of London enjoys, is attributed to the fourth charter of Edward III., which conferred on that officer the honor of having maces, the same as royal, carried before him by the serjeants. Pull. Laws & Cust. Lond.

**LORD MAYOR'S COURT.** In English law. This is a court of record, of law and equity, and is the chief court of justice within the corporation of London. Theoretically the lord mayor and aldermen are supposed to preside, but the recorder is in fact the acting judge. It has jurisdiction of all personal and mixed actions arising within the city and liberties without regard to the amount in controversy. See 3 Steph. Comm. 449, note 4.

**LORD OF A MANOR.** The grantee or owner of a manor.

**LORD ORDINARY** is the judge of the court of session in Scotland, who officiates for the time being as the judge of first instance. Darl. Pr. Ct. Sess.

**LORD PRIVY SEAL,** before the 30 Hen. VIII., was generally an ecclesiastic. The office has since been usually conferred on temporal peers above the degree of barons. He is appointed by letters patent. The lord
privy seal, receiving a warrant from the signet office, issues the privy seal, which is an authority to the lord chancellor to pass the great seal where the nature of the grant requires it. But the privy seals for money begin in the treasury, whence the first warrant issues, countersigned by the lord treasurer. The lord privy seal is a member of the cabinet council. Enc. Lmd.

LORD WARDEN OF CINQUE PORTS. See Cinque Ports.

LORDS APPELLANTS. Five peers who for a time superseded Richard II. in his government, and whom, after a brief control of the government, he in turn superseded in 1397, and put the survivors of them to death. Richard II.'s eighteen commissioners (twelve peers and six commons) took their place, as an embryo privy council acting with full powers, during the parliamentary recess. Brown.

LORDS COMMISSIONERS. In English law. When a high public office in the state, formerly executed by an individual, is put into commission, the persons charged with the commission are called "lords commissioners," or sometimes "lords" or "commissioners" simply. Thus, we have, in lieu of the lord treasurer and lord high admiral of former times, the lords commissioners of the treasury, and the lords commissioners of the admiralty; and, whenever the great seal is put into commission, the persons charged with it are called "commissioners" or "lords commissioners" of the great seal. Mozley & Whitley.

LORD'S DAY. A name sometimes given to Sunday. Co. Litt. 135.

LORDS JUSTICES OF APPEAL. In English law. The title of the ordinary judges of the court of appeal, by Jud. Act 1877, § 4. Prior to the judicature acts, there were two "lords justices of appeal in chancery," to whom an appeal lay from a vice-chancellor, by 14 & 15 Vict. c. 83.

LORDS MARCHERS. Those noblemen who lived on the marches of Wales or Scotland, who in times past had their authority to life and death, like petty kings. Abolished by 27 Hen. VIII. c. 25, and 6 Edw. VI. c. 10. Wharton.

LORDS OF APPEAL. Those members of the house of lords of whom at least three must be present for the hearing and determination of appeals. They are the lord chancellor, the lords of appeal in ordinary, and such peers of parliament as hold, or have held, high judicial offices, such as ex-chancellors and judges of the superior courts in Great Britain and Ireland. App. Jur. Act 1876, §§ 5, 25.

LORDS OF APPEAL IN ORDINARY. These are appointed, with a salary of £6,000 a year, to aid the house of lords in the hearing of appeals. They rank as barons for life, but sit and vote in the house of lords during the tenure of their office only. App. Jur. Act 1876, § 6.

LORDS OF ERECTION. On the Reformation in Scotland, the king, as proprietor of benefices formerly held by abbots and priors, gave them out in temporal lordships to favorites, who were termed "lords of erection." Wharton.

LORDS OF PARLIAMENT. Those who have seats in the house of lords. During bankruptcy, peers are disqualified from sitting or voting in the house of lords. 94 & 35 Vict. c. 50.

LORDS OF REGALITY. In Scotch law. Persons to whom rights of civil and criminal jurisdiction were given by the crown.

LORDS ORDainers. Lords appointed in 1312, in the reign of Edward II., for the control of the sovereign and the court party, and for the general reform and better government of the country. Brown.

LORDS SPIRITUAL. The archbishops and bishops who have seats in the house of lords.

LORDS TEMPORAL. Those lay peers who have seats in the house of lords.

LORDSHIP. In English law. Dominion, manor, seigniory, domain; also a title of honor used to a nobleman not being a duke. It is also the customary titulary appellation of the judges and some other persons in authority and office.

LOSS. In insurance. The injury or damage sustained by the insured in consequence of the happening of one or more of the accidents or misfortunes against which the insurer, in consideration of the premium, has undertaken to indemnify the insured. 1 Bouv. Inst. no. 1215.

A loss is total when the subject insured is wholly destroyed or reduced to an entirely worthless condition. It is partial when the subject is injured, but not destroyed, or when it still retains some
value, or some part of it escapes. It is actual when the destruction of the thing is real and substantial. It is constructive when the injury, without entire destruction, is such as to entitle the assured to abandon the property to the underwriter and claim as for an actual loss. See Actual Total Loss.

LOST OR NOT LOST. A phrase sometimes inserted in policies of marine insurance to signify that the contract is meant to relate back to the beginning of a voyage now in progress, or to some other antecedent time, and to be valid and effectual even if, at the moment of executing the policy, the vessel should have already perished by some of the perils insured against, provided that neither party has knowledge of that fact or any advantage over the other in the way of superior means of information.

LOST PAPERS. Papers which have been so mislaid that they cannot be found after diligent search.

LOT. The arbitration of chance; hazard. That which fortuitously determines what course shall be taken or what disposition be made of property or rights.

A share; one of several parcels into which property is divided. Used particularly of land.

The thirteenth dish of lead in the mines of Derbyshire, which belonged to the crown.

LOT AND SCOT. In English law. Certain duties which must be paid by those who claim to exercise the elective franchise within certain cities and boroughs, before they are entitled to vote. It is said that the practice became uniform to refer to the poor-rate as a register of "scot and lot" voters; so that the term, when employed to define a right of election, meant only the payment by a parishioner of the sum to which he was assessed on the poor-rate. Brown.

LOT OF LAND. A small tract or parcel of land in a village, town, or city, suitable for building, or for a garden, or other similar uses. See 28 N. J. Law, 44; 37 N. J. Eq. 486; 28 Minn. 17, 8 N. W. Rep. 830.

LOTERWITE, or LEYERWIT. In old English law. A liberty or privilege to take amends for lying with a bondwoman without license.

LOTTERY. A lottery is any scheme for the disposal or distribution of property by chance among persons who have paid, or promised or agreed to pay, any valuable consideration for the chance of obtaining such property, or a portion of it, or for any share of or interest in such property, upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a "lottery," a "raffle," or a "gift enterprise," or by whatever name the same may be known. Pen. Code Cal. § 319; Pen. Code Dak. § 373.

A lottery is a distribution of prizes by chance or lot, where a valuable consideration is given for the chance of drawing a prize. 1 Abb. (U. S.) 275; 42 Tex. 580; 8 Phila. 457.

Lou le lay done chose, la ceo done remedie a vener a ceo. 2 Rolle, 17. Where the law gives a right, it gives a remedy to recover.

LOUAGE. Fr. This is the contract of hiring and letting in French law, and may be either of things or of labor. The varieties of each are the following:

1. Letting of things.—Ball à loyer being the letting of houses; ball à ferme being the letting of lands.
2. Letting of labor.—Loyer being the letting of personal service; ball à cheptel being the letting of animals. Brown.

LOURCURDUS. A ram or bell-wether. Cowell.

LOVE-DAY. In old English law. The day on which any dispute was amicably settled between neighbors; or a day on which one neighbor helps another without hire. Wharton.

LOW JUSTICE. In old European law. Jurisdiction of petty offenses, as distinguished from "high justice," (q. v.)

LOW WATER. The furthest receding point of ebb-tide. 13 How. 417.

LOW-WATER MARK. That line on the shore of the sea which marks the edge of the waters at the lowest point of the ordinary ebb tide. See 60 Pa. St. 339; 26 Me. 384.

LOWBOTE. A recompense for the death of a man killed in a tumult. Cowell.


LOYAL. Legal; authorized by or conforming to law. Also faithful in one's political relations; giving faithful support to one's prince or sovereign or to the existing government.
LOYALTY. Adherence to law. Faithfulness to one's prince or sovereign or to the existing government.

Lubricum linguae non facile transhendum est in ponam. Cro. Car. 117. A slip of the tongue ought not lightly to be subjected to punishment.

LUCID INTERVALS. In medical jurisprudence. Intervals occurring in the mental life of an insane person during which he is completely restored to the use of his reason, or so far restored that he has sufficient intelligence, judgment, and will to enter into contractual relations, or perform other legal acts, without disqualification by reason of his disease.

LUCRATIVA CAUSA. Lat. In Roman law. A consideration which is voluntary; that is to say, a gratuitous gift, or such like. It was opposed to onerosa causa, which denoted a valuable consideration. It was a principle of the Roman law that two lucrative causes could not concur in the same person as regarded the same thing; that is to say, that, when the same thing was bequeathed to a person by two different testators, he could not have the thing (or its value) twice over. Brown.

LUCRATIVA USUCAPIO. Lat. This species of usucapio was permitted in Roman law only in the case of persons taking possession of property upon the decease of its late owner, and in exclusion or defacement of the heir, whence it was called "usucapio pro haredo." The adjective "lucrativa" denoted that property was acquired by this usucapio without any consideration or payment for it by way of purchase; and, as the possessor who so acquired the property was a malum fide possessor, his acquisition, or usucapio, was called also "improba," (i. e., dishonest;) but this dishonesty was tolerated (until abolished by Hadrian) as an incentive to force the hares to take possession, in order that the debts might be paid and the sacrifices performed; and, as a further incentive to the hares, this usucapio was complete in one year. Brown.

LUCRATIVE SUCCESSION. In Scotch law. A kind of passive title by which a person accepting from another, without any onerous cause, (or without paying value,) a disposition of any part of his heritage, to which the receiver would have succeeded as heir, is liable to all the grantor's debts contracted before the said disposition. 1 Forb. Inst. pt. 3, p. 102.

LUCRATUS. In Scotch law. A gainer.

LUCRE. Gain in money or goods; profit; usually in an ill sense, or with the sense of something base or unworthy. Webster.

LUCRI CAUSA. Lat. In criminal law. A term descriptive of the intent with which property is taken in cases of larceny, the phrase meaning "for the sake of lucre" or gain.

LUCRUM CESSANS. Lat. In Scotch law. A ceasing gain, as distinguished from damnum datum, an actual loss.

Lucrum facere ex pupilli tutela tutor non debet. A guardian ought not to make money out of the guardianship of his ward. 1 Johns. Ch. 527, 535.

LUCTUOSA HÆREDITAS. A mournful inheritance. See HÆREDITAS LUCTUOSA.

LUCTUS. In Roman law. Mourning. See ANNUS LUCTUS.

LUGGAGE. Luggage may consist of any articles intended for the use of a passenger while traveling, or for his personal equipment. Civil Code Cal. § 2181.

This term is synonymous with "baggage," but is more commonly used in England than in America.

LUMEN. In the civil law. Light; the light of the sun or sky; the privilege of receiving light into a house. A light or window.

LUMINA. In the civil law. Lights; windows; openings to obtain light for one's building.

LUMINARE. A lamp or candle set burning on the altar of any church or chapel, for the maintenance whereof lands and rents and charges were frequently given to parish churches, etc. Kennett, Gloss.

LUNACY. Lunacy is that condition or habit in which the mind is directed by the will, but is wholly or partially misguided or erroneously governed by it; or it is the impairment of any one or more of the faculties of the mind, accompanied with or inducing a defect in the comparing faculty. 1 Bla.n, 386.

"Lunacy" means either (1) the condition or status of a lunatic, (q. v.,) or (2) judicial proceedings taken before the proper court or officer for the purpose of making inquiry into the state of mind of persons alleged to be lunatics, of taking charge of them and their property if they are found to be lunatics, and for removing the restraint on their restoration to sanity. Sweet.
LUNACY

Lunacy includes both the forms of mental alienation known, respectively, as "mania" and "dementia." 10 N. J. Eq. 186.

LUNACY, COMMISSION OF. A commission issuing from a court of competent jurisdiction, authorizing an inquiry to be made into the mental condition of a person who is alleged to be a lunatic.

LUNAR. Belonging to or measured by the revolutions of the moon.

LUNAR MONTH. See Month.

LUNATIC. A person of deranged or unsound mind; a person whose mental faculties are in the condition called "lunacy." (q. v.)

Lunaticus, qui gaudet in lucidis intervallis. He is a lunatic who enjoys lucid intervals. 1 Story, Cont. § 73.

LUNDRESS. In old English law. A silver penny, so called because it was to be coined only at London, (a London,) and not at the country mints. Lown. Essay Coins, 17; Cowell.

LUPANATRIX. A bawd or strumpet. 3 Inst. 206.

LUPINUM CAPUT GERERE. Lat. To be outlawed, and have one's head exposed, like a wolf's, with a reward to him who should take it. Cowell.

LURGULARY. Casting any corrupt or poisonous thing into the water. Wharton.

LUSHBOROW. In old English law. A base sort of money, coined beyond sea in the likeness of English coin, and introduced into England in the reign of Edward III. Prohibited by St. 25 Edw. III. c. 4. Spelman; Cowell.

LUXURY. Excess and extravagance, which was formerly an offense against the public economy, but is not now punishable. Wharton.

LYCH-GATE. The gate into a churchyard, with a roof or awning hung on posts over it to cover the body brought for burial, when it rests underneath. Wharton.

LYEF-GELD. Sax. In old records. Lief silver or money; a small fine paid by the customary tenant to the lord for leave to plow or sow, etc. Somn. Gavelkind, 27.

LYING BY. A person who, by his presence and silence at a transaction which affects his interests, may be fairly supposed to acquiesce in it, if he afterwards propose to disturb the arrangement, is said to be prevented from doing so by reason that he has been lying by.

LYING IN FRANCHISE. A term descriptive of waifs, wrecks, estrays, and the like, which may be seized without suit or action.

LYING IN GRANT. A phrase applied to incorporeal rights, incapable of manual tradition, and which must pass by mere delivery of a deed.

LYING IN WAIT. Lying in ambush; lying hid or concealed for the purpose of making a sudden and unexpected attack upon a person when he shall arrive at the scene. In some jurisdictions, where there are several degrees of murder, lying in wait is made evidence of that deliberation and premeditated intent which is necessary to characterize murder in the first degree.

This term is not synonymous with "concealed." If a person conceals himself for the purpose of shooting another unawares, he is lying in wait; but a person may, while concealed, shoot another without committing the crime of murder. 55 Cal. 207.

LYNCH LAW. A term descriptive of the action of unofficial persons, organized bands, or mobs, who seize persons charged with or suspected of crimes, or take them out of the custody of the law, and inflict summary punishment upon them, without legal trial, and without the warrant or authority of law.

LYNDHURST'S (LORD) ACT. This statute (5 & 6 Wm. IV. c. 54) renders marriages within the prohibited degrees absolutely null and void. Therefore such marriages were voidable merely.

LYON KING OF ARMS. In Scotch law. The ancient duty of this officer was to carry public messages to foreign states, and it is still the practice of the heralds to make all royal proclamations at the Cross of Edinburgh. The officers serving under him are heralds, pursuivants, and messengers. Bell.

LYTÆ. In old Roman law. A name given to students of the civil law in the fourth year of their course, from their being supposed capable of solving any difficulty in law. Tayl. Civil Law, 39.
This letter, used as a Roman numeral, stands for one thousand.

It was also, in old English law, a brand or stigma impressed upon the brawn of the thumb of a person convicted of manslaughter and admitted to the benefit of clergy.

This letter was sometimes put on the face of treasury notes of the United States, and signifies that the treasury note bears interest at the rate of one mill per centum, and not one per centum interest. 13 Pet. 176.

M. also stands as an abbreviation for several words of which it is the initial letter; as "Mary," (the English queen of that name,) "Michaelmas," "master," "middle."

M. D. An abbreviation for "Middle District," in reference to the division of the United States into judicial districts. Also an abbreviation for "Doctor of Medicine."

M. R. An abbreviation for "Master of the Rolls."

M. T. An abbreviation for "Michaelmas Term."

MACE. A large staff, made of the precious metals, and highly ornamented. It is used as an emblem of authority, and carried before certain public functionaries by a mace-bearer.

MACE-BEARER. In English law. One who carries the mace before certain functionaries. In Scotland, an officer attending the court of session, and usually called a "macer."

MACE-GREFF. In old English law. One who buys stolen goods, particularly food, knowing it to have been stolen.

MACE-PROOF. Secure against arrest.

Macedonian Decree. In Roman law. This was the Senatus-consultum Macedonianum, a decree of the Roman senate, first given under Claudius, and renewed under Vespasian, by which it was declared that no action should be maintained to recover a loan of money made to a child who was under the patria potestas. It was intended to strike at the practice of usurers in making loans, on unconscionable terms, to family heirs who would mortgage their future expectations from the paternal estate. The law is said to have derived its name from that of a notorious usurer. See Mackeld. Rom. Law, § 432; Inst. 4, 7, 1; Dig. 14, 6.

MACER. A mace-bearer; an officer attending the court of session in Scotland.

Machecollare. To make a warlike device over a gate or other passage like to a grate, through which scalding water or ponderous or offensive things may be cast upon the assailants. Co. Litt. 52.

Machination. Contriving a plot or conspiracy. The act of planning or contriving a scheme for executing some purpose, particularly an evil purpose; an artful design formed with deliberation.

MACHINE. In patent law. Any contrivance used to regulate or augment force or motion; more properly, a complex structure, consisting of a combination, or peculiar modification, of the mechanical powers.

The term "machine," in patent law, includes every mechanical device, or combination of mechanical powers and devices, to perform some function and produce a certain effect or result. But where the result or effect is produced by chemical action, by the operation or application of some element or power of nature, or of one substance to another, such modes, methods, or operations are called "processes." A new process is usually the result of discovery; a machine, of invention. 13 How. 232, 237.

Machinery. A more comprehensive term than "machine;" including the appurtenances necessary to the working of a machine. 111 Mass. 540; 108 Mass. 78.

Macholum. A barn or granary open at the top; a rick or stack of corn. Spelman.

Mactator. A murderer.


Made known. Where a writ of scire facias has been actually served upon a defendant, the proper return is that its contents have been "made known" to him.


Mæc-Burgh. Kindred; family.

Mægbote. In Saxon law. A remuneration or satisfaction for the slaying or murder of a kinsman. Spelman.
Magister. In English law. A master or ruler; a person who has attained to some eminent degree in science. Cowell.

In the civil law. A title of several offices under the Roman Empire.

Magister cancellariæ. In old English law. Master of the chancery; master in chancery. These officers were said to be called "magistri," because they were priests. Latch, 133.

Magister equitum. Master of the horse. A title of office under the Roman Empire.

Magister libellorum. Master of requests. A title of office under the Roman Empire.

Magister litis. Master of the suit; the person who controls the suit or its prosecution, or has the right so to do.

Magister navis. In the civil law. The master of a ship or vessel. He to whom the care of the whole vessel is committed. Dig. 14, 1, 1, 1, 5.

Magister palatii. Master of the palace or of the offices. An officer under the Roman Empire bearing some resemblance to the modern lord chamberlain. Tayl. Civil Law, 37.

Magister rerum usus. Use is the master of things. Co. Litt. 229b. Usage is a principal guide in practice.

Magister rerum usus; magistra rerum experientia. Use is the master of things; experience is the mistress of things. Co. Litt. 69, 229; Wing. Max. 752.

Magister societatis. In the civil law. The master or manager of a partnership; a managing partner or general agent; a manager specially chosen by a firm to administer the affairs of the partnership. Story, Partn. § 85.

Magisterial. Relating or pertaining to the character, office, powers, or duties of a magistrate or of the magistracy.

Magistracy. This term may have a more or less extensive signification according to the use and connection in which it occurs. In its widest sense it includes the whole body of public functionaries, whether their offices be legislative, judicial, executive, or administrative. In a more restricted (and more usual) meaning, it denotes the class of officers who are charged with the application and execution of the laws. In a still more confined use, it designates the body of judicial officers of the lowest rank, and more especially those who have jurisdiction for the trial and punishment of petty misdemeanors or the preliminary steps of a criminal prosecution, such as police judges and justices of the peace. The term also denotes the office of a magistrate.

Magistralia brevia. In old English practice. Magisterial writes; writes adapted to special cases, and so called from being framed by the masters or principal clerks of the chancery. Bract. fol. 413b; Crabb, Com. Law, 547, 548.

Magistrate. A public officer belonging to the civil organization of the state, and invested with powers and functions which may be either judicial, legislative, or executive.

But the term is commonly used in a narrower sense, designating, in England, a person intrusted with the commission of the peace, and, in America, one of the class of inferior judicial officers, such as justices of the peace and police justices.

A magistrate is an officer having power to issue a warrant for the arrest of a person

The word "magistrate" does not necessarily imply an officer exercising any judicial functions, and might very well be held to embrace notaries and commissioners of deeds. 57 Mo. 336.

**MAGISTRATE'S COURT.** In American law. Courts in the state of South Carolina, having exclusive jurisdiction in matters of contract of and under twenty dollars.

A local court in the city of Philadelphia, possessing the criminal jurisdiction of a police court and civil jurisdiction in actions involving not more than one hundred dollars. It is not a court of record. See Const. Pa. art. 4, § 12.

**MAGISTRATUS.** In the civil law. A magistrate. Calvin. A judicial officer who had the power of hearing and determining causes, but whose office properly was to inquire into matters of law, as distinguished from fact. Halifax, Civil Law, b. 3, c. 8.

**MAGNA ASSISA.** In old English law. The grand assize. Glanv. lib. 2, cc. 11, 12.

**MAGNA ASSISA ELIGENDA.** An ancient writ to summon four lawful knights before the justices of assize, there to choose twelve others, with themselves to constitute the grand assize or great jury, to try the matter of right. The trial by grand assize was instituted by Henry II. in parliament, as an alternative to the duel in a writ of right. Abolished by 3 & 4 Wm. IV. c. 27. Wharton.

**MAGNA AVERIA.** In old pleading. Great beasts, as horses, oxen, etc. Cro. Jac. 580.

**MAGNA CENTUM.** The great hundred, or six score. Wharton.

**MAGNA CHARTA.** The great charter. The name of a charter (or constitutional enactment) granted by King John of England to the barons, at Runnymede, on June 15, 1215, and afterwards, with some alterations, confirmed in parliament by Henry III. and Edward I. This charter is justly regarded as the foundation of English constitutional liberty. Among its thirty-eight chapters are found provisions for regulating the administration of justice, defining the temporal and ecclesiastical jurisdictions, securing the personal liberty of the subject and his rights of property, and the limits of taxation, and for preserving the liberties and privileges of the church. Magna Charta is so called, partly by reason of its own transcendent importance.

Magna Charta et Charta do Foresta sont appelées les "deux grandes charters." 2 Inst. 570. Magna Charta and the Charter of the Forest are called the "two great charters."

**MAGNA COMPONERE PARVIS.** To compare great things with small things.

**MAGNA CULPA.** Great fault; gross negligence.

**MAGNA NEGLIGENTIA.** In the civil law. Great or gross negligence.

Magna negligentia culpa est; magna culpa dolus est. Gross negligence is fault; gross fault is fraud. Dig. 50, 16, 226.

**MAGNA PRECARIA.** In old English law. A great or general reap-day. Cowell; Blount.

**MAGNA SERJEANTIA.** In old English law. Grand serjeanty. Fleta, lib. 2, c. 4, § 1.

**MAGNUM CAPE.** In old practice. Great or grand cape. 1 Reeve, Eng. Law, 418. See Grand Cape.

**MAGNUM CONCILII MCM.** In old English law. The great council; the general council of the realm; afterwards called "parliament." 1 Bl. Comm. 148; 1 Reeve, Eng. Law, 62; Spelman.

The king's great council of barons and prelates. Spelman; Crabb, Com. Law, 228.

**MAGNUS ROTULUS STATUTORUM.** The great statute roll. The first of the English statute rolls, beginning with Magna Charta, and ending with Edward III. Hale, Com. Law, 16, 17.

**MAHA-GEN.** In Hindu law. A banker or any great shop-keeper.

**MAHAL.** In Hindu law. Any land or public fund producing a revenue to the government of Hindostan. "Mahalaat" is the plural.

**MAHLBRIEVE.** In maritime law. The German name for the contract for the building of a vessel. This contract contains a specification of the kind of vessel intended, her dimensions, the time within which she is to be completed, the price and times of payment, etc. Jac. Sea Laws, 2–3.

**MAIDEN.** In Scotch law. An instrument formerly used in beheading criminals.
MAIDEN ASSIZE. In English law. Originally an assize at which no person was condemned to die. Now it is a session of a criminal court at which there are no prisoners to be tried.

MAIDEN RENTS. A fine paid by the tenants of some manors to the lord for a license to marry a daughter. Cowell. Or, perhaps, for the lord's omitting the custom of marchETA, (q. v.)

MAIGNAGIUM. A brasier's shop, or, perhaps, a house. Cowell.

MAIM. See MAYHEM; MAIM.

MAIHEMATUS. Maimed or wounded.

MAIHEM. In old English law. Mayhem, (q. c.)

Mayhem est homicidium inchoatum. 3 Inst. 118. Mayhem is incipient homicide.

Mayhem est inter crimina majora minimum, et inter minora maximum. Co. Litt. 127. Mayhem is the least of great crimes, and the greatest of small.

Mayhem est membrum mutilatio, et dici poterit, ubi aliquis in aliqua parte sui corporis effectus sit inutilis ad pugnamundum. Co. Litt. 126. Mayhem is the mutilation of a member, and can be said to take place when a man is injured in any part of his body so as to be useless in fight.

MAIL. As applied to the post-office, this term means the carriage of letters, whether applied to the bag into which they are put, the coach or vehicle by means of which they are transported, or any other means employed for their carriage and delivery by public authority. 6 Daly, 560. It may also denote the letters or other matter so carried. The term "mail," as used in Rev. St. U. S. § 5409, relative to robbing the mails, may mean either the whole body of matter transported by the postal agents, or any letter or package forming a component part of it. 41 Fed. Rep. 130.

Mail also denotes armor, as in the phrase a "coat of mail."

In Scotch law. Rent; a rent or tribute. A tenant who pays a rent is called a "mail-payer," "mailer," or "mail-man." Skene.

MAIL MATTER. This term includes letters, packets, etc., received for transmission, and to be transmitted by post to the person to whom such matter is directed. 30 Fed. Rep. 820.

MAILABLE. Suitable or admissible for transmission by the mail; belonging to the classes of articles which, by the laws and postal regulations, may be sent by post.

MAILED. In old English law. A kind of ancient money, or silver half-pence; a small rent.

MAILS AND DUTIES. In Scotch law. The rents of an estate. Bell.

MAIM. To deprive a person of a member or part of the body, the loss of which renders him less capable of fighting; to commit mayhem, (q. c.)

In this respect, "to wound" is distinguishable from "to maim;" for the latter implies a permanent injury, whereas a wound is any mutilation or laceration which breaks the continuity of the outer skin. 11 Cox, Crim. Cas. 128.

MAIMING. Depriving of any necessary part. See MAYHEM.

MAIN. L. Fr. A hand. More commonly written "meyn."


MAIN CHANNEL. The main channel of a river is that bed over which the principal volume of water flows. 31 Fed. Rep. 755.

MAIN-RENT. Vassalage.

MAIN SEA. The open, uninclosed ocean; or that portion of the sea which is without the fauces terrae on the sea-coast, in contradistinction to that which is surrounded or inclosed between narrow headlands or promontories. 5 Mason, 288; 73 N. Y. 396; 2 East, P. C. c. 17, § 9; 7 N. Y. 555; 3 Barb. 203.

MAIN A D. A false oath; perjury. Cowell.

MAIN-PORT. A small tribute, commonly of loaves of bread, which in some
places the parishioners paid to the rector in lieu of small tithes. Cowell.

MAINOUR. In criminal law. An article stolen, when found in the hands of the thief. A thief caught with the stolen goods in his possession is said to be taken "with the mainour," that is, with the property in manu, in his hands. 4 Bl. Comm. 307.

The word seems to have corresponded with the Saxon "handhabend," (q. v.) In modern law it has sometimes been written as an English word "manner," and the expression "taken in the manner" occurs in the books. Crabb, Eng. Law, 154.

MAINOURE, or MAIGEUVRE. A trespass committed by hand. See 7 Rich. II. c. 4.

MAINPERNABLE. Capable of being bailed; bailable; admissible to bail on giving surety by mainpernors.

MAINPERNOR. In old practice. A surety for the appearance of a person under arrest, who is delivered out of custody into the hands of his bail. "Mainpernors" differ from "bail" in that a man's bail may imprison or surrender him up before the stipulated day of appearance; mainpernors can do neither, but are barely sureties for his appearance at the day. Bail are only sureties that the party be answerable for the special matter for which they stipulate; mainpernors are bound to produce him to answer all charges whatsoever. 3 Bl. Comm. 128. Other distinctions are made in the old books. See Cowell.

MAINPRISE. The delivery of a person into the custody of mainpernors, (q. v.) Also the name of a writ (now obsolete) commanding the sheriff to take the security of mainpernors and set the party at liberty.


MAINTAIN. To maintain an action or suit is to commence or institute it; the term imports the existence of a cause of action. 8 Minn. 105, (Gil. 80, 81.)

MAINTAINED. In pleading. A technical word indispensable in an indictment for maintenance. 1 Wils. 325.

MAINTAINOR. In criminal law. One that maintains or seconds a cause depending in suit between others, either by disbursing money or making friends for either party towards his help. Blount. One who is guilty of maintenance (q. v.)

MAINTENANCE. Sustenance; support; assistance. The furnishing by one person to another, for his support, of the means of living, or food, clothing, shelter, etc., particularly where the legal relation of the parties is such that one is bound to support the other, as between father and child, or husband and wife.

In criminal law. An unauthorized and officious interference in a suit in which the offender has no interest, to assist one of the parties to it, against the other, with money or advice to prosecute or defend the action. 1 Russ. Crimes, 254.

Maintenance, in general, signifies an unlawful taking in hand or upholding of quarrels and sides, to the hindrance of common right. Co. Litt. 36b; Hawk. P. C. 393.

The intermeddling of a stranger in a suit, for the purpose of stirring up strife and continuing litigation. 35 Vt. 69.

Maintenance is the assisting another person in a lawsuit, without having any concern in the subject. 8 Johns. 253.

Maintenance is where one officiously intermeddles in a suit which in no way belongs to him. The term does not include all kinds of aid in the prosecution or defense of another's cause. It does not extend to persons having an interest in the thing in controversy, nor to persons of kin or affinity to either party, nor to counsel or attorneys, for their acts are not officious, nor unlawful. The distinction between "champerty" and "maintenance" is that maintenance is the promoting, or undertaking to promote, a suit by one who has no lawful cause to do so, and champerty is an agreement for a division of the thing in controversy, in the event of success, as a reward for the unlawful assistance. 8 Har. (Del) 308.

"Maintenance," at common law, signifies an unlawful taking in hand or upholding of quarrels or sides, to the disturbance or hindrance of common right. The maintaining of one side, in consideration of some bargain to have part of the thing in dispute, is called "champerty." Champerty, therefore, is a species of maintenance. 40 Conn. 573.

MAIOR. An old form of "mayor."

MAIRE. In old Scotch law. An officer to whom process was directed. Otherwise called "mair of fie," (fee,) and classed with the "serjand." Skene.

MAIRE. In French law. The government building of each commune. It contains the record office of all civil acts and the list of voters; and it is there that political and municipal elections take place. Arg. Fr. Merc. Law, 506.

MAISON DE DIEU. Fr. A hospital; an almshouse; a monastery. St. 39 Eliz. c. 5. Literally, "house of God."

MAISTER. An old form of "master."
MAISURA. A house, mansion, or farm. Cowell.

MAITRE. Fr. In French maritime law. Master; the master or captain of a vessel. Ord. Mar. liv. 2, tit. 1, art. 1.

MAJESTAS. Lat. In Roman law. The majesty, sovereign authority, or supreme prerogative of the state or prince. Also a shorter form of the expression "crimen majestatis," or "crimen laxe majestatis," an offense against sovereignty, or against the safety or organic life of the Roman people; i.e., high treason.

MAJESTY. Royal dignity. A term used of kings and emperors as a title of honor.

MAJOR. A person of full age; one who is no longer a minor; one who has attained the management of his own concerns and the enjoyment of his civic rights.

In military law. The officer next in rank above a captain.

MAJOR ANNUS. The greater year; the bissextile year, consisting of 366 days. Bract. fol. 55b.

MAJOR GENERAL. In military law. An officer next in rank above a brigadier general, and next below a lieutenant general, and who usually commands a division or an army corps.

Major hereditas venit unicuique nostrum a jure et legibus quam a parentibus. 2 Inst. 56. A greater inheritance comes to every one of us from right and the laws than from parents.

Major numeros in se continet minorem. Bract. fol. 16. The greater number contains in itself the less.

MAJORA REGALIA. The king's dignity, power, and royal prerogative, as opposed to his revenue, which is comprised in the minora regalia. 2 Steph. Comm. 475; 1 Bl. Comm. 240.

Majore poena affectus quam legibus statuta est, non est infamis. One affected with a greater punishment than is provided by law is not infamous. 4 Inst. 66.

MAJORES. In Roman law and genealogical tables. The male ascendants beyond the sixth degree.

In old English law. Greater persons; persons of higher condition or estate.

Majori summae minor instet. In the greater sum the less is included. 2 Kent, Comm. 618; Story, Ag. § 172.

MAJORITY. Full age; the age at which, by law, a person is entitled to the management of his own affairs and to the enjoyment of civic rights. The opposite of minority. Also the status of a person who is a major in age.

In the law of elections, majority signifies the greater number of votes. When there are only two candidates, he who receives the greater number of the votes cast is said to have a majority; when there are more than two competitors for the same office, the person who receives the greatest number of votes has a plurality, but he has not a majority unless he receives a greater number of votes than those cast for all his competitors combined.

In military affairs, majority denotes the rank and commission of a major.

Majus dignum tradit ad se minus dignum. The more worthy draws to itself the less worthy. Co. Litt. 43, 35b; Bract. fol. 175; Noy, Max. p. 6, max. 18.

MAJUS JUS. In old practice. Greater right or more right. A plea in the old real actions. 1 Reeve, Eng. Law, 476. Majus jus merum, more mere right. Bract. fol. 31.

MAKE. 1. To cause to exist; to form, fashion, or produce; to do, perform, or execute; as to make an issue, to make oath, to make a presentment.

2. To do in form of law; to perform with due formalities; to execute in legal form; as to make answer, to make a return.

3. To execute as one's act or obligation; to prepare and sign; to sign, execute, and deliver; as to make a conveyance, to make a note.

4. To conclude, determine upon, agree to, or execute; as to make a contract.

5. To cause to happen by one's neglect or omission; as to make default.

6. To make acquisition of; to procure; to collect; as to make the money on an execution.

7. To have authority or influence; to support or sustain; as in the phrase, "This precedent makes for the plaintiff."

MAKE AN ASSIGNMENT. To transfer one's property to an assignee for the benefit of one's creditors.

MAKE A CONTRACT. To agree upon, and conclude or adopt, a contract. In case of
a written contract, to reduce it to writing, execute it in due form, and deliver it as binding.

MAKE DEFAULT. To fail or be wanting in some legal duty; particularly, to omit the entering of an appearance when duly summoned in an action at law or other judicial proceeding, to neglect to obey the command of a subpoena, etc.

MAKE ONE'S FAITH. A Scotch phrase, equivalent to the old English phrase, "to make one's law."

MAKER. One who makes, frames, or ordains; as a "law-maker." One who makes or executes; as the maker of a promissory note.

MAKING LAW. In old practice. The formality of denying a plaintiff's charge under oath, in open court, with compurgators. One of the ancient methods of trial, frequently, though inaccurately, termed "waging law," or "wager of law." 3 Bl. Comm. 341.

MAL. A prefix meaning bad, wrong, fraudulent; as maladministration, malpractice, malversation, etc.

MAL GREE. L. Fr. Against the will; without the consent. Hence the single word "malgre," and more modern "maintre," (q. v.)

MAL-TOLTE. Fr. In old French law. A term said to have arisen from the usurious gains of the Jews and Lombards in their management of the public revenue. Steph. Lect. 372.

MALA. Lat. Bad; evil; wrongful.


Mala grammatica non vitiat chartam. Sed in expositione instrumentorum mala grammatica quoad fieri possit evitanda est. Bad grammar does not vitiate a deed. But in the exposition of instruments, bad grammar, as far as it can be done, is to be avoided. 6 Coke, 39; Broom, Max. 686.

MALA IN SE. Wrongs in themselves; acts morally wrong; offenses against conscience. 1 Bl. Comm. 57, 58; 4 Bl. Comm. 8.

MALA PRAXIS. Malpractice; unskilful management or treatment. Particularly applied to the neglect or unskilful management of a physician, surgeon, or apothecary. 3 Bl. Comm. 122.

MALA PROHIBITA. Prohibited wrongs or offenses; acts which are made offenses by positive laws, and prohibited as such. 1 Bl. Comm. 57, 58; 4 Bl. Comm. 8.

MALADMINISTRATION. This term is used, in the law-books, interchangeably with mis-administration, and both words mean "wrong administration." 14 Neb. 183, 15 N. W. Rep. 331.

MALANDRINUS. In old English law. A thief or pirate. Wals. 338.

MALARY. In Hindu law. Judicial; belonging to a judge or magistrate.

MALBERGE. A hill where the people assembled at a court, like the English assizes; which by the Scotch and Irish were called "parley hills." Du Cange.

MALCONNA. In Hindu law. A treasury or store-house.

MALE. Of the masculine sex; of the sex that begets young.

MALE CREDITUS. In old English law. Unfavorably thought of; in bad repute or credit. Bract. fols. 116, 154.

Maleficta est expositio quam corruptit textum. That is a cursed interpretation which corrupts the text. 4 Coke, 35a; Broom, Max. 622.

MALEDICTION. A curse, which was anciently annexed to donations of lands made to churches or religious houses, against those who should violate their rights. Cowell.

MALEFACTION. A crime; an offense.

MALEFACTOR. He who is guilty, or has been convicted, of some crime or offense.

Maleficia non debent remanere impuntes; et impunitas continuum affectum tribuit delinquenti. 4 Coke, 45. Evil deeds ought not to remain unpunished; and impunity affords continual incitement to the delinquent.

Malefícia propositis distinguuntur. Jenk. Cent. 290. Evil deeds are distinguished from evil purposes, or by their purposes.

MALEFICUM. In the civil law. Waste; damage; tort; injury. Dig. 5, 18, 1.

MALESON, or MALISON. A curse.
MALESWORN, or MALSWORN.
Forsworn. Cowell.

MALFEASANCE. The wrongful or unjust doing of some act which the doer has no right to perform, or which he has stipulated by contract not to do. It differs from “misfeasance” and “non-feasance,” (which titles see.) See 1 Chit. Pr. 9; 1 Chit. Pl. 154.


Malice. In criminal law. In its legal sense, this word does not simply mean ill will against a person, but signifies a wrongful act done intentionally, without just cause or excuse. 4 Barn. & C. 255.

A conscious violation of the law (or the prompting of the mind to commit it) which operates to the prejudice of another person.

About as clear, comprehensive, and correct a definition as the authorities afford is that “malice is a condition of the mind which shows a heart regardless of social duty and fatally bent on mischief, the existence of which is inferred from acts committed or words spoken.” 8 Tex. App. 109.

“Malice, in its common acceptance, means ill will towards some person. In its legal sense, it applies to a wrongful act done intentionally, without legal justification or excuse. 1 Ind. 344.

A man may do an act willfully, and yet be free of malice. But he cannot do an act maliciously without at the same time doing it willfully. The malicious doing of an act includes the willful doing of it. Malice includes intent and will. 66 Me. 325.

Malice is either express or implied. The former is the case where the party declares or manifests a positive intention to commit the crime; while implied malice is gathered, as an infererete of law, from the facts and circumstances proved.

In the definition of “murder,” malice aforethought exists where the person doing the act which causes death has an intention to cause death or grievous bodily harm to any person, (whether the person is actually killed or not,) or to commit any felony whatever, or has the knowledge that the act will probably cause the death of or grievous bodily harm to some person, although he does not desire it, or even wishes that it may not be caused. Steph. Crim. Dig. 144; 1 Russ. Crimes, 641.

The words “malice aforethought” long ago acquired in law a settled meaning, somewhat different from the popular one. In their legal sense they do not import an actual intention to kill the deceased. The idea is not spite or malevolence to the deceased in particular, but evil design in general, the dictate of a wicked, depraved, and malignant heart; not premeditated personal hatred or revenge towards the person killed, but that kind of unlawful purpose which, if persevered in, must produce mischief. 49 N. H. 399.

Malice_prepense. Malice aforethought; deliberate, predetermined malice. 2 Rolle, 461.

Malicious. Evincing malice; done with malice and an evil design; willful.

Malicious Abandonment. In criminal law. The desertion of a wife or husband without just cause.

Malicious Arrest. An arrest made willfully and without probable cause, but in the course of a regular proceeding.

Malicious Injury. An injury committed against a person at the prompting of malice or hatred towards him, or done spitefully or wantonly.

Malicious Mischief. A term applied to the willful destruction of personal property, from actual ill will or resentment towards its owner or possessor. 3 Dev. & B. 130.

Malicious mischief or damage is a species of injury to private property, which the law considers as a public crime. This is such as is done, not animo furandi, or with an intent of gaining by another's loss, but either out of a spirit of wanton cruelty or wicked revenge. In this latter light it bears a near relation to the crime of arson, for, as that affects the habitation, so does this the property of individuals, and therefore any damage arising from this mischievous disposition, though only a trespass at the common law, is now, by several statutes, made severely penal. Jacob.

Malicious Prosecution. A judicial proceeding instituted against a person out of the prosecutor’s malice and ill will, with the intention of injuring him, without probable cause to sustain it, the process and proceedings being regular and formal, but not justified by the facts. For this injury an action on the case lies, called the “action of malicious prosecution.”

Malignare. To malign or slander; also to malm.

Malitia. Lat. Actual evil design; express malice.

Malitia est acida; est mali animi affectus. Malice is sour; it is the quality of a bad mind. 2 Bullst. 49.

Malitia praecogitata. Malice aforethought.
Malitia suppl et ætatem. Malice supplies [the want of] age. Dyer, 104b; Broom, Max. 315.

Malitia hominum est obviandum. The wicked or malicious designs of men must be thwarted. 4 Coke, 156.

MALLUM. In old European law. A court of the higher kind in which the more important business of the county was dispatched by the court or earl. Spelman. A public national assembly.

Mal o animo. Lat. With an evil mind; with a bad purpose or wrongful intention; with malice.

Mal o grato. In spite; unwillingly.

Mal o sensu. In an evil sense or meaning; with an evil signification.

Mal practice. See Mal a Praxis.

Malt mulna. A quern or malt-mill.

Malt-shot or Malt-scot. A certain payment for making malt. Somner.


Maltreatment. In reference to the treatment of his patient by a surgeon, this term signifies improper or unskillful treatment; it may result either from ignorance, neglect, or willfulness; but the word does not necessarily imply that the conduct of the surgeon, in his treatment of the patient, is either willfully or grossly careless. 2 Allen, 142.

Malum. Lat. In Roman law. A mast; the mast of a ship. Dig. 50, 17, 242, pr. Held to be part of the ship. Id.

Malum in se. A wrong in itself; an act or case involving illegality from the very nature of the transaction, upon principles of natural, moral, and public law. Story, Ag. § 346.

An act is said to be malum in se when it is inherently and essentially evil, that is, immoral in its nature and injurious in its consequences, without any regard to the fact of its being noticed or punished by the law of the state. Such are most or all of the offenses cognizable at common law, (without the denunciation of a statute;) as murder, larceny, etc. An act is said to be malum prohibitum when it is wrong only because prohibited; that is, it is not inherently immoral, but becomes illegal because its commission is expressly forbidden by positive law. Many acts contrary to excise or revenue laws are considered by moralists to be of this character.

Malum non habet efficientem, sed deficientem, causam. 3 Inst. Proem. Evil has not an efficient, but a deficient, cause.

Malum non presumitur. Wick edness is not presumed. Branch, Princ.; 4 Coke, 72a.

Malum prohibitum. A wrong prohibited; a thing which is wrong because prohibited; an act which is not inherently immoral, but becomes so because its commission is expressly forbidden by positive law; an act involving an illegality resulting from positive law. Contrasted with malum in se. Story, Ag. § 346.

Malum quo communius eo pejus. The more common an evil is, the worse it is. Branch, Princ.

Malus usus abolendus est. A bad or invalid custom is [ought] to be abolished. Litt. § 212; Co. Litt. 141; 1 Bl. Comm. 76; Broom, Max. 921.

Malveilles. In old English law. Il will; crimes and misdemeanors; malicious practices. Cowell.

Malveis procurors. Such as used to pack juries, by the nomination of either party in a cause, or other practice. Cowell.

Malveis. A warlike engine to batter and beat down walls.

Malversation. In French law. This word is applied to all grave and punishable faults committed in the exercise of a charge or commission, (office,) such as corruption, exaction, concussion, larceny. Meri. Repert.


In feudal law. A vassal; a tenant or feudatory. The Anglo-Saxon relation of lord and man was originally purely personal, and founded on mutual contract. 1 Spence, Ch. 37.

Man of straw. See Men or Straw.

Manacles. Chains for the hands; shackles.

Manage. To conduct; to carry on; to direct the concerns of a business or establishment. Generally applied to affairs that are somewhat complicated and that involve skill and judgment.
MANAGER. A person chosen or appointed to manage, direct, or administer the affairs of another person or of a corporation or company.

MANAGERS OF A CONFERENCE. Members of the houses of parliament appointed to represent each house at a conference between the two houses. It is an ancient rule that the number of commons named for a conference should be double those of the lords. May, Parl. Pr. c. 16.

MANAGING AGENT. A person who is invested with general power, involving the exercise of judgment and discretion, as distinguished from an ordinary agent or employee, who acts in an inferior capacity, and under the direction and control of superior authority, both in regard to the extent of the work and the manner of executing the same. 19 Hun, 408.

MANAGING OWNER OF SHIP. The managing owner of a ship is one of several co-owners, to whom the others, or those of them who join in the adventure, have delegated the management of the ship. He has authority to do all things usual and necessary in the management of the ship and the delivery of the cargo, to enable her to prosecute her voyage and earn freight, with the right to appoint an agent for the purpose. 6 Q. B. Div. 93; Sweet.

MANAGEMENT. A mansion-house or dwelling-place. Cowell.

MANAS MEDIE. Men of a mean condition, or of the lowest degree.

MANBOTE. In Saxon law. A compensation or recompense for homicide, particularly due to the lord for killing his man or vassal, the amount of which was regulated by that of the were.

MANCA, MANCUS, or MANCUSA. A square piece of gold coin, commonly valued at thirty pence. Cowell.

MANCEPS. In Roman law. A purchaser; one who took the article sold in his hand; a formality observed in certain sales. Calvin. A farmer of the public taxes.

MANCHE-PRESENT. A bribe; a present from the donor's own hand.

MANCIPARE. In Roman law. To sell, alienate, or make over to another; to sell with certain formalities; to sell a person; one of the forms observed in the process of emancipation.

MANCIPATE. To enslave; to bind; to tie.

MANCIPATIO. In Roman law. A certain ceremony or formal process anciently required to be performed, to perfect the sale or conveyance of res mancipi, (land, houses, slaves, horses, or cattle.) The parties were present, (vendor and vendee,) with five witnesses and a person called "libripens," who held a balance or scales. A set form of words was repeated on either side, indicative of transfer of ownership, and certain prescribed gestures performed, and the vendee then struck the scales with a piece of copper, thereby symbolizing the payment, or weighing out, of the stipulated price.

The ceremony of mancipatio was used, in later times, in one of the forms of making a will. The testator acted as vendor, and the heir (or familia empor) as purchaser, the latter symbolically buying the whole estate, or succession, of the former. The ceremony was also used by a father in making a fictitious sale of his son, which sale, when three times repeated, effectuated the emancipation of the son.

M AnCIPI RES. In Roman law. Certain classes of things which could not be aliened or transferred except by means of a certain formal ceremony of conveyance called "mancipatio." (q. v.) These included land, houses, slaves, horses, and cattle. All other things were called "res nec mancipi." The distinction was abolished by Justinian. The distinction corresponded as nearly as may be to the early distinction of English law into real and personal property; res mancipi being objects of a military or agricultural character, and res nec mancipi being all other subjects of property. Like personal estate, res nec mancipi were not originally either valuable in se or valued. Brown.

M ANCIPIUM. In Roman law. The momentary condition in which a filius, etc., might be when in course of emancipation from the potestas, and before that emancipation was absolutely complete. The condition was not like the dominica potestas over slaves, but slaves are frequently called "mancipia" in the non-legal Roman authors. Brown.

M ANCIPLE. A clerk of the kitchen, or caterer, especially in colleges. Cowell.

M ANCOMUNAL. In Spanish law. An obligation is said to be mancomunal when one person assumes the contract or debt of
another, and makes himself liable to pay or fulfill it. Schm. Civil Law, 120.

MANDAMIENTO. In Spanish law. Commission; authority or power of attorney. A contract of good faith, by which one person commits to the gratuitous charge of another his affairs, and the latter accepts the charge. White, New Recop. b. 2, tit. 12, c. 1.

MANDAMUS. Lat. We command. This is the name of a writ (formerly a high prerogative writ) which issues from a court of superior jurisdiction, and is directed to a private or municipal corporation, or any of its officers, or to an executive, administrative, or judicial officer, or to an inferior court, commanding the performance of a particular act therein specified, and belonging to his or their public, official, or ministerial duty, or directing the restoration of the complainant to rights or privileges of which he has been illegally deprived.

The action of mandamus is one, brought in a court of competent jurisdiction, to obtain an order of such court commanding an inferior tribunal, board, corporation, or person to do or not to do an act the performance or omission of which the law enjoins as a duty resulting from an office, trust, or station. Where discretion is left to the inferior tribunal or person, the mandamus can only compel it to act, but cannot control such discretion. Rev. Code Iowa, 1880, § 3373.

The writ of mandamus is either peremptory or alternative, according as it requires the defendant absolutely to obey its behest, or gives him an opportunity to show cause to the contrary. It is the usual practice to issue the alternative writ first. This commands the defendant to do the particular act, or else to appear and show cause against it at a day named. If he neglects to obey the writ, and either makes default in his appearance or fails to show good cause against the application, the peremptory mandamus issues, which commands him absolutely and without qualification to do the act.

MANDANS. In the civil law. The employing party in a contract of mandate. One who gives a thing in charge to another; one who requires, requests, or employs another to do some act for him. Inst. 3, 27, 1, et seq.

MANDANT. In French and Scotch law. The employing party in the contract of mandatum, or mandate. Story, Balm. § 183.

Mandata licita recipiunt strictam interpretationem, sed illicita latam et ex-

tensam. Lawful commands receive a strict interpretation, but unlawful commands a broad and extended one. Bac. Max. reg. 16.

MANDATAIRE. Fr. In French law. A person employed by another to do some act for him; a mandatory.


MANDATORY. He to whom a mandate, charge, or commandment is given; also, he that obtains a benefit by mandamus.

MANDATE. In practice. A judicial command or precept proceeding from a court or judicial officer, directing the proper officer to enforce a judgment, sentence, or decree. Jones, Balm. 52.

In the practice of the supreme court of the United States, the mandate is a precept or order, issued upon the decision of an appeal or writ of error, directing the action to be taken, or disposition to be made of the case, by the inferior court.

In some of the state jurisdictions, the name "mandate" has been substituted for "mandamus" as the formal title of that writ.

In contracts. A bailment of property in regard to which the bailee engages to do some act without reward. Story, Balm. § 137.

A mandate is a contract by which a lawful business is committed to the management of another, and by him undertaken to be performed gratuitously. The mandatory is bound to the exercise of slight diligence, and is responsible for gross neglect. The fact that the mandator derives no benefit from the acts of the mandatory is not of itself evidence of gross negligence. 42 Miss. 525.

A mandate, procuration, or letter of attorney is an act by which one person gives power to another to transact for him and in his name one or several affairs. The mandate may take place in five different manners,—for the interest of the person granting it only; for the joint interest of both parties; for the interest of a third person; for the interest of a third person and that of the party granting it; and, finally, for the interest of the mandatory and a third person. Civil Code La. arts. 2985, 2986.

Mandates and deposits closely resemble each other; the distinction being that in mandates the care and service are the principal, and the custody the accessory, while in deposits the custody is the principal thing, and the care and service are merely accessory. Story, Balm. § 140.
The word may also denote a request or direction. Thus, a check is a mandate by the drawer to his banker to pay the amount to the transferee or holder of the check. 1 Q. B. Div. 33.

In the civil law. The instructions which the emperor addressed to a public functionary, and which were rules for his conduct. These mandates resembled those of the proconsul, the mandata jurisdictio, and were ordinarily binding on the legates or lieutenants of the emperor in the imperial provinces, and there they had the authority of the principal edicts. Sav. Dr. Rom. c. 3, § 24, no. 4.

MANDATO. In Spanish law. The contract of mandate. Escriche.

MANDATO, PANES DE. Loaves of bread given to the poor upon Maundy Thursday.

MANDATOR. The person employing another to perform a mandate.

MANDATORY Containing a command; preceptive; imperative; peremptory. A provision in a statute is mandatory when disobedience to it will make the act done under the statute absolutely void; if the provision is such that disregard of it will constitute an irregularity, but one not necessarily fatal, it is said to be directory. So, the mandatory part of a writ is that which commands the person to do the act specified.

MANDATORY INJUNCTION. In equity practice, an order compelling a defendant to restore things to the condition in which they were at the time when the plaintiff's complaint was made. 33 Law J. Eq. (N. S.) 393.

MANDATUM. In the civil law. The contract of mandate, (q. v.)

MANDAVI BALLIVO. (I have commanded or made my mandate to the bailiff.) In English practice. The return made by a sheriff, where the bailiff of a liberty has the execution of a writ, that he has commanded the bailiff to execute it. 1 Tidd, Pr. 309; 2 Tidd, Pr. 1025.


MANERA. In Spanish law. Manner or mode. Las Partidas, pt. 4, tit. 4, l. 2.

MANERIUM. In old English law. A manor.

Manerium dictur a manendo, secundum excellentiam, sedes magna, fixa, et stabulis. Co. Litt. 58. A manor is so called from manendo, according to its excellence, a seat, great, fixed, and firm.

MANGONARE. In old English law. To buy in a market.

MANGONELLUS. A warlike instrument for casting stones against the walls of a castle. Cowell.

MANHOOD. In feudal law. A term denoting the ceremony of doing homage by the vassal to his lord. The formula used was, "Devenio vester homo," I become your man. 2 Bl. Comm. 54.

To arrive at manhood means to arrive at twenty-one years of age. 1 Dev. & B. Eq. 385.

MANIA. "Mania is that form of insanity where the mental derangement is accompanied with more or less of excitement. Sometimes the excitement amounts to a fury. The individual in such cases is subject to hallucinations and illusions. He is impressed with the reality of events which have never occurred, and of things which do not exist, and acts more or less in conformity with his belief in these particulars. The mania may be general, and affect all or most of the operations of the mind; or it may be partial, and be confined to particular subjects. In the latter case it is generally termed 'monomania.' " Per Field, J., 2 Abb. (U. S.) 510.

MANIA A POTU. A disease induced from the intemperate use of spirituous liquors; the same as delirium tremens.

MANIFEST. In maritime law. A seal-letter; a written document required to be carried by merchant vessels, containing an account of the cargo, with other particulars, for the facility of the customs officers.

In evidence. That which is clear and requires no proof; that which is notorious.

Manifesta probatione non indigent. 7 Coke, 40. Things manifest do not require proof.

MANIFESTO. A formal written declaration, promulgated by a prince, or by the executive authority of a state or nation, proclaiming its reasons and motives for declaring a war, or for any other important international action.

MANIPULUS. In canon law. A handkerchief, which the priest always had in his left hand. Blount.
MANKIND. The race or species of human beings. In law, females, as well as males, may be included under this term. Fortesc. 91.

MANNER. This is a word of large significance, but cannot exceed the subject to which it belongs. The incident cannot be extended beyond its principal. 75 Pa. St. 39, 54.

Manner does not necessarily include time. Thus, a statutory requirement that a mining tax shall be "enforced in the same manner" as certain annual taxes need not imply an annual collection. 8 Nev. 15, 29.

Also a thing stolen, in the hand of the thief; a corruption of "mainour," (q. v.)

MANNER AND FORM; MODO ET FORMA. Formal words introduced at the conclusion of a traverse. Their object is to put the party whose pleading is traversed not only to the proof that the matter of fact denied is, in its general effect, true as alleged, but also that the manner and form in which the fact or facts are set forth are also capable of proof. Brown.


MANNIRE. To cite any person to appear in court and stand in judgment there. It is different from bannire; for, though both of them are citations, this is by the adverse party, and that is by the judge. Du Cange.

MANNOPUS. In old English law. Goods taken in the hands of an apprehended thief. The same as "mainour," (q. v.)

MANNUS. A horse. Cowell.

MANOR. A house, dwelling, seat, or residence.

In English law, the manor was originally a tract of land granted out by the king to a lord or other great person, in fee. It was otherwise called a "barony" or "lordship," and appendant to it was the right to hold a court, called the "court-baron." The lands comprised in the manor were divided into terra tenementales (tenemental lands or bocland) and terra dominicales, or demesne lands. The former were given by the lord of the manor to his followers or retainers in freehold. The latter were such as he reserved for his own use; but of these part were held by tenants in copyhold, i.e., those holding by a copy of the record in the lord's court; and part, under the name of the "lord's waste," served for public roads and commons of pasture for the lord and tenants. The tenants, considered in their relation to the court-baron and to each other, were called "pares curiae." The word also signified the franchise of having a manor, with jurisdiction for a court-baron and the right to the rents and services of copyholders.

In American law. A manor is a tract held of a proprietor by a fee-farm rent in money or in kind, and descending to the oldest son of the proprietor, who in New York is called a "patroon." 13 N. Y. 291.

MANQUELLER. In Saxon law. A murderer.

MANRENT. In Scotch law. The service of a man or vassal. A bond of manrent was an instrument by which a person, in order to secure the protection of some powerful lord, bound himself to such lord for the performance of certain services.

MANSE. In old English law. A habitation or dwelling, generally with land attached. Spelman.

A residence or dwelling-house for the parish priest; a parsonage or vicarage house. Cowell. Still used in Scotch law in this sense.

MANSER. A bastard. Cowell.

MANSION. A dwelling-house.

In old English law. Residence; dwelling.

MANSION-HOUSE. In the law of burglary, etc., any species of dwelling-house. 3 Inst. 64.

MANSLAUGHTER. In criminal law. The unlawful killing of another without malice, either express or implied; which may be either voluntarily, upon a sudden heat, or involuntarily, but in the commission of some unlawful act. 1 Hale, P. C. 468; 4 Bl. Comm. 191.

Manslaughter is the unlawful killing of a human creature without malice, either express or implied, and without any mixture of deliberation whatever; which may be voluntary, upon a sudden heat of passion, or involuntarily, in the commission of an unlawful act, or a lawful act without due caution and circumspection. Code Ga. 1882, § 4924; Pen. Code Cal. § 192.

The distinction between "manslaughter" and "murder" consists in the following: In the former, though the act which occasions the death be unlawful or likely to be attended with bodily mischief, yet the malice, either express or implied, which is the very essence of murder, is presumed
MANSLAUGHTER

to be wanting in manslaughter. 1 East, P. C. 218; 5 Cush. 304.

It also differs from "murder" in this: that there

can be no accessories before the fact, there having

been no time for premeditation. 1 Hale, P. C. 457; 1


MANSO, or MANSUM. A mansion or

house. Spelman.

MANSTEALING. A word sometimes

used synonymously with "kidnapping,"

(g. o.)

MANSUETUS. Tame; as though ac­
nustomed to come to the hand. 2 Bl. Comm.

391.

MANSUM CAPITALE. The manor­
	house or lord's court. Paroch. Antiq. 150.

MANTEA. In old records. A long robe

or mantle.

MANTHEOFF. In Saxon law. A horse­

stealer.

MANTICULATE. To pick pockets.

MAN-TRAPS. Engines to catch tresp­

sas, now unlawful unless set in a dwell­

ing-house for defense between sunset and

sunrise. 24 & 25 Vict. c. 100, § 31.

MAN BREVII. Lat. With a short

hand. A term used in the civil law, signify­
ing shortly; directly; by the shortest course;

without circuitly.

MANU FORTI. With strong hand. A

term used in old writs of trespass. Manu

forti et cum multitudine gentium, with

strong hand and multitude of people. Reg.

Orig. 183.

MANU LONGA. With a long hand.

A term used in the civil law, signifying in­
directly or circuitously. Calvin.

MANU OPERA. Cattle or implements of

husbandry; also stolen goods taken from a

thief caught in the fact. Cowell.

MANUAL. Performed by the hand; used

or employed by the hand; held in the hand.

Thus, a distress cannot be made of tools in

the "manual occupation" of the debtor.

MANUAL GIFT. The manual gift,

that is, the giving of corporeal movable ef­
teffects, accompanied by a real delivery, is not

subject to any formality. Civil Code La. art.

1559.

MANUALIA BENEFICIA. The daily

distributions of meat and drink to the canons

and other members of cathedral churches for

their present subsistence. Cowell.

MANUALIS OBEDIENTIA. Sworn

obedience or submission upon oath. Cowell.

MANUCAPTIO. In old English prac­
tice. A writ which lay for a man taken on

suspicion of felony, and the like, who could

no, be admitted to bail by the sheriff, or

others having power to let to mainprise.


MANUCAPTORS. The same as main­

permors.

MANUFACTORY. A building, the

main or principal design or use of which is to

be a place for producing articles as products

of labor; not merely a place where something

may be made by hand or machinery, but

what in common understanding is known as

a "factory." 57 Pa. St. 82.

MANUFACT, v. The primary

meaning of this word is "making with the hand,"

but this definition is too narrow for its

present use. Its meaning has expanded

as workmanship and art have advanced, so

that now nearly all artificial products of hu­

man industry, nearly all such materials as

have acquired changed conditions or new and

specific combinations, whether from the di­

rect action of the human hand, from chem­

ical processes devised and directed by human

skill, or by the employment of machinery,

are now commonly designated as "manufact­

ured." 57 Md. 526. See, also, 5 Blatch.


MANUFACTURE, n. In patent law.

Any useful product made directly by human

labor, or by the aid of machinery directed

and controlled by human power, and either

from raw materials, or from materials worked

up into a new form. Also the process by

which such products are made or fashioned.

MANUFACTURER. One who is en­
gaged in the business of working raw ma­

terials into wares suitable for use. 63 How.

Pr. 453. See Manufacture.

MANUFACTURING CORPO­

RATION. A corporation engaged in the

production of some article, thing, or object, by

skill or labor, out of raw material, or from

matter which has already been subjected to

artificial forces, or to which something has

been added to change its natural condition.

99 N. Y. 181, 1 N. E. Rep. 669. The

term does not include a mining corporation.

106 Mass. 135.

MANUMISSIO. The act of liberating

a slave from bondage and giving him free­
dom. In a wider sense, releasing or delivering one person from the power or control of another.

Manumittere idem est quod extra manum vel potestatem ponere. Co. Litt. 187. To manumit is the same as to place beyond hand and power.

Mangung, or Monung. In old English law. The district within the jurisdiction of a reeve, apparently so called from his power to exercise therein one of his chief functions, viz., to exact (amanian) all fines.

Manufes. A foot of full and legal measure.

Manurable. In old English law. Capable of being had or held in hand; capable of manual occupation; capable of being cultivated; capable of being touched; tangible; corporeal. Hale, Anal. § 24.

Manure. In old English law. To occupy; to use or cultivate; to have in manual occupation; to bestow manual labor upon. Cowell.

Manus. Lat. A hand.

In the civil law, this word signified power, control, authority, the right of physical coercion, and was often used as synonymous with "potestas."

In old English law, it signified an oath or the person taking an oath; a compurgator.

Manus mortua. A dead hand; mortmain. Spelman.

Manuscript. A writing; a paper written with the hand; a writing that has not been printed.


Manworth. In old English law. The price or value of a man's life or head. Cowell.

Many. This term denotes a multitude, not merely a number greater than that denoted by the word "few." (Ala.) 6 South. Rep. 282.


Map. A representation of the earth's surface, or of some portion of it, showing the relative position of the parts represented, usually on a flat surface. Webster. "A map is but a transcript of the region which it portrays, narrowed in compass so as to facilitate an understanding of the original." 3 Minn. 103, (Gil. 55.)

Mara. In old records. A mere or moor; a lake, pool, or pond; a bog or marsh that cannot be drained. Cowell; Blount; Spelman.

Marauder. "A marauder is defined in the law to be 'one who, while employed in the army as a soldier, commits larceny or robbery in the neighborhood of the camp, or while wandering away from the army.' But in the modern and metaphorical sense of the word, as now sometimes used in common speech, it seems to be applied to a class of persons who are not a part of any regular army, and are not answerable to any military discipline, but who are mere lawless banditti, engaged in plundering, robbery, murder, and all conceivable crimes." 37 Mo. 328.

Marc-banco. The name of a piece of money coined at Hamburg. Its value is thirty-five cents.

Marcha. A mark; a coin of the value of 13s. 4d. Spelman.

Marchatus. The rent of a mark by the year anciently reserved in leases, etc.

March. In Scotch law. A boundary line or border. Bell. The word is also used in composition; as march-dike, march-stone.

Marchandises avaríeès. In French mercantile law. Damaged goods.

Marchers. In old English law. Noblemen who lived on the marches of Wales or Scotland, and who, according to Camden, had their private laws, as if they had been petty kings; which were abolished by the statute 27 Hen. VIII. c. 25. Called also "jords marchers." Cowell.

Marches. An old English term for boundaries or frontiers, particularly the boundaries and limits between England and Wales, or between England and Scotland, or the borders of the dominions of the crown, or the boundaries of properties in Scotland. Mozley & Whitley.

Marches, Court of. An abolished tribunal in Wales, where pleas of debt or damages, not above the value of £50, were tried and determined. Cro. Car. 584.

Marcheta. In old Scotch law. A custom for the lord of a fee to lie the first night with the bride of his tenant. Abolished by Malcolm III. Spelman; 2 Bl. Comm. 83.
A fine paid by the tenant for the remission of such right, originally a mark or half a mark of silver. Spelman.

In old English law. A fine paid for leave to marry, or to bestow a daughter in marriage. Cowell.

MARCHIONESS. A dignity in a woman answerable to that of marquis in a man, conferred either by creation or by marriage with a marquis. Wharton.

MARE. Lat. The sea.

MARE CLAUSUM. The sea closed; that is, not open or free. The title of Selden's great work, intended as an answer to the Mare Liberum of Grotius; in which he undertakes to prove the sea to be capable of private dominion. 1 Kent, Comm. 27.

MARE LIBERUM. The sea free. The title of a work written by Grotius against the Portuguese claim to an exclusive trade to the Indies, through the South Atlantic and Indian oceans; showing that the sea was not capable of private dominion. 1 Kent, Comm. 27.

MARESCALLUS. In old English law. A marshal; a master of the stables; an officer of the exchequer; a military officer of high rank, having powers and duties similar to those of a constable. Du Cange. See MARSHAL.

MARESCHAL. L. Fr. Marshal; a high officer of the royal household. Brit. fol. 1b.

MARETTUM Marshy ground overflowed by the sea or great rivers. Co. Litt. 5.

MARGIN. A sum of money, or its equivalent, placed in the hands of a stockbroker by the principal or person on whose account the purchase is to be made, as a security to the former against losses to which he may be exposed by a subsequent depression in the market value of the stock. 49 Barb. 468.

MARGINAL NOTE. In Scotch law. A note inserted on the margin of a deed, embodying either some clause which was omitted in transcribing or some change in the agreement of the parties. Bell.

An abstract of a reported case, a summary of the facts, or brief statement of the principle decided, which is prefixed to the report of the case, sometimes in the margin, is also spoken of by this name.

MARINARIUS. An ancient word which signified a mariner or seaman. In England, marinarius capitanus was the admiral or warden of the ports.

MARINE. Naval; relating or pertaining to the sea; transacted at sea; doing duty or service on the sea.

This is also a general name for the navy of a kingdom or state; as also the whole economy of naval affairs, or whatever respects the building, rigging, arming, equipping, navigating, and fighting ships. It comprehends also the government of naval armaments, and the state of all the persons employed therein, whether civil or military. Also one of the marines. Wharton.

MARINE CONTRACT. One relating to maritime affairs, shipping, navigation, marine insurance, affreightment, maritime loans, or other business to be done upon the sea or in connection with navigation.

MARINE CORPS. A body of soldiers enlisted and equipped for service on board vessels of war; also the naval forces of the nation.

MARINE COURT IN THE CITY OF NEW YORK. A local court of New York having original jurisdiction of civil causes, where the action is for personal injuries or defamation, and of other civil actions where the damages claimed do not exceed $2,000. It is a court of record. It was originally created as a tribunal for the settlement of causes between seamen.

MARINE INSURANCE. A contract whereby, for a consideration stipulated to be paid by one interested in a ship, freight, or cargo, subject to the risks of marine navigation, another undertakes to indemnify him against some or all of those risks during a certain period or voyage. 1 Phil. Ins. 1.

A contract whereby one party, for a stipulated premium, undertakes to indemnify the other against certain perils or sea-risks to which his ship, freight, and cargo, or some of them, may be exposed during a certain voyage, or a fixed period of time. 3 Kent, Comm. 258.

Marine insurance is an insurance against risks connected with navigation, to which a ship, cargo, freightage, profits, or other insurable interest in movable property may be exposed during a certain voyage or a fixed period of time. Civil Code Cal. § 2655.

A contract of marine insurance is one by which a person or corporation, for a stipulated premium, insures another against losses
occurring by the casualties of the sea. Code Ga. 1882, § 2824.

MARINE INTEREST. Interest, allowed to be stipulated for at an extraordinary rate, for the use and risk of money loaned on respondentia and bottomry bonds.

MARINE LEAGUE. A measure of distance commonly employed at sea, being equal to one-twentieth part of a degree of latitude.

MARINE RISK. The perils of the sea; the perils necessarily incident to navigation.

MARINE SOCIETY. In English law. A charitable institution for the purpose of apprenticing boys to the naval service, etc., incorporated by 12 Geo. III. c. 67.

MARINER. A seaman or sailor; one engaged in navigating vessels upon the sea.

MARINES. A body of infantry soldiers, trained to serve on board of vessels of war when in commission and to fight in naval engagements.

Maris et femineæ conjunctio est de jure nature. 7 Coke, 13. The connection of male and female is by the law of nature.

MARISCHAL. An officer in Scotland, who, with the lord high constable, possessed a supreme itinerant jurisdiction in all crimes committed within a certain space of the court, wherever it might happen to be. Wharton.

MARISCUS. A marshy or fenny ground. Co. Litt. 5a.

MARITAGIO AMISSO PER DEFALTAM. An obsolete writ for the tenant in frank-marriage to recover lands, etc., of which he was deforced.

MARITAGIUM. The portion which is given with a daughter in marriage. Also the power which the lord or guardian in chivalry had of disposing of his infant ward in matrimony.

Maritagiæ est aut liberum aut servitio obligatum; liberum maritagium dicitur ubi donator vult quod terra sic data quieta sit et libera ab omni securi lari servitio. Co. Litt. 21. A marriage portion is either free or bound to service; it is called "frank-marriage" when the giver wills that land thus given be exempt from all secular service.

MARITAGIUM HABERE. To have the free disposal of an heiress in marriage.

MARITAL. Relating to, or connected with, the status of marriage; pertaining to a husband; incident to a husband.

MARITAL COERCION. Coercion of the wife by the husband.

MARITAL PORTION. In Louisiana. The name given to that part of a deceased husband's estate to which the widow is entitled. Civil Code La. art. 55; 8 Mart. (N. S.) 1.

MARITAL RIGHTS. The rights of a husband. The expression is chiefly used to denote the right of a husband to property which his wife was entitled to during the continuance of the marriage.

MARITIMA ANGLÆ. In old English law. The emolument or revenue coming to the king from the sea, which the sheriffs ancienly collected, but which was afterwards granted to the admiral. Spelman.


MARITIME. Pertaining to the sea or ocean or the navigation thereof; or to commerce conducted by navigation of the sea or (in America) of the great lakes and rivers.

It is nearly equivalent to "marine" in many connections and uses; in others, the two words are used as quite distinct.

MARITIME CAUSE. A cause of action originating on the high seas, or growing out of a maritime contract. 1 Kent, Comm. 367, et seq.

MARITIME CONTRACT. A contract whose subject-matter has relation to the navigation of the seas or to trade or commerce to be conducted by navigation or to be done upon the sea or in ports. Over such contracts the admiralty has concurrent jurisdiction with the common law courts.

MARITIME COURT. A court exercising jurisdiction in maritime causes; one which possesses the powers and jurisdiction of a court of admiralty.

MARITIME INTEREST. An expression equivalent to marine interest, (q. e.)

MARITIME JURISDICTION. Jurisdiction in maritime causes; such jurisdiction
as belongs to a court of admiralty on the instance side.

**MARITIME LAW.** That system of law which particularly relates to commerce and navigation, to business transacted at sea or relating to navigation, to ships and shipping, to seamen, to the transportation of persons and property by sea, and to marine affairs generally.

The law relating to harbors, ships, and seamen. An important branch of the commercial law of maritime nations; divided into a variety of departments, such as those about harbors, property of ships, duties and rights of masters and seamen, contracts of affreightment, average, salvage, etc. Wharton.

**MARITIME LIEN.** A lien arising out of damage done by a ship in the course of navigation, as by collision, which attaches to the vessel and freight, and is to be enforced by an action *in rem* in the admiralty courts.

**MARITIME LOAN.** A contract or agreement by which one, who is the lender, lends to another, who is the borrower, a certain sum of money, upon condition that if the thing upon which the loan has been made should be lost by any peril of the sea, or *vis major*, the lender shall not be repaid unless what remains shall be equal to the sum borrowed; and if the thing arrive in safety, or in case it shall not have been injured but by its own defects or the fault of the master or mariners, the borrower shall be bound to return the sum borrowed, together with a certain sum agreed upon as the price of the hazard incurred. Emerig. Mar. Loans, c. 1, s. 2.

**MARITIME PROFIT.** A term used by French writers to signify any profit derived from a maritime loan.

**MARITIME SERVICE.** In admiralty law. A service rendered upon the high seas or a navigable river, and which has some relation to commerce or navigation,—some connection with a vessel employed in trade, with her equipment, her preservation, or the preservation of her cargo or crew. 4 Woods, 267, 16 Fed. Rep. 924.

**MARITIME STATE, in English law.** consists of the officers and mariners of the British navy, who are governed by express and permanent laws, or the articles of the navy, established by act of parliament.

**MARITIME TORT.** A tort committed upon the high seas, or upon a navigable river or other navigable water, and hence falling within the jurisdiction of a court of admiralty. The term is never applied to a tort committed upon land, though relating to maritime matters. See 3 Wall. 33; 17 Fed. Rep. 387.

**MARITUS.** Lat. A husband; a married man. Calvin.

**MARK.** 1. A character, usually in the form of a cross, made as a substitute for his signature by a person who cannot write, in executing a conveyance or other legal document. It is commonly made as follows: A third person writes the name of the marksman, leaving a blank space between the Christian name and surname; in this space the latter traces the mark, or crossed lines, and above the mark is written "his," (or "her,") and below it, "mark."

2. The sign, writing, or ticket put upon manufactured goods to distinguish them from others, appearing thus in the compound, "trade-mark."

3. A token, evidence, or proof; as in the phrase "a mark of fraud."

4. A weight used in several parts of Europe, and for several commodities, especially gold and silver. When gold and silver are sold by the mark, it is divided into twenty-four carats.

5. A money of accounts in England, and in some other countries a coin. The English mark is two-thirds of a pound sterling, or 13s. 4d.; and the Scotch mark is of equal value in Scotch money of account. Enc. Amer.

6. In early Teutonic and English law. A species of village community, being the lowest unit in the political system; one of the forms of the *gens* or clan, variously known as the "mark," "gemeinde," "commune," or "parish." Also the land held in common by such a community. The union of several such village communities and their *marks*, or common lands, forms the next higher political union, the hundred. Freem. Compar. Polities, 116, 117.

7. The word is sometimes used as another form of "marque," a license of reprisals.

**MARKEPENNY.** A penny anciently paid at the town of Maldon by those who had gutters laid or made out of their houses into the streets. Wharton.

**MARKET.** A public time and appointed place of buying and selling; also purchase and sale. It differs from the forum, or market of antiquity, which was a public market-
place on one side only, or during one part of the day only, the other sides being occupied by temples, theaters, courts of justice, and other public buildings. Wharton.

The liberty, privilege, or franchise by which a town holds a market, which can only be by royal grant or immemorial usage.

By the term "market" is also understood the demand there is for any particular article; as, "the cotton market in Europe is dull."

MARKET GELD. The toll of a market.

MARKET OVERT. In English law. An open and public market. The marketplace or spot of ground set apart by custom for the sale of particular goods is, in the country, the only market overt; but in London every shop in which goods are exposed publicly to sale is market overt, for such things only as the owner professes to trade in. Godb. 131; 5 Coke, 83; 2 Bl. Comm. 449.

MARKET PRICE means, when price at the place of exportation is in view, the price at which articles are sold and purchased, clear of every charge but such as is laid upon it at the time of sale. 2 Wash. C. C. 493.

MARKET TOWNS. Those towns which are entitled to hold markets. 1 Steph. Comm. (7th Ed.) 180.

MARKET VALUE signifies a price established by public sales, or sales in the way of ordinary business. 99 Mass. 345.

MARKET ZELD, (properly market geld.) In old records. The toll of a market. Cowell.

MARKETABLE. Such things as may be sold in the market; those for which a buyer may be found.

MARKETABLE TITLE. A "marketable title" to land is such a title as a court of equity, when asked to decree specific performance of the contract of sale, will compel the vendee to accept as sufficient. It is said to be not merely a defensible title, but a title which is free from plausible or reasonable objections.

MARKSMAN. In practice and conveyancing. One who makes his mark; a person who cannot write, and only makes his mark in executing instruments. Arch. N. Pr. 13; 2 Chit. 92.

MARLBOROUGH, STATUTE OF. An English statute enacted in 1267 (52 Hen. III.) at Marlbridge, (now called "Marlborough," ) where parliament was then sitting.

It related to land tenures, and to procedure, and to unlawful and excessive distresses.

MARQUE AND REPRIHAL, LETTERS OF. These words, "marque" and "reprisal," are frequently used as synonymous, but, taken in their strict etymological sense, the latter signifies a "taking in return;" the former, the passing the frontiers (marches) in order to such taking. Letters of marque and reprisal are grantable, by the law of nations, whenever the subjects of one state are oppressed and injured by those of another, and justice is denied by that state to which the oppressor belongs; and the party to whom these letters are granted may then seize the bodies or the goods of the subjects of the state to which the offender belongs, until satisfaction be made, wherever they happen to be found. Reprisals are to be granted only in case of a clear and open denial of justice. At the present day, in consequence partly of treaties and partly of the practice of nations, the making of reprisal is confined to the seizure of commercial property on the high seas by public cruisers, or by private cruisers specially authorized thereto. Brown.

MARQUIS, or MARQUESS. In English law. One of the second order of nobility; next in order to a duke.

MARQUISATE. The seigniory or a marquis.

MARRIAGE. Marriage, as distinguished from the agreement to marry and from the act of becoming married, is the civil status of one man and one woman united in law for life, for the discharge to each other and the community of the duties legally incumbent on those whose association is founded on the distinction of sex. 1 Bish. Mar. & Div. § 3.

A contract, according to the form prescribed by law, by which a man and woman, capable of entering into such contract, mutually engage with each other to live their whole lives together in the state of union which ought to exist between a husband and wife. Shelf. Mar. & Div. 1.

Marriage is a personal relation arising out of a civil contract, to which the consent of parties capable of making it is necessary. Consent alone will not constitute marriage; it must be followed by a solemnization, or by a mutual assumption of marital rights, duties, or obligations. Civil Code Col. § 55.

Marriage is the union of one man and one woman, "so long as they both shall live," to the exclusion of all others, by an obligation which, during that time, the parties cannot of their own will.
tion and act dissolve, but which can be dissolved only by authority of the state. 19 Ind. 53.

The word also signifies the act, ceremony, or formal proceeding by which persons take each other for husband and wife.

In old English law, marriage is used in the sense of "maritagium," (q. v.,) or the feudal right enjoyed by the lord or guardian in chivalry of disposing of his ward in marriage.

MARRIAGE ARTICLES. Articles of agreement between parties contemplating marriage, intended as preliminary to a formal marriage settlement, to be drawn after marriage. Ath. Mar. Sett. 92.

MARRIAGE BROKAGE. The act by which a third person, for a consideration, negotiates a marriage between a man and woman. The money paid for such services is also known by this name.

MARRIAGE CEREMONY. The form, religious or civil, for the solemnization of a marriage.

MARRIAGE CONSIDERATION. The consideration furnished by an intended marriage of two persons. It is the highest consideration known to the law.

MARRIAGE LICENSE. A license or permission granted by public authority to persons who intend to intermarry. By statute, in some jurisdictions, it is made an essential prerequisite to the lawful solemnization of the marriage.

MARRIAGE NOTICE BOOK. A book kept, in England, by the registrar, in which applications for and issue of registrar's licenses to marry are recorded.

MARRIAGE PORTION. Dowry; a sum of money or other property which is given to or settled on a woman on her marriage.

MARRIAGE PROMISE. Betrothal; engagement to intermarry with another.

MARRIAGE SETTLEMENT. A written agreement in the nature of a conveyance, called a "settlement," which is made in contemplation of a proposed marriage and in consideration thereof, either by the parties about to inter-marry, or one of them, or by a parent or relation on their behalf, by which the title to certain property is settled, i. e., fixed or limited to a prescribed course of succession; the object being, usually, to provide for the wife and children. Thus, the estate might be limited to the husband and issue, or to the wife and issue, or to husband and wife for their joint lives, remainder to the survivor for life, remainder over to the issue, or otherwise. Such settlements may also be made after marriage, in which case they are called "post-nuptial."

MARRIED WOMAN. A woman who has a husband living and not divorced; a feme covert.

MARSHAL. In old English law. The title borne by several officers of state and of the law, of whom the most important were the following: (1) The earl-marshall, who presided in the court of chivalry; (2) the marshal of the king's house, or knight-marshall, whose special authority was in the king's palace, to hear causes between members of the household, and punish faults committed within the verge; (3) the marshal of the king's bench prison, who had the custody of that jail; (4) the marshal of the exchequer, who had the custody of the king's debtors; (5) the marshal of the judge of assize, whose duty was to swear in the grand jury.

In American law. An officer pertaining to the organization of the federal judicial system, whose duties are similar to those of a sheriff. He is to execute the process of the United States courts within the district for which he is appointed, etc.

Also, in some of the states, this is the name of an officer of police, in a city or borough, having powers and duties corresponding generally to those of a constable or sheriff.

MARSHAL OF THE QUEEN'S BENCH. An officer who had the custody of the queen's bench prison. The St. 5 & 6 Vict. c. 22, abolished this office, and substituted an officer called "keeper of the queen's prison."

MARSHALING ASSETS. In equity. The arranging or ranking of assets in the due order of administration. Such an arrangement of the different funds under administration as shall enable all the parties having equities thereon to receive their due proportions, notwithstanding any intervening interests, liens, or other claims of particular persons to prior satisfaction out of a portion of these funds. The arrangement or ranking of assets in a certain order towards the payment of debts. 1 Story, Eq. Jur. § 558; 4 Kent, Comm. 421.

The arrangement of assets or claims so as to secure the proper application of the assets to the various claims; especially when there
are two classes of assets, and some creditors can enforce their claims against both, and others against only one, and the creditors of the former class are compelled to exhaust the assets against which they alone have a claim before having recourse to other assets, thus providing for the settlement of as many claims as possible. Pub. St. Mass. p. 1292.

MARSHALING LIENS. The ranking or ordering of several estates or parcels of land, for the satisfaction of a judgment or mortgage to which they are all liable, though successively conveyed away by the debtor. The rule is that, where lands subject to the lien of a judgment or mortgage have been sold or incumbered by the owner at different times to different purchasers, the various tracts are liable to the satisfaction of the lien in the inverse order of their alienation or incumbrance, the land last sold being first chargeable. 1 Black, Judgm. § 440.

MARSHALING SECURITIES. An equitable practice, which consists in so ranking or arranging classes of creditors, with respect to the assets of the common debtor, as to provide for satisfaction of the greatest number of claims. The process is this: Where one class of creditors have liens or securities on two funds, while another class of creditors can resort to only one of those funds, equity will compel the doubly-secured creditors to first exhaust that fund which will leave the single security of the other creditors intact. See 1 Story, Eq. Jur. § 633.

MARSHALSEA. In English law. A prison belonging to the king's bench. It has now been consolidated with others, under the name of the "Queen's Prison."

MARSHALSEA, COURT OF. The court of the Marshalsea had jurisdiction in actions of debt or torts, the cause of which arose within the verge of the royal court. It was abolished by St. 12 & 13 Vict. c. 101. 4 Steph. Comm. 317, note n.

MART. A place of public traffic or sale.

MARTE SUO DECURRE. Lat. To run by its own force. A term applied in the civil law to a suit when it ran its course to the end without any impediment. Calvin.

MARTIAL LAW. A system of law, obtaining only in time of actual war and growing out of the exigencies thereof, arbitrary in its character, and depending only on the will of the commander of an army, which is established and administered in a place or district of hostile territory held in belligerent possession, or, sometimes, in places occupied or pervaded by insurgents or mobs, and which suspends all existing civil laws, as well as the civil authority and the ordinary administration of justice. See, also, MILITARY LAW.

"Martial law, which is built upon no settled principles, but is entirely arbitrary in its decisions, is in truth and reality no law, but something indulged rather than allowed as a law. The necessity of order and discipline in an army is the only thing which can give it countenance, and therefore it ought not to be permitted in time of peace, when the king's courts are open for all persons to receive justice according to the laws of the land." 1 Bl. Comm. 418.

Martial law is neither more nor less than the will of the general who commands the army. It overrides and suppresses all existing civil laws, civil officers, and civil authorities, by the arbitrary exercise of military power; and every citizen or subject—in other words, the entire population of the country, within the confines of its power—is subjected to the mere will or caprice of the commander. He holds the lives, liberty, and property of all in the palm of his hand. Martial law is regulated by no known or established system or code of laws, as it is over and above all of them. The commander is the legislator, judge, and executioner. 5 Blatchf. 821.

Martial law is not the same thing as military law. The latter applies only to persons connected with the military forces of the country or to affairs connected with the army or with war, but is permanent in its nature, specific in its rules, and a recognized part of the law of the land. The former applies, when in existence, to all persons alike who are within the territory covered, but is transient in its nature, existing only in time of war or insurrection, is not specific or always the same, as it depends on the will and discretion of the military commander, and is no part of the law of the land.

MARTINMAS. The feast of St. Martin of Tours, on the 11th of November; sometimes corrupted into "Martimus" or "Martenmas." It is the third of the four cross quarter-days of the year. Wharton.

MARUS. In old Scotch law. A maire: an officer or executor of summons. Otherwise called "proco regis." Skene.

MASAGIUM. A message.

MASCULINE. Of the male sex.

MASSA. In the civil law. A mass; an unwrought substance, such as gold or silver, before it is wrought into cups or other articles. Dig. 47, 2, 52, 14; Fleta, lib. 2, c. 89, §§ 17, 22.
MASTER. To fatten with mast, (acorns, etc.) 1 Leon. 186.

MASTER-SELLING. In old English law. The practice of selling the goods of dead seamen at the mast. Held void. 7 Mod. 141.

MASTER. One having authority; one who rules, directs, instructs, or superintends; a head or chief; an instructor; an employer. Applied to several judicial officers. See infra.

MASTER AND SERVANT. The relation of master and servant exists where one person, for pay or other valuable consideration, enters into the service of another and devotes to him his personal labor for an agreed period. Sweet.

MASTER AT COMMON LAW. The title of officers of the English superior courts of common law appointed to record the proceedings of the court to which they belong; to superintend the issue of writs and the formal proceedings in an action; to receive and account for the fees charged on legal proceedings, and moneys paid into court. There are five to each court. They are appointed under St. 7 Wm. IV. and 1 Vict. c. 30, passed in 1837. Mozley & Whitley.

MASTER IN CHANCERY. An officer of a court of chancery who acts as an assistant to the judge or chancellor. His office is to inquire into such matters as may be referred to him by the court, examine causes, take testimony, take accounts, compute damages, etc., reporting his findings to the court in such shape that a decree may be made; also to take oaths and affidavits and acknowledgments of deeds. In modern practice, many of the functions of a master are performed by clerks, commissioners, auditors, and referees, and in some jurisdictions the office has been superseded.

MASTER IN LUNACY. In English law. The masters in lunacy are judicial officers appointed by the lord chancellor for the purpose of conducting inquiries into the state of mind of persons alleged to be lunatics. Such inquiries usually take place before a jury. 2 Steph. Comm. 511-576.

MASTER OF A SHIP. In maritime law. The commander of a merchant vessel, who has the chief charge of her government and navigation and the command of the crew, as well as the general care and control of the vessel and cargo, as the representative and confidential agent of the owner. He is commonly called the "captain."

MASTER OF THE CROWN OFFICE. The queen's coroner and attorney in the criminal department of the court of queen's bench, who prosecutes at the relation of some private person or common informer, the crown being the nominal prosecutor. St. 6 & 7 Vict. c. 20; Wharton.

MASTER OF THE FACULTIES. In English law. An officer under the archbishop, who grants licenses and dispensations, etc.

MASTER OF THE HORSE. In English law. The third great officer of the royal household, being next to the lord steward and lord chamberlain. He has the privilege of making use of any horses, footmen, or pages belonging to the royal stables.

MASTER OF THE MINT. In English law. An officer who receives bullion for coinage, and pays for it, and superintends everything belonging to the mint. He is usually called the "warden of the mint." It is provided by St. 33 Vict. c. 10, § 14, that the chancellor of the exchequer for the time being shall be the master of the mint.

MASTER OF THE ORDNANCE. In English law. A great officer, to whose care all the royal ordnance and artillery were committed.

MASTER OF THE ROLLS. In English law. An assistant judge of the court of chancery, who holds a separate court ranking next to that of the lord chancellor, and has the keeping of the rolls and grants which pass the great seal, and the records of the chancery. He was originally appointed only for the superintendence of the writs and records appertaining to the common-law department of the court, and is still properly the chief of the masters in chancery. 3 Steph. Comm. 417.

Under the act constituting the supreme court of judicature, the master of the rolls becomes a judge of the high court of justice and ex officio a member of the court of appeal. The same act, however, provides for the abolition of this office, under certain conditions, when the next vacancy occurs. See 38 & 37 Vict. c. 66, §§ 5, 81, 32.

MASTERS, ETC. In English law. Officials deriving their title from Jud. (Officers') Act 1879, and being, or filling the places of, the sixteen
masters of the common-law courts, the queen's coroner and attorney, the master of the crown office, the two record and writ clerks, and the three associates. Wharton.

MASTER OF THE TEMPLE. The chief ecclesiastical functionary of the Temple Church.

MASTER'S REPORT. The formal report or statement made by a master in chancery of his decision on any question referred to him, or of any facts or action he has been directed to ascertain or take.

MASURA. In old records. A decayed house; a wall; the ruins of a building; a certain quantity of land, about four oxtangs.

MATE. The officer second in command on a merchant vessel.

MATELOTAGE. In French law. The hire of a ship or boat.

MATER-FAMILIAS. Lat. In the civil law. The mother or mistress of a family. A chaste woman, married or single. Calvin.

MATERIA. Lat. In the civil law. Materials; as distinguished from species, or the form given by labor and skill. Dig. 41, 1, 7, 7–12; Fleta, lib. 3, c. 2, § 14.

Materials (wood) for building, as distinguished from “lignum.” Dig. 32, 55, pr.

In English law. Matter; substance; subject-matter. 3 Bl. Comm. 322.

MATERIAL. Important; more or less necessary; having influence or effect; going to the merits; having to do with matter, as distinguished from form. An allegation is said to be material when it forms a substantive part of the case presented by the pleadings. Evidence offered in a cause, or a question propounded, is material when it is relevant and goes to the substantial matters in dispute, or has a legitimate and effective influence or bearing on the decision of the case.

MATERIAL-MAN. A person who has furnished materials used in the construction or repair of a building, structure, or vessel.

MATERIALITY. The property or character of being material. See MATERIAL.

MATERIALS. The substance or matter of which anything is made; matter furnished for the erection of a house, ship, or other structure; matter used or intended to be used in the construction of any mechanical product. See 71 Pa. St. 293.

MATERNA MATERNIS. Lat. A maxim of the French law, signifying that property of a decedent acquired by him through his mother descends to the relations on the mother's side.

MATERNAL. That which belongs to, or comes from, the mother; as maternal authority, maternal relation, maternal estate, maternal line.

MATERNAL PROPERTY. That which comes from the mother of the party, and other ascendants of the maternal stock. Dom. Liv. Prél. t. 3, s. 2, no. 12.

MATERNITY. The character, relation, state, or condition of a mother.

MATERTERA. Lat. In the civil law. A maternal aunt; a mother's sister. Inst. 3, 6, 1; Bract. fol. 68b.

MATERTERA MAGNA. In the civil law. A great aunt; a grandmother's sister, (avixa soror.) Dig. 38, 10, 15.

MATERTERA MAJOR. In the civil law. A greater aunt; a great-grandmother's sister, (proxvia soror.) a father's or mother's great-aunt, (patris vel matris matertera magna.) Dig. 38, 10, 16.

MATERTERA MAXIMA. In the civil law. A greatest aunt; a great-grandmother's sister, (abavia soror;) a father's or mother's greater aunt, (patris vel matris matertera major.) Dig. 38, 10, 17.

MATH. A mowing.

MATHEMATICAL EVIDENCE. Demonstrative evidence; such as establishes its conclusions with absolute necessity and certainty. It is used in contradistinction to moral evidence.

MATIMA. A godmother.

MATRICIDE. The murder of a mother; or one who has slain his mother.

MATRICULA. In the civil and old English law. A register of the admission of officers and persons entered into any body or society, whereof a list was made. Hence those who are admitted to a college or university are said to be “matriculated.” Also a kind of almshouse, which had revenues appropriated to it, and was usually built near the church, whence the name was given to the church itself. Wharton.

MATRICULATE. To enter as a student in a university.
MATRIMONIA, ETC.

Matrimonium debent esse libera. Marriages ought to be free. A maxim of the civil law. 2 Kent. Comm. 102.

MATERIAL CAUSES. In English ecclesiastical law. Causes of action or injuries respecting the rights of marriage. One of the three divisions of causes or injuries cognizable by the ecclesiastical courts, comprising suits for jactitation of marriage, and for restitution of conjugal rights, divorces, and suits for alimony. 3 Bl. Comm. 92–94; 3 Steph. Comm. 712–714.

MATRIMONIUM. Lat. In Roman law. A legal marriage, contracted in strict accordance with the forms of the older Roman law, i.e., either with the farreum, the co-emptio, or by usus. This was allowed only to Roman citizens and to those neighboring peoples to whom the right of conubium had been conceded. The effect of such a marriage was to bring the wife into the manus, or marital power, of the husband, and to create the patria potestas over the children.

Matrimonium subsequens tollit pecatum precedens. Subsequent marriage cures preceding criminality.

MATRIMONY. Marriage, (q. e.,) in the sense of the relation or status, not of the ceremony.

MATRIX. In the civil law. The protocol or first draft of a legal instrument, from which all copies must be taken. See (Tex.) 16 S. W. Rep. 53.

MATRIX ECCLESIA. Lat. A mother church. This term was anciently applied to a cathedral, in relation to the other churches in the same see, or to a parochial church, in relation to the chapels or minor churches attached to it or depending on it. Blount.

MATRON. A married woman; an elderly woman. The female superintendent of an establishment or institution, such as a hospital, an orphan asylum, etc., is often so called.

MATRONS, JURY OF. Such a jury is impaneled to try if a woman condemned to death be with child.

MATTER. Facts; substance as distinguished from form; the merits of a case.

MATTER IN CONTROVERSY, OR IN DISPUTE. The subject of litigation; the matter for which a suit is brought and upon which issue is joined. 1 Wall. 337.

MATTER IN DEED. Such matter as may be proved or established by a deed or specialty. Matter of fact, in contradistinction to matter of law. Co. Litt. 329; Steph. Pl. 197.

MATTER IN ISSUE. That upon which the plaintiff proceeds in his action, and which the defendant controverts by his pleadings, not including facts offered in evidence to establish the matters in issue. 15 N. H. 9. That ultimate fact or state of facts in dispute upon which the verdict or finding is predicated. 4 Fed. Rep. 386. See 2 Black, Judgm. § 614, and cases cited.


MATTER IN PAIS. Matter of fact that is not in writing; thus distinguished from matter in deed and matter of record; matter that must be proved by parol evidence.

MATTER OF COURSE. Anything done or taken in the course of routine or usual procedure, which is permissible and valid without being specially applied for and allowed.

MATTER OF FACT. That which is to be ascertained by the senses, or by the testimony of witnesses describing what they have perceived. Distinguished from matter of law.

MATTER OF FORM. Whatever belongs or relates merely to the form of a pleading or other instrument, or to its language, arrangement, or technicality, without affecting its substance, (i.e., its substantial validity or sufficiency,) is called "matter of form," as distinguished from "matter of substance."

MATTER OF LAW. Whatever is to be ascertained or decided by the application of statutory rules or the principles and determinations of the law, as distinguished from the investigation of particular facts, is called "matter of law."

MATTER OF RECORD. Any judicial matter or proceeding entered on the records of a court, and to be proved by the production of such record. It differs from matter in deed, which consists of facts which may be proved by specialty.

MATTER OF SUBSTANCE. That which goes to the merits. The opposite of matter of form.
MATTERS OF SUBSISTENCE FOR MAN. This phrase comprehends all articles or things, whether animal or vegetable, living or dead, which are used for food, and whether they are consumed in the form in which they are bought from the producer or are only consumed after undergoing a process of preparation, which is greater or less, according to the character of the article. 19 Grat. 813.

Maturiora sunt vota mulierum quam virorum. 6 Coke, 71. The desires of women are more mature than those of men; i.e., women arrive at maturity earlier than men.

MATURITY. In mercantile law. The time when a bill of exchange or promissory note becomes due. Story, Bills, § 329.

MAUGRE. L. Fr. In spite of; against the will of. Litt. § 672.

MAUNDY THURSDAY. The day preceding Good Friday, on which princes gave alms.

MAXIM. An established principle or proposition. A principle of law universally admitted, as being a correct statement of the law, or as agreeable to natural reason.

Coke defines a maxim to be "conclusion of reason," and says that it is so called "qua maxima ejus dignitas et certissima autoritas, et quod maxime omnibus probetur." Co. Litt. 11a. He says in another place: "A maxime is a proposition to be of all men confessed and granted without proof, argument, or discourse." Id. 67a.

The maxims of the law, in Latin, French, and English, will be found distributed through this book in their proper alphabetical order.

Maxime paci sunt contraria vis et injuria. The greatest enemies to peace are force and wrong. Co. Litt. 161b.

Maximus erroris populus magister. Bacon. The people is the greatest master of error.

"MAY," in the construction of public statutes, is to be construed "must" in all cases where the legislature mean to impose a positive and absolute duty, and not merely to give a discretionary power. 1 Pet. 46, 64; 3 Hill, 612, 615.

MAYHEM. In criminal law. The act of unlawfully and violently depriving another of the use of such of his members as may render him less able, in fighting, either to defend himself or to annoy his adversary. 4 Bl. Comm. 205.

Every person who unlawfully and maliciously deprives a human being of a member of his body, or disables, disfigures, or renders it useless, or cuts or disables the tongue, or puts out an eye, or slits the nose, ear, or lip, is guilty of mayhem. Pen. Code Cal. § 203.

MAYHEM Avit. Maimed. This is a term of art which cannot be supplied in pleading by any other word, as mutilatiuni truncavit, etc. 3 Thom. Co. Litt. 548; 7 Mass. 247.

MAYN. L. Fr. A hand; handwriting. Brit. c. 28.


MAYOR. The executive head of a municipal corporation; the governor or chief magistrate of a city.

MAYOR'S COURT. A court established in some cities, in which the mayor sits with the powers of a police judge or committing magistrate in respect to offenses committed within the city, and sometimes with civil jurisdiction in small causes, or other special statutory powers.

MAYOR'S COURT OF LONDON. An inferior court having jurisdiction in civil cases where the whole cause of action arises within the city of London.

MAYORALTY. The office or dignity of a mayor.

MAYORAZGO. In Spanish law. The right to the enjoyment of certain aggregate property, left with the condition thereon imposed that they are to pass in their integrity, perpetually, successively to the eldest son. Schm. Civil Law, 62.

MAYORESS. The wife of a mayor.

MEAD. Ground somewhat watery, not plowed, but covered with grass and flowers. Enc. Lond.

MEADOW. A tract of low or level land producing grass which is mown for hay. Webster.

A tract which lies above the shore, and is overflowed by spring and extraordinary tides only, and yields grasses which are good for hay. 34 Conn. 429.

MEAL-RENT. A rent formerly paid in meal.
MEAN, or MESNE. A middle between two extremes, whether applied to persons, things, or time.

MEANDER. To meander means to follow a winding or flexuous course; and when it is said, in a description of land, "thence with the meander of the river," it must mean a meandered line,—a line which follows the sinuosities of the river,—or, in other words, that the river is the boundary between the points indicated. 14 Or. 341, 12 Fac. Rep. 495; 10 Minn. 100. (Gil. 75.)

This term is used in some jurisdictions with the meaning of surveying and mapping a stream according to its meanderings, or windings and turnings. See 2 Wis. 317.

MEANS. 1. The instrument or agency through which an end or purpose is accomplished.

2. Resources; available property; money or property, as an available instrumentality for effecting a purpose, furnishing a livelihood, paying a debt, or the like.

MEANS OF SUPPORT. This term embraces all those resources from which the necessities and comforts of life are or may be supplied, such as lands, goods, salaries, wages, or other sources of income.

MEASE, or MESE. Norman-French for a house. Litt. §§ 74, 251.

MEASON-DUE. (Corruption of maison de Dieu.) A house of God; a monastery; religious house or hospital. See 39 Eliz. c. 5.

MEASURE. That by which extent or dimension is ascertained, either length, breadth, thickness, capacity, or amount. Webster. The rule by which anything is adjusted or proportioned.

MEASURE OF DAMAGES. The rule, or rather the system of rules, governing the adjustment or apportionment of damages as a compensation for injuries in actions at law.

MEASURE OF VALUE. In the ordinary sense of the word, "measure" would mean something by comparison with which we may ascertain what is the value of anything. When we consider, further, that value itself is relative, and that two things are necessary to constitute it, independently of the third thing, which is to measure it, we may define a "measure of value" to be something by comparing with which any two other things we may infer their value in relation to one another. 2 Mill, Pol. Econ. 101.

MEASURER, or METER. An officer in the city of London, who measured woolen clothes, coals, etc.

MEASURING MONEY. In old English law. A duty which some persons exacted, by letters patent, for every piece of cloth made, besides alnidge. Now abolished.

MECHANIC. A workman employed in shaping and uniting materials, such as wood, metal, etc., into some kind of structure, machine, or other object, requiring the use of tools. 11 Lea, 517; 13 Pa. St. 525.

MECHANIC'S LIEN. A species of lien created by statute in most of the states, which exists in favor of persons who have performed work or furnished material in and for the erection of a building. Their lien attaches to the land as well as the building, and is intended to secure for them a priority of payment.

The lien of a mechanic is created by law, and is intended to be a security for the price and value of work performed and materials furnished, and as such it attaches to and exists on the land and the building erected thereon, from the commencement of the time that the labor is being performed and the materials furnished; and the mechanic has an actual and positive interest in the building anterior to the time of its recognition by the court, or the reducing of the amount due to a judgment. 12 Iowa, 292.

MEDERIA. In old records. A house or place where meadigm, or mead, was made.

MEDFEE. In old English law. A bribe or reward; a compensation given in exchange, where the things exchanged were not of equal value. Cowell.

MEDIA ANNATA. In Spanish law. Half-yearly profits of land. 5 Tex. 34, 79.


MEDIE ET INFIRMÆ MANUS HOMINES. Men of a middle and base condition. Blount.

MEDIANUS HOMO. A man of middle fortune.

MEDIATE POWERS. Those incident to primary powers given by a principal to his agent. For example, the general authority given to collect, receive, and pay debts due by or to the principal is a primary power. In order to accomplish this, it is fre-
quently required to settle accounts, adjust disputed claims, resist those which are un-
just, and answer and defend suits. These subordinate powers are sometimes called
"mediate powers." Story, Ag. § 58.

MEDIATE TESTIMONY. Secondary
evidence, (q. e.)

MEDIATION. Intervention; interposi-
tion; the act of a third person who interferes
between two contending parties with a view
to reconcile them or persuade them to adjust
or settle their dispute. In international law
and diplomacy, the word denotes the friendly
interference of a state in the controversies
of others, for the purpose, by its influence and
by adjusting their difficulties, of keeping the
peace in the family of nations.

MEDIATOR. One who interposes be-
tween parties at variance for the purpose of
reconciling them.

MEDIATORS OF QUESTIONS. In
English law. Six persons authorized by stat-
ute, (27 Edw. III. St. 2, c. 24,) who, upon
any question arising among merchants rela-
ting to unmerchantable wool, or undue pack-
ing, etc., might, before the mayor and officers
of the staple, upon their oath certify and
settle the same; to whose determination
therein the parties concerned were to sub-
mit. Cowell.

MEDICAL EVIDENCE. Evidence
furnished by medical men, testifying in their
professional capacity as experts, or by stand-
tard treatises on medicine or surgery.

MEDICAL JURISPRUDENCE. The
science which applies the principles and prac-
tice of the different branches of medicine to
the elucidation of doubtful questions in a
court of justice. Otherwise called "forensic
medicine," (q. v.) A sort of mixed science,
which may be considered as common ground
to the practitioners both of law and physic.
1 Steph. Comm. 8.

MEDICINE. "The practice of medicine
is a pursuit very generally known and under-
stood, and so also is that of surgery. The
former includes the application and use of
medicines and drugs for the purpose of cur-
ing, mitigating, or alleviating bodily diseases,
while the functions of the latter are limited
to manual operations usually performed by
surgical instruments or appliances." 24
Hun, 633.

MEDICINE-CHEST. A box containing
an assortment of medicines, required by stat-
ute to be carried by all vessels above a cer-
tain tonnage.

MEDICO-LEGAL. Relating to the law
concerning medical questions.

MEDIETAS LINGÆ. In old prac-
tice. Molety of tongue; half-tongue. Ap-
plied to a jury impaneled in a cause consist-
ing the one half of natives, and the other
half of foreigners. See De MEDIETATE
LINGÆ.

MEDIATOR. One who interposes be-
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reconciling them.

MEDIATORS OF QUESTIONS. In
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surgical instruments or appliances." 24
Hun, 633.

MEDICINE-CHEST. A box containing
an assortment of medicines, required by stat-
MEIGNE, or MAISNADER. In old English law. A family.

MEINDRE AGE. L. Fr. Minority; lesser age. Kelham.

MEINY, MEINE, or MEINIE. The royal household; a retinue.


MELANCHOLIA. In medical jurisprudence. A kind of mental unsoundness characterized by extreme depression of spirits, ill-grounded fears, delusions, and brooding over one particular subject or train of ideas. Webster.

MELDFEOH. In Saxon law. The compensation due and given to him who made discovery of any breach of penal laws committed by another person, called the "promoter’s [i.e., informer’s] fee." Wharton.

MELIOR. Lat. Better; the better. Melior res, the better (best) thing or chattel. Bract. fol. 60.

Melior est conditio defendentis. The condition of the party in possession is the better, i.e., where the right of the parties is equal. Broom, Max. 715, 719.

Melior est conditio possidentis, et rei quam actoris. The condition of the possessor is the better, and the condition of the defendant is better than that of the plaintiff. 4 Inst. 150; Broom, Max. 714, 719.

Melior est conditio possidentis ubi neuter jus habet. Jenk. Cent. 118. The condition of the possessor is the better where neither of the two has a right.

Melior est justitia vere preveniens quam severe puniones. That justice which absolutely prevents [a crime] is better than that which severely punishes it. 3 Inst. Epil.

MELIORATIONS. In Scotch law. Improvements of an estate, other than mere repairs; betterments. 1 Bell, Comm. 73.

Meliores conditionem ecclesiae suae facere potest praeclatus, deterioriex nequaquam. Co. Litt. 101. A bishop can make the condition of his own church better, but by no means worse.

Meliores conditionem suam facere potest minor, deterioriex nequaquam. Co. Litt. 337. A minor can make his own condition better, but by no means worse.

Melius est in tempore occurrere, quam post causam vulneratum remedium querere. 2 Inst. 299. It is better to meet a thing in time than after an injury inflicted to seek a remedy.

Melius est jus deficiens quam jus incertum. Law that is deficient is better than law that is uncertain. Loft, 395.

Melius est omnia mala pati quam mala consentire. 3 Inst. 23. It is better to suffer every ill than to consent to ill.

Melius est petere fontes quam sectari rivulos. It is better to go to the fountain head than to follow little streamlets.

Melius est recurrere quam male currere. It is better to run back than to run badly; it is better to retrace one’s steps than to proceed improperly. 4 Inst. 176.

MELIUS INQUIRENDUM. To be better inquired into.

In old English law. The name of a writ commanding a further inquiry respecting a matter; as, after an imperfect inquisition in proceedings in outlawry, to have a new inquest as to the value of lands.

MEMBER. One of the persons constituting a partnership, association, corporation, guild, etc.

One of the persons constituting a court, a legislative assembly, etc.

One of the limbs or portions of the body capable of being used in fighting in self-defense.

MEMBER OF CONGRESS. A member of the senate or house of representatives of the United States. In popular usage, particularly the latter.

MEMBER OF PARLIAMENT. One having the right to sit in either house of the British parliament.

MEMBERS. In English law. Places where a custom-house has been kept of old time, with officers or deputies in attendance; and they are lawful places of exportation or importation. 1 Chit. Com. Law, 726.

MEMBRANA. Lat. In the civil law. Parchment. Dig. 32, 52.

In old English law. A skin of parchment. The ancient rolls usually consist of several of these skins, and the word "membrana" is used, in citations to them, in the same way as "page" or "folio," to distinguish the particular skin referred to.
MEMBRUM. A slip or small piece of land.

MÉMOIRE. In French law. A document in the form of a petition, by which appeals to the court of cassation are initiated.

MEMORANDUM. Lat. To be remembered; it is remembered. A formal word with which the body of a record in the court of king's bench anciently commenced. Townsh. Pl. 486; 2 Tind. Pr. 710. The whole clause is now, in practice, termed, from this initial word, the "memorandum," and its use is supposed to have originated from the circumstance that proceedings "by bill" (in which alone it has been employed) were formerly considered as the by-business of the court. Gilb. Com. Pl. 47, 48.

Also an informal note or instrument embodying something that the parties desire to fix in memory by the aid of written evidence, or that is to serve as the basis of a future formal contract or deed.

This word is used in the statute of frauds as the designation of the written agreement, or note or evidence thereof, which must exist in order to bind the parties in the cases provided. The memorandum must be such as to disclose the parties, the nature and substance of the contract, the consideration and promise, and be signed by the party to be bound or his authorized agent. See 2 Kent, Comm. 510.

MEMORANDUM ARTICLES. In the law of marine insurance, this phrase designates the articles of merchandise which are usually mentioned in the memorandum clause, (q. v.), and for which the underwriter's liability is thereby limited.

MEMORANDUM CHECK. A check given by a borrower to a lender, for the amount of a short loan, with the understanding that it is not to be presented at the bank, but will be redeemed by the maker himself when the loan falls due. This understanding is evidenced by writing the word "Mem." on the check. This is not unusual among merchants.

MEMORANDUM CLAUSE. In a policy of marine insurance the memorandum clause is a clause inserted to prevent the underwriters from being liable for injury to goods of a peculiarly perishable nature, and for minor damages. It begins as follows: "N. B. Corn, fish, salt, fruit, flour, and seed are warranted free from average, unless general, or the ship be stranded,"—meaning that the underwriters are not to be liable for damage to these articles caused by sea-water or the like. Maude & P. Shipp. 571; Sweet.

MEMORANDUM IN ERROR. A document alleging error in fact, accompanied by an affidavit of such matter of fact.

MEMORANDUM OF ALTERATION. Formerly, in England, where a patent was granted for two inventions, one of which was not new or not useful, the whole patent was bad, and the same rule applied when a material part of a patent for a single invention had either of those defects. To remedy this the statute 5 & 6 Wm. IV. c. 83, empowers a patentee (with the flat of the attorney general) to enter a disclaimer (q. c.) or a memorandum of an alteration in the title or specification of the patent, not being of such a nature as to extend the exclusive right granted by the patent, and thereupon the memorandum is deemed to be part of the letters patent or the specification. Sweet.

MEMORANDUM OF ASSOCIATION. A document to be subscribed by seven or more persons associated for a lawful purpose, by subscribing which, and otherwise complying with the requisitions of the companies' acts in respect of registration, they may form themselves into an incorporated company, with or without limited liability. 3 Steph. Comm. 20.

MEMORIAL. A document presented to a legislative body, or to the executive, by one or more individuals, containing a petition or a representation of facts.

In English law. That which contains the particulars of a deed, etc., and is the instrument registered, as in the case of an annuity which must be registered. Wharton.

MEMORITER. Lat. From memory; by or from recollection. Thus, memoriter proof of a written instrument is such as is furnished by the recollection of a witness who had seen and known it.

MEMORIZATION. Committing anything to memory. Used to describe the act of one who listens to a public representation of a play or drama, and then, from his recollection of its scenes, incidents, or language, reproduces it, substantially or in part, in derogation of the rights of the author. See 5 Term R. 245; 14 Amer. Law Reg. (N. S.) 207.

MEMORY. Mental capacity; the mental power to review and recognize the successive
states of consciousness in their consecutive order. This word, as used in jurisprudence to denote one of the psychological elements necessary in the making of a valid will or contract or the commission of a crime, implies the mental power to conduct a consecutive train of thought, or an orderly planning of affairs, by recalling correctly the past states of the mind and past events, and arranging them in their due order of sequence and in their logical relations with the events and mental states of the present.

The phrase "sound and disposing mind and memory" means not merely distinct recollection of the items of one's property and the persons among whom it may be given, but entire power of mind to dispose of property by will. Abbott.

Also the reputation and name, good or bad, which a man leaves at his death.

MEMORY, TIME OF. According to the English common law, which has been altered by 2 & 3 Wm. IV. c. 71, the time of memory commenced from the reign of Richard I., A. D. 1189. 2 Bl. Comm. 31.

MEN OF STRAW. Men who used in former days to ply about courts of law, so called from their manner of making known their occupation, (i.e., by a straw in one of their shoes,) recognized by the name of "straw-shoes." An advocate or lawyer who wanted a convenient witness knew by these signs where to meet with one, and the colloquy between the parties was brief. "Don't you remember?" said the advocate; to which the ready answer was, "To be sure I do." Then come into court and swear it." And straw-shoes went into court and swore it. Athens abounded in straw-shoes. Quart. Rev. vol. 33, p. 344.

MENACE. A threat; the declaration or show of a disposition or determination to inflict an evil or injury upon another.

MENETUM. In old Scotch law. A stock-horn; a horn made of wood, "with circles and girds of the same." Skene.

MENIAL. A servant of the lowest order; more strictly, a domestic servant living under his master's roof.

MENS. Lat. Mind; intention; meaning; understanding; will.

MENS LEGISLATORIS. The intention of the law-maker.

MENS REA. Lat. A guilty mind; a guilty or wrongful purpose; a criminal intent.

Mens testatoris in testamentis spectanda est. Jenk. Cent. 277. The intention of the testator is to be regarded in wills.

MENSA. Patrimony or goods and necessary things for livelihood. Jacob. A table; the table of a money-changer. Dig. 2. 14. 47.

MENSA ET THORO. From bed and board. See Divorce.

MENSALIA. Parsonages or spiritual livings united to the tables of religious houses, and called "mensal benefits" amongst the canonists. Cowell.

MENSIS. Lat. In the civil and old English law. A month. Mensis setitus, the prohibited month; fence-month, (g. v.)

MENSOR. In the civil law. A measurer of land; a surveyor. Dig. 11, 6; Id. 50, 6; Cod. 12, 28.

MENSULARIUS. In the civil law. A money-changer or dealer in money. Dig. 2. 14. 47. 1.

MENSURA. In old English law. A measure.

MENSURA DOMINI REGIS. "The measure of our lord the king," being the weights and measures established under King Richard I. in his parliament at Westminster, 1197. 1 Bl. Comm. 275; Mozley & Whitley.

MENTAL ALIENATION. A phrase sometimes used to describe insanity, (g. v.)

MENTAL RESERVATION. A silent exception to the general words of a promise or agreement not expressed, on account of a general understanding on the subject. But the word has been applied to an exception existing in the mind of the one party only, and has been degraded to signify a dishonest excuse for evading or infringing a promise. Wharton.

MENTIRI. Lat. To lie; to assert a falsehood. Calvin.; 3 Bulst. 260.

MENTITION. The act of lying; a falsehood.

MENU, LAWS OF. A collection or institute of the earliest laws of ancient India. The work is of very remote antiquity.

MER, or MERE. A fenny place. Cowell.

MERA NOCTIS. Midnight. Cowell.
MERANNUM. In old records. Timbers; wood for building.

MERCABLE. Merchantable; to be sold or bought.

MERCANTANT. A foreign trader.

MERCANTILE AGENCIES. Establishments which make a business of collecting information relating to the credit, character, responsibility, and reputation of merchants, for the purpose of furnishing the information to subscribers. 15 Amer. & Eng. Enc. Law, 289.

MERCANTILE LAW. An expression substantially equivalent to the law-merchant or commercial law. It designates the system of rules, customs, and usages generally recognized and adopted by merchants and traders, and which, either in its simplicity or as modified by common law or statutes, constitutes the law for the regulation of their transactions and the solution of their controversies.

MERCANTILE LAW AMENDMENT ACTS. The statutes 19 & 20 Vict. cc. 60, 97, passed mainly for the purpose of assimilating the mercantile law of England, Scotland, and Ireland.

MERCANTILE PAPER. Commercial paper; such negotiable paper (bills, notes, checks, etc.) as is made or transferred by and between merchants or traders, and is governed by the usages of the business world and the law-merchant.

MERCANTILE PARTNERSHIP. One which habitually buys and sells; one which buys for the purpose of afterwards selling. 32 Pittsb. Leg. J. (O. S.) 310.

MERCAT. A market. An old form of the latter word common in Scotch law, formed from the Latin "mercatum."

MERCATIVE. Belonging to trade.

MERCATUM. Lat. A market. A contract of sale. Supplies for an army, (commactus.)

MERCATURE. The practice of buying and selling.

MERCEDARY. A hirer; one that hires.

MERCEN-LAGE. The law of the Mercians. One of the three principal systems of laws which prevailed in England about the beginning of the eleventh century. It was observed in many of the midland counties, and those bordering on the principality of Wales. 1 Bl. Comm. 65.

MERCENARIUS. A hireling or servant. Jacob.

MERCES. In the civil law. Reward of labor in money or other things. As distinguished from "pensio," it means the rent of farms, (pradia rustici.) Calvin.

MERCHANDISE. All commodities which merchants usually buy and sell, whether at wholesale or retail; wares and commodities such as are ordinarily the objects of trade and commerce. But the term is never understood as including real estate, and is rarely applied to provisions such as are purchased day by day, or to such other articles as are required for immediate consumption.

MERCHANDISE MARKS ACT, 1862. The statute 25 & 26 Vict. c. 88, designed to prevent the fraudulent marking of merchandise and the fraudulent sale of merchandise falsely marked.

MERCHANT. A man who traffics or carries on trade with foreign countries, or who exports and imports goods and sells them by wholesale. Webster. Merchants of this description are commonly known by the name of "shipping merchants."

A trader; one who, as a business, buys and sells wares and merchandise.

MERCHANT APPRAISERS. Where the appraisement of an invoice of imported goods made by the revenue officers at the custom-house is not satisfactory to the importer, persons may be selected (under this name) to make a definitive valuation. They must be merchants engaged in trade.

MERCHANT SHIPping ACTS. Certain English statutes, beginning with the St. 16 & 17 Vict. c. 131, whereby a general superintendence of merchant shipping is vested in the board of trade.

MERCHANTABLE. Fit for sale; vendible in market; of a quality such as will bring the ordinary market price.

MERCHANTMAN. A ship or vessel employed in foreign or domestic commerce or in the merchant service.

MERCHANTS' ACCOUNTS. Accounts between merchant and merchant, which must be current, mutual, and unsettled, consisting of debts and credits for merchandise. 6 How. (Miss.) 825.
MERCHANTS, STATUTE OF. The English statute 13 Edw. I. St. 3, repealed by 26 & 27 Vict. c. 125.

MERCET. In feudal law. A fine or composition paid by inferior tenants to the lord for liberty to dispose of their daughters in marriage. Cowell. The same as marcheta (q. v.)

MERCIAMENT. An amerclamement, penalty, or fine, (q. v.)


MERCIMONIATUS ANGLÆ. In old records. The impost of England upon merchandise. Cowell.

Mercis appellatio ad res mobiles tan­\underline{\text{tum}} pertinet. The term “merchandise” belongs to movable things only. Dig. 50, 16, 66.

Mercis appellatio­ne homines non con­\underline{\text{tineri}}. Men are not included under the denomination of “merchandise.” Dig. 50, 16, 207.

MERCY. In practice. The arbitr­\underline{\text{ment}} of the king or judge in punishing of­\underline{\text{fenses not directly censured by law.}} Jacob. So, “to be in mercy” signifies to be amerced or fined for bringing or defending an unjust suit, or to be liable to punishment in the discretion of the court.

In criminal law. The discretion of a judge, within the limits prescribed by posi­tive law, to remit altogether the punishment to which a convicted person is liable, or to mitigate the severity of his sentence; as when a jury recommends the prisoner to the mercy of the court.


MERE MOTION. The free and volun­tar­\underline{\text{ry act of a party himself, done without the suggestion or influence of another person, is said to be done of his mere motion, }}\textit{ex\textit{ meru motu}}, (g. e.) Brown.

The phrase is used of an interference of the courts of law, who will, under some cir­\underline{\text{cumstances, of their own motion, object to an irregularity in the proceedings, though no objection has been taken to the informal-}}

ity by the plaintiff or defendant in the suit.

MERE RIGHT. The mere right of property in land; the \textit{\textit{\textit{jus proprietatis}}, without either possession or even the right of possession. }2 Bl. Comm. 197. The abstract right of property.


MERENNIUM. In old records. Tim­ber. Cowell.

MERETRICIOUS. Of the nature of unlawful sexual connection. The term is descriptive of the relation sustained by persons who contract a marriage that is void by reason of legal incapacity. 1 Bl. Comm. 436.

MERGER. The fusion or absorption of one thing or right into another; generally spoken of a case where one of the subjects is of less dignity or importance than the other. Here the less important ceases to have an independent existence.

In real-property law. It is a general principle of law that where a greater estate and a less coincide and meet in one and the same person, without any intermediate estate, the less is immediately annihilated, or, in the law phrase, is said to be \textit{\textit{merged}}, that is, sunk or drowned, in the greater. Thus, if there be tenant for years, and the reversion in fee-simple descends to or is purchased by him, the term of years is \textit{\textit{\textit{merged}} in the inheritance, and shall never exist any more. }2 Bl. Comm. 177; 1 Steph. Comm. 295; 4 Kent, Comm. 99.

Of rights. This term, as applied to rights, is equivalent to “\textit{\textit{confuso}}” in the Roman law, and indicates that where the qualities of debtor and creditor become united in the same individual, there arises a confusion of rights which extinguishes both qualities; whence, also, merger is often called “extinguishment.” Brown.

Rights of action. In the law relating to rights of action, when a person takes or acquires a remedy or security of a higher nature, in legal estimation, than the one which he already possesses for the same right, then his remedies in respect of the minor right or security merge in those attaching to the higher one. Leake, Cont. 506; 10 C. B. 561.

As where a claim is merged in the judgment recovered upon it.

In criminal law. When a man commits a great crime which includes a lesser, or com-

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mits a felony which includes a tort against a private person, the latter is merged in the former. 1 East, P. C. 411.


MERITORIOUS CAUSE OF ACTION. This description is sometimes applied to a person with whom the ground of action, or the consideration, originated or from whom it moved. For example, where a cause of action accrues to a woman while sole, and is sued for, after her marriage, by her husband and herself jointly, she is called the "meritorious cause of action."

MERITORIOUS CONSIDERATION. One founded upon some moral obligation; a valuable consideration in the second degree.

MERITS. In practice. Matter of substance in law, as distinguished from matter of mere form; a substantial ground of defense in law. A defendant is said "to swear to merits" or "to make affidavit of merits" when he makes affidavit that he has a good and sufficient or substantial defense to the action on the merits. 3 Chit. Gen. Pr. 543, 544. "Merits," in this application of it, has the technical sense of merits in law, and is not confined to a strictly moral and conscientious defense. Id. 545; 1 Burrill, Pr. 214.

As used in the New York Code of Procedure, §398, it has been held to mean "the strict legal rights of the parties, as contradistinguished from those mere questions of practice which every court regulates for itself, and from all matters which depend upon the discretion or favor of the court." 4 How. Pr. 332.

A "defense upon the merits" is one which depends upon the inherent justice of the defendant's contention, as shown by the substantial facts of the case, as distinguished from one which rests upon technical objections or some collateral matter. Thus there may be a good defense growing out of an error in the plaintiff's pleadings, but there is not a defense upon the merits unless the real nature of the transaction in controversy shows the defendant to be in the right.

MERO MOTU. See Ex Mero Motu; Mere Motion.

MERSCU M. A lake; also a marsh or fen-land.

MERTLAGE. A church calendar or rubric. Cowell.

MERTON, STATUTE OF. An old English statute, relating to dower, legitimacy, wardships, procedure, inclosure of common, and usury. It was passed in 1235, (20 Hen. III.,) and was named from Merton, in Surrey, where parliament sat that year. See Barr. St. 41, 46.

MERUM. In old English law. Mere; naked or abstract. Merum jus, mere right. Bract. fol. 31.

MERX. Lat. Merchandise; movable articles that are bought and sold; articles of trade.

Merx est qui quid vendi potest. Merchandise is whatever can be sold. Com. 355; 3 Wood. Lect. 263.

MESCRAUNTES. L. Fr. Apostates; unbelievers.

MESCROYANT. A term used in the ancient books to designate an infidel or unbeliever.

MEESE. A house and its appurtenance. Cowell.

MESNE. Intermediate; intervening; the middle between two extremes, especially of rank or time.

An intermediate lord; a lord who stood between a tenant and the chief lord; a lord who was also a tenant. "Lord, mesne, and tenant; the tenant heldeth by four pence, and the mesne by twelve pence." Co. Litt. 23a.

MESNE ASSIGNMENT. If A. grant a lease of land to B., and B. assign his interest to C., and C. in his turn assign his interest therein to D., in this case the assignments so made by B. and C. would be termed "mesne assignments;" that is, they would be assignments intervening between A.'s original grant and the vesting of D.'s interest in the land under the last assignment. Brown.

MESNE INCUMBRANCE. An intermediate charge, burden, or liability; an incumbrance which has been created or has attached to property between two given periods.

MESNE LORD. In old English law. A middle or intermediate lord; a lord who held of a superior lord. 2 Bl. Comm. 39. More commonly termed a "mesne," (q. v.)

MESNE PROCESS. As distinguished from final process, this signifies any writ or process issued between the commencement of the action and the suing out of execution. It includes the writ of summons, (although that is now the usual commencement of actions,) because anciently that was preceded by the original writ.
MESNE PROCESS 771

The writ of capias ad respondendum was called "mesne" to distinguish it, on the one hand, from the original process by which a suit was formerly commenced; and, on the other, from the final process of execution.

MESNE PROFITS. Intermediate profits; that is, profits which have been accruing between two given periods. Thus, after a party has recovered the land itself in an action of ejectment, he frequently brings another action for the purpose of recovering the profits which have been accruing or arising out of the land between the time when his title to the possession accrued or was raised and the time of his recovery in the action of ejectment, and such an action is thence termed an "action for mesne profits." Brown.

MESNE PROFITS, ACTION OF. An action of trespass brought to recover profits derived from land, while the possession of it has been improperly withheld; that is, the yearly value of the premises.

MESNE, WRIT OF. An ancient and abolished writ, which lay when the lord paramount distrained on the tenant parvail. The latter had a writ of mesne against the mesne lord.

MESNALTY, or MESNALTY. A manor held under a superior lord. The estate of a mesne.

MESS BRIEF. In Danish sea law. One of a ship’s papers; a certificate of admeasurement granted at the home port of a vessel by the government or by some other competent authority. Jac, Sea Laws, 51.

MESSAGE FROM THE CROWN. In English law. The method of communicating between the sovereign and the house of parliament. A written message under the royal sign-manual is brought by a member of the house, being a minister of the crown or one of the royal household. Verbal messages are also sometimes delivered. May, Pari. Pr. c. 17.

MESSAGE, PRESIDENT’S. An annual communication from the president of the United States to congress, made at or near the beginning of each session, embodying his views on the state and exigencies of national affairs, suggestions and recommendations for legislation, and other matters. Const. U. S. art. 2, § 3.

MESSARIUS. In old English law. A chief servant in husbandry; a bailiff.

MESSE THANE. One who said mass; a priest. Cowell.

MESSANGER. One who bears messages or errands; a ministerial officer employed by executive officers, legislative bodies, and courts of justice, whose service consists principally in carrying verbal or written communications or executing other orders. In Scotland there are officers attached to the courts, called "messengers at arms."

An officer attached to a bankruptcy court, whose duty consists, among other things, in seizing and taking possession of the bankrupt’s estate during the proceedings in bankruptcy.

The messenger of the English court of chancery has the duty of attending on the great seal, either in person or by deputy, and must be ready to execute all such orders as he shall receive from the lord chancellor, lord keeper, or lords commissioners. Brown.

Messis sementem sequitur. The crop belongs to [follows] the sower. A maxim in Scotch law. Where a person is in possession of land which he has reason to believe is his own, and sows that land, he will have a right to the crops, although before it is cut down it should be discovered that another has a preferable title to the land. Bell.

MESSUAGE. This term is now synonymous with "dwelling-house," but had once a more extended significance. It is frequently used in deeds, in describing the premises.

Although the word "messuage" may, there is no necessity that it must, import more than the word "dwelling-house," with which word it is frequently put in apposition and used synonymously. 2 Bing. N. C. 617.

In Scotland. The principal dwelling-house within a barony. Bell.

META. Lat. A goal, bound, or turning-point. In old English law, the term was used to denote a bound or boundary line of land; a landmark; a material object, as a tree or a pillar, marking the position or beginning of a boundary line.

METACHRONISM. An error in computation of time.

METALLUM. In Roman law. Metal; a mine. Labor in mines, as a punishment for crime. Dig. 40, 5, 24, 5; Calvin.

METATUS. In old European law. A dwelling; a seat; a station; quarters; the place where one lives or stays. Speelman.
METAYER SYSTEM. A system of agricultural holdings, under which the land is divided, in small farms, among single families, the landlord generally supplying the stock which the agricultural system of the country is considered to require, and receiving, in lieu of rent and profit, a fixed proportion of the produce. This proportion, which is generally paid in kind, is usually one-half. 1 Mill, Pol. Econ. 296, 363; and 2 Smith, Wealth Nat. 3, c. II. The system prevails in some parts of France and Italy.

METECORN. A measure or portion of corn, given by a lord to customary tenants as a reward and encouragement for labor. Cowell.

METEGAVEL. A tribute or rent paid in victuals. Cowell.

METER. An instrument of measurement; as a coal-meter, a gas-meter, a land-meter.

METES AND BOUNDS. In conveying. The boundary lines of lands, with their terminating points or angles.

METEWAND, or METEYARD. A staff of a certain length wherewith measures are taken.


METHOD. In patent law. "Engine" and "method" mean the same thing, and may be the subject of a patent. Method, properly speaking, is only placing several things, or performing several operations, in the most convenient order, but it may signify a contrivance or device. Fessen. Pat. 127; 8 Term R. 106.

METRE. The unit of measure in the "metric system" of weights and measures. It is a measure of length, being the ten-millionth part of the distance from the equator to the north pole, and equivalent to 39.37 inches. From this unit all the other denominations of measure, as well as of weight, are derived. The metric system was first adopted in France in 1795.

METRIC SYSTEM. A system of measures for length, surface, weight, and capacity, founded on the metre as a unit. It originated in France, has been established by law there and in some other countries, and is recommended for general use by other governments.

METROPOLIS. A mother city; one from which a colony was sent out. The capital of a province. Calvin.

METROPOLITAN. In English law. One of the titles of an archbishop. Derived from the circumstance that archbishops were consecrated at first in the metropolis of a province. 4 Inst. 94.

In England, the word is frequently used to designate a statute, institution, governmental agency, etc., relating exclusively or especially to the city of London; e. g., the metropolitan board of works, metropolitan buildings act, etc.

METROPOLITAN BOARD OF WORKS. A board constituted in 1855 by St. 18 & 19 Vict. c. 129, for the better sewer- ing, draining, paving, cleansing, lighting, and improving the metropolis (London.) The board is elected by vestries and district boards, who in their turn are elected by the rate-payers. Wharton.

METROPOLITAN POLICE DISTRICT. A region composed of New York city and some adjacent territory, which was, for police purposes, organized as one district, and provided with a police force common to the whole.

METTESHEP, or METTENSCHEP. In old records. An acknowledgment paid in a certain measure of corn; or a fine or penalty imposed on tenants for default in not doing their customary service in cutting the lord's corn.

METUS. Lat. Fear; terror. In a technical sense, a reasonable and well-grounded apprehension of some great evil, such as death or mayhem, and not arising out of mere timidity, but such as might fall upon a man of courage. Fear must be of this description in order to amount to duress avoiding a contract. See Bract. lib. 2, c. 5; 1 Bl. Comm. 131; Calvin.

MEUBLES. In French law. The movable articles of English law. Things are meubles from either of two causes: (1) From their own nature, e. g., tables, chairs; or (2) from the determination of the law, e. g., obligations.

MEUBLES MEUBLANS. In French law. The utensils and articles of ornament usual in a dwelling-house. Brown.

Meum est promittere, non dimittere. It is mine to promise, not to discharge. 2 Rolle, 39.
MICHAE LMAS. The feast of the Archangel Michael, celebrated in England on the 29th of September, and one of the usual quarter days.

MICHAE LMAS HEAD COURT. A meeting of the heritors of Scotland, at which the roll of freeholders used to be revised. See Bell.

MICHAE LMAS TERM. One of the four terms of the English courts of common law, beginning on the 2d day of November and ending on the 25th. 3 Steph. Comm. 552.

MICHE, or MICH. O. Eng. To practice crimes requiring concealment or secrecy; to pilfer articles secretly. Misher, one who practices secret crime. Webster.

MICHIE-GE NOT. One of the names of the general council immemorially held in England. The Witte Nagemote.

One of the great councils of king and noblemen in Saxon times. Jacob.

MICH E L-SYNOTH. Great council. One of the names of the general council of the kingdom in the times of the Saxons. 1 Bl. Comm. 147.

MICHERY. Theft; cheating.

MIDDLE TERM. A phrase used in logic to denote the term which occurs in both of the premises in the syllogism, being the means of bringing together the two terms in the conclusion.

MIDDLE THREAD. The middle thread of a stream is an imaginary line drawn lengthwise through the middle of its current.

MIDDLEMAN. An agent between two parties, an intermediary who performs the office of a broker or factor between seller and buyer, producer and consumer, land-owner and tenant, etc.

A middleman, in Ireland, is a person who takes land in large tracts from the proprietors, and then rents it out to the peasantry in small portions at a greatly enhanced price. Wharton.

MIDDLESEX, BILL OF. See BILL OF MIDDLESEX.

MIDSHIPMAN. In ships of war, a kind of naval cadet, whose business is to second or transmit the orders of the superior officers and assist in the necessary business of the vessel, but understood to be in training for a commission. A passed midshipman is one who has passed an examination and is a candidate for promotion to the rank of lieutenant.

MIDSUMMER-DAY. The summer solstice, which is on the 24th day of June, and the feast of St. John the Baptist, a festival first mentioned by Maximus Taurıensis, A. D. 400. It is generally a quarter-day for the payment of rents, etc. Wharton.

MIDWIFE. In medical jurisprudence. A woman who practices midwifery; an accoucheuse.


Migrants jura amittat ac privilegia et immunitates domicili prioris. One who emigrates will lose the rights, privileges, and immunities of his former domicile. Voet, Comm. ad Pand. tom. i. 347; 1 Kent, Comm. 76.

MILE. A measure of length or distance, containing 8 furlongs, or 1,760 yards, or 5,280 feet.

MILEAGE. A payment or charge, at a fixed rate per mile, allowed as a compensation for traveling expenses to members of legislative bodies, witnesses, sheriffs, and bailiffs.

MILES. In the civil law. A soldier.

In old English law. A knight, because military service was part of the feudal tenure. Also a tenant by military service, not a knight. 1 Bl. Comm. 404; Seld. Tit. Hon. 334.

MILITARE. To be knighted.

MILITARY. Pertaining to war or to the army; concerned with war. Also the whole body of soldiers; an army.

MILITARY BOUNTY LAND. Land granted by various laws of the United States, by way of bounty, to soldiers for services rendered in the army; being given in lieu of a money payment.

MILITARY CAUSES. In English law. Causes of action or injuries cognizable in the court military, or court of chivalry. 3 Bl. Comm. 103.

MILITARY COMMISSIONS. Courts whose procedure and composition are modeled upon courts-martial, being the tribunals by which alleged violations of martial law are tried and determined. The membership of
such commissions is commonly made up of civilians and army officers. They are probably not known outside of the United States, and were first used by General Scott during the Mexican War. 15 Amer. & Eng. Enc. Law, 473.

**MILITARY COURTS.** In England the court of chivalry and courts-martial, in America courts-martial and courts of inquiry, are called by this general name.

**MILITARY FEUDS.** The genuine or original feuds which were in the hands of military men, who performed military duty for their tenures.

**MILITARY JURISDICTION.** "There are, under the constitution, three kinds of military jurisdiction,—one to be exercised both in peace and war; another to be exercised in time of foreign war without the boundaries of the United States, or in time of rebellion and civil war within states or districts occupied by rebels treated as belligerents; and a third to be exercised in time of invasion or insurrection within the limits of the United States, or during rebellion within the limits of states maintaining adhesion to the national government, when the public danger requires its exercise. The first of these may be called 'jurisdiction under military law,' and is found in acts of congress prescribing rules and articles of war, or otherwise providing for the government of the national forces; the second may be distinguished as 'military government,' superseding, as far as may be deemed expedient, the local law, and exercised by the military commander under the direction of the president, with the express or implied sanction of congress; while the third may be denominated 'martial law proper,' and is called into action by congress, or temporarily, when the action of congress cannot be invited, and in the case of justifying or excusing peril, by the president, in times of insurrection or invasion, or of civil or foreign war, within districts or localities where ordinary law no longer adequately secures public safety and private rights." Per Chase, C. J., 4 Wall. 141.

**MILITARY LAW.** A system of regulations for the government of an army. 1 Kent, Comm. 941, note.

That branch of the laws which respects military discipline and the government of persons employed in the military service. De Hart, Mil. Law, 16. See Martial Law. MILITARY OFFENSES. Those offenses which are cognizable by the courts military, as insubordination, sleeping on guard, desertion, etc.

**MILITARY STATE.** The soldier of the kingdom of Great Britain.

**MILITARY TENURES.** The various tenures by knight-service, grand-serjeancy, cornage, etc., are frequently called "military tenures," from the nature of the services which they involved. 1 Steph. Comm. 204.

**MILITARY TESTAMENT.** In English law. A nuncupative will, that is, one made by word of mouth, by which a soldier may dispose of his goods, pay, and other personal chattels, without the forms and solemnities which the law requires in other cases. St. 1 Vict. c. 26, § 11.

**MILITIES.** Knights; and, in Scotch law, freeholders.

**MILITIA.** The body of soldiers in a state enrolled for discipline, but not engaged in actual service except in emergencies, as distinguished from regular troops or a standing army.

**MILL.** A machine or engine for grinding, sawing, manufacturing, etc.; also the building containing such machinery.

An American money of account, of the value of the tenth part of a cent.

**MILL-HOLMS.** Low meadows and other fields in the vicinity of mills, or watery places about mill-dams. Enc. Lond.

**MILLBANK PRISON.** Formerly called the "Fenitentiary at Millbank." A prison at Westminster, for convicts under sentence of transportation, until the sentence or order shall be executed, or the convict be entitled to freedom, or be removed to some other place of confinement. This prison is placed under the inspectors of prisons appointed by the secretary of state, who are a body corporate, "The Inspectors of the Millbank Prison." The inspectors make regulations for the government thereof, subject to the approbation of the secretary of state, and yearly reports to him, to be laid before parliament. The secretary also appoints a governor, chaplain, medical officer, matron, etc. Wharton.

**MILLEA Te, or MILL-LEAT.** A trench to convey water to or from a mill. St. 7 Jac. I. c. 19.
MILLED MONEY. This term means merely coined money; and it is not necessary that it should be marked or rolled on the edges. Leach, 708.

MIL-REIS. The name of a piece of money in the coinage of Portugal, and the Azores and Madeira islands. Its value at the custom-house, according as it is coined in the first, second, or third of the places named, is $1.12, or 83½ cents, or $1.

MINA. In old English law. A measure of corn or grain. Cowell; Spelman.

MINAGE. A toll or duty paid for selling corn by the mina. Cowell.

MINARE. In old records. To mine or dig mines. Minator, a miner. Cowell.

MINATOR CARUCÆ. A plowman. Cowell.

Minatur innocentibus qui parceit nocentibus. 4 Coke, 45. He threatens the innocent who spares the guilty.

MIND. In its legal sense, "mind" means only the ability to will, to direct, to permit, or to assert. In this sense, a corporation has a mind, and exerts its mind each time that it assents to the terms of a contract. 43 N. J. Law, 492.

MIND AND MEMORY. A phrase applied to testators, denoting the possession of mental capacity to make a will. In order to make a valid will, the testator must have a sound and disposing mind and memory. In other words, he ought to be capable of making his will, with an understanding of the nature of the business in which he is engaged, a recollection of the property he means to dispose of, of the persons who are the objects of his bounty, and the manner in which it is to be distributed between them. 3 Wash. C. C. 585.

MINE. A pit or excavation in the earth, from which metallic ores or other mineral substances are taken by digging. Webster.

MINER. One who mines; a digger for metals and other minerals. While men of scientific attainments, or of experience in the use of machinery, are to be found in this class, yet the word by which the class is designated imports neither learning nor skill. (Colo.) 19 Pac. Rep. 604.

MINERALS. All fossil bodies or matters dug out of mines or quarries, whence anything may be dug; such as beds of stone which may be quarrried. 14 Mees. & W. 859.

Any natural production, formed by the action of chemical affinities, and organized when becoming solid by the powers of crystallization. Webster.

MINERATOR. In old records. A miner.

Minima pona corporalis est major qualibet pecuniaria. The smallest corporal punishment is greater than any pecuniary one. 2 Inst. 220.

Minime mutanda sunt quae certam habuerunt interpretationem. Things which have had a certain interpretation [whose interpretation has been settled, as by common opinion] are not to be altered. Co. Litt. 365; Wing. Max. p. 748, max. 202.

MINIMENT. An old form of muniment, (q. v.) Blount.

Minimum est nihiloo proximum. The smallest is next to nothing.

MINING CLAIM. A parcel of land, containing precious metal in its soil or rock, and appropriated by an individual, according to established rules, by the process of "location." 104 U. S. 649.

MINING COMPANIES. This designation was formerly applied in England to the associations formed in London in 1825 for working mines in Mexico and South America; but at present it comprises, both in England and America, all mining projects carried on by joint-stock associations or corporations. Rapalje & Lawrence.

MINING PARTNERSHIP. An association of several owners of a mine for cooperation in working the mine. A mining partnership is governed by many of the rules relating to ordinary partnerships, but also by some rules peculiar to itself, one of which is that one person may convey his interest in the mine and business without dissolving the partnership. 102 U. S. 645; 23 Cal. 203; 9 Colo. 46, 10 Pac. Rep. 292.

MINISTER. In public law. One of the highest functionaries in the organization of civil government, standing next to the sovereign or executive head, acting as his immediate auxiliary, and being generally charged with the administration of one of the great bureaus or departments of the executive branch of government. Otherwise
called a "cabinet minister," "secretary of state," or "secretary of a department."

In international law. An officer appointed by the government of one nation as a mediator or arbitrator between two other nations who are engaged in a controversy, with their consent, with a view to effecting an amicable adjustment of the dispute.

A general name given to the diplomatic representatives sent by one state to another, including ambassadors, envoys, and residents.

In ecclesiastical law. A person ordained according to the usages of some church or associated body of Christians for the preaching of the gospel and filling the pastoral office.

In practice. An officer of justice, charged with the execution of the law, and hence termed a "ministerial officer," such as a sheriff, bailiff, coroner, sheriff's officer. Britt. c. 21.

An agent; one who acts not by any inherent authority, but under another.

MINISTERIAL. That which is done under the authority of a superior; opposed to judicial; that which involves obedience to instructions, but demands no special discretion, judgment, or skill.

MINISTERIAL ACT. A ministerial act may be defined to be one which a person performs in a given state of facts, in a prescribed manner, in obedience to the mandate of legal authority, without regard to or the exercise of his own judgment, upon the propriety of the act being done. Acts done out of court in bringing parties into court are, as a general proposition, ministerial acts. 54 Ind. 376.

MINISTERIAL POWERS. A phrase used in English conveyancing to denote powers given for the good, not of the donee himself exclusively, or of the donee himself necessarily at all, but for the good of several persons, including or not including the donee also. They are so called because the donee of them is as a minister or servant in his exercise of them. Brown.

MINISTERIAL TRUSTS. (Also called "instrumental trusts.") Those which demand no further exercise of reason or understanding than every intelligent agent must necessarily employ; as to convey an estate. They are a species of special trusts, distinguished from discretionary trusts, which necessarily require much exercise of the understanding. 2 Bouv. Inst. no. 1896.

MINISTRANT. The party cross-examining a witness was so called, under the old system of the ecclesiastical courts.

MINISTRI REGIS. Lat. In old English law. Ministers of the king, applied to the judges of the realm, and to all those who hold ministerial offices in the government. 2 Inst. 296.

MINISTRY. Office; service. Those members of the government who are in the cabinet.

MINOR. An infant or person who is under the age of legal competence. A term derived from the civil law, which described a person under a certain age as less than so many years. Minor egiunti quique annis, one less than twenty-five years of age. Inst. 1, 14, 2.

Also, less; of less consideration; lower; a person of inferior condition. Fleta, 2, 47, 13, 15; Calvin.


Minor ante tempus agere non potest in easu proprietatis nec etiam coevnire; differetur usque etatem; sed non cadit breve. 2 Inst. 291. A minor before majority cannot act in a case of property, nor even agree; it should be deferred until majority; but the writ does not fail.

MINOR FACT. In the law of evidence. A relative, collateral, or subordinate fact; a circumstance. Wills, Circ. Ev. 27; Burrill, Circ. Ev. p. 121, note 582.


Minor minorem custodire non debet, alios enim presumitur male regere qui seipsum regere noscit. A minor ought not to be guardian to a minor, for he who knows not how to govern himself is presumed to be unfit to govern others. Fleta, lib. 1, c. 10; Co. Litt. 88b.

Minor non tonetur respondere durante minori Ætate, nisi in causa dotis, propter favorem. 3 Bulst. 143. A minor is not bound to reply during his minority, except as a matter of favor in a cause of dower.

Minor qui infra sætatem 12 annorum fuerit ultagari non potest, nec extra legem ponit, quia ante talem ætatem non est sub leges aliqua, nec in decennis. Co. Litt. 128. A minor who is under twelve
years of age cannot be outlawed, nor placed without the law, because before such age he is not under any law, nor in a decennary.

Minor septemdecim annis non admitted: titur fore executorum. A person under seventeen years is not admitted to be an executor. 6 Coke, 67. A rule of ecclesiastical law.

MINORA REGALIA. In English law. The lesser prerogatives of the crown, including the rights of the revenue. 1 Bl. Comm. 241.

MINORITY. The state or condition of a minor; infancy.

The smaller number of votes of a deliberative assembly; opposed to majority, (which see.)

MINT. The place designated by law where bullion is coined into money under authority of the government.

Also a place of privilege in Southwark, near the queen's prison, where persons formerly sheltered themselves from justice under the pretext that it was an ancient palace of the crown. The privilege is now abolished. Wharton.

MINT-MARK. The masters and workers of the English mint, in the indentures made with them, agree "to make a privy mark in the money they make, of gold and silver, so that they may know which moneys were of their own making." After every trial of the pix, having proved their moneys to be lawful, they are entitled to their quietus under the great seal, and to be discharged from all suits or actions. Wharton.

MINT-MASTER. One who manages the coinage. See Master of the Mint.

MINTAGE. The charge or commission taken by the mint as a consideration for coining into money the bullion which is brought to it for that purpose; the same as "seigniorage."

Also that which is coined or stamped as money; the product of the mint.

MINUS. Lat. In the civil law. Less; less than. The word had also, in some connections, the sense of "not at all." For example, a debt remaining wholly unpaid was described as "minus solutum."

Minus solvit, qui tardius solvit. He does not pay who pays too late. Dig. 50, 16, 12, 1.

MINUTE. In measures of time or circumference, a minute is the sixtieth part of an hour or degree.

In practice. A memorandum of what takes place in court, made by authority of the court.

MINUTE-BOOK. A book kept by the clerk or prothonotary of a court for entering memoranda of its proceedings.

MINUTE TITHES. Small tithes, such as usually belong to a vicar, as of wool, lambs, pigs, butter, cheese, herbs, seeds, eggs, honey, wax, etc.

MINUTES. In Scotch practice. A pleading put into writing before the lord ordinary, as the ground of his judgment. Bell.

In business law. Memoranda or notes of a transaction or proceeding. Thus, the record of the proceedings at a meeting of directors or shareholders of a company is called the "minutes."

MINUTIO. In the civil law. A lessening; diminution or reduction. Dig. 4, 5, 1.

MIRROR. The Mirror of Justice, or of the Justices, commonly spoken of as the "Mirror," is an ancient treatise on the laws of England, written during the reign of Edward II., and attributed to one Andrew Horne.

MIS. An inseparable particle used in composition, to mark an ill sense or depravation of the meaning; as "miscomputation" or "misaccounting," i.e., false reckoning. Several of the words following are illustrations of the force of this monosyllable.

MISA. In old English law. The mise or issue in a writ of right. Speiman.

In old records. A compact or agreement; a form of compromise. Cowell.

MISADVENTURE. A mischance or accident; a casually caused by the act of one person and inflicting injury upon another. Homicide "by misadventure" is where a man, doing a lawful act, without any intention of hurt, unfortunately kills another. 4 Bl. Comm. 182.

MISALLEGE. To cite falsely as a proof or argument.

MISAPPLICATION. Improper, illegal, wrongful, or corrupt use or application of funds, property, etc.

MISAPPROPRIATION. This is not a technical term of law, but it is sometimes
applied to the misdemeanor which is committed by a banker, factor, agent, trustee, etc., who fraudulently deals with money, goods, securities, etc., intrusted to him, or by a director or public officer of a corporation or company who fraudulently misapplies any of its property. Steph. Crim. Dig. 257, et seq. Sweet.

MISBEHAVIOR. Ill conduct; Improper or unlawful behavior. Verdicts are sometimes set aside on the ground of misbehavior of jurors.

MISCARRIAGE. In medical jurisprudence. The expulsion of the ovum or embryo from the uterus within the first six weeks after conception. Between that time, and before the expiration of the sixth month, when the child may possibly live, it is termed "abortion." When the delivery takes place soon after the sixth month, it is denominated "premature labor." But the criminal act of destroying the fetus at any time before birth is termed, in law, "procuring miscarriage." Chit. Med. Jur. 410.

In practice. As used in the statute of frauds, ("debt, default, or miscarriage of another," ) this term means any species of unlawful conduct or wrongful act for which the doer could be held liable in a civil action.

MISCHEF. Mixture of races; marriage between persons of different races; as between a white person and a negro.

MISCHARGE. An erroneous charge; a charge, given by a court to a jury, which involves errors for which the judgment may be reversed.

MISCHIEF. In legislative parlance, the word is often used to signify the evil or danger which a statute is intended to cure or avoid.

In the phrase "malicious mischief," (which see,) it imports a wanton or reckless injury to persons or property.

MISCOGNISANT. Ignorant; uninformed. The word is obsolete.

MISCONDUCT. Any unlawful conduct on the part of a person concerned in the administration of justice which is prejudicial to the rights of parties or to the right determination of the cause; as "misconduct of jurors," "misconduct of an arbiter." The term is also used to express a dereliction from duty, injurious to another, on the part of one employed in a professional capacity, as an attorney at law, (1 Denio. 267,) or a public officer, (60 Me. 55.)

MISCOGNISATION. In practice. An improper continuance; want of proper form in a continuance; the same with "discontinuance." Cowell.

MISCREANT. In old English law. An apostate; an unbeliever; one who totally renounced Christianity. 4 Bl. Comm. 44.

MISDATE. A false or erroneous date affixed to a paper or document.

MISDEMEANANT. A person guilty of a misdemeanor; one sentenced to punishment upon conviction of a misdemeanor. See First-Class MISDEMEANANT.

MISDEMEANOR. In criminal law. A general name for criminal offenses of every sort, punishable by indictment or special proceedings, which do not in law amount to the grade of felony.

A misdemeanor is an act committed or omitted in violation of a public law either forbidding or commanding it. This general definition, however, comprehends both "crimes" and "misdemeanors," which, properly speaking, are mere synonymous terms; though, in common usage, the word "crimes" is made to denote such offenses as are of a deeper and more atrocious dye; while smaller faults and omissions of less consequence are comprised under the milder term of "misdemeanors" only. In the English law, "misdemeanor" is generally used in contradistinction to "felony," and misdemeanors comprehend all indictable offenses which do not amount to felony, as libels, conspiracies, attempts, and solicitations to commit felonies, etc. Brown.

MISDESCRIPTION. An error or falsity in the description of the subject-matter of a contract which deceives one of the parties to his injury, or is misleading in a material or substantial point.

MISDIRECTION. In practice. An error made by a judge in instructing the jury upon the trial of a cause.

MISE. The issue in a writ of right. When the tenant in a writ of right pleads that his title is better than the demandant's, he is said to join the mise on the mere right. Also expenses; costs; disbursements in an action.
MISE-MONEY. Money paid by way of contract or composition to purchase any liberty, etc. Blount.

Miser est servitus, ubi jus est vagum aut incertum. It is a wretched state of slavery which subsists where the law is vague or uncertain. 4 Inst. 245; Broom, Max. 150.

MISERABLE DEPOSITUM. Lat. In the civil law. The name of an in voluntary deposit, made under pressing necessity; as, for instance, shipwreck, fire, or other inevitable calamity. Poth. Proc. Civile, pt. 5, c. 1, § 1; Code La. 2935.

MISERERE. The name and first word of one of the penitential psalms, being that which was commonly used to be given by the ordinary to such condemned malefactors as were allowed the benefit of clergy; whence it is also called the "psalm of mercy." Wharton.

MISERICORDIA. Mercy; a fine or amerciament; an arbitrary or discretionary amercement.

MISERICORDIA COMMUNIS. In old English law. A fine set on a whole county or hundred.

MISFEASANCE. A misdeed or trespass. The doing what a party ought to do improperly. 1 Tidd, Pr. 4. The improper performance of some act which a man may lawfully do. 3 Steph. Comm. 460.

Misfeasance, strictly, is not doing a lawful act in a proper manner, omitting to do it as it should be done; while malfeasance is the doing an act wholly wrongful; and non-feasance is an omission to perform a duty, or a total neglect of duty. But "misfeasance" is often carelessly used in the sense of "malfeasance." 30 Comm. 100.

MISFEAZANCE. See Misfeasance.

MISFORTUNE. An adverse event, calamity, or evil fortune, arising by accident, (or without the will or concurrence of him who suffers from it,) and not to be foreseen or guarded against by care or prudence. See 20 Q. B. Div. 816. In its application to the law of homicide, this term always involves the further idea that the person causing the death is not at the time engaged in any unlawful act. 4 Bl. Comm. 182.

MISJOINER. The improper joining together of parties to a suit, as plaintiffs or defendants, or of different causes of action.

MISKENNING. In Saxon and old English law. An unjust or irregular summoning to court; to speak unsteadily in court; to vary in one's plea. Cowell; Blount; Spelman.

MISLAY. To deposit in a place not afterwards recollected; to lose anything by forgetfulness of the place where it was laid.

MISLEADING. Delusive; calculated to lead astray or to lead into error. Instructions which are of such a nature as to be misunderstood by the jury, or to give them a wrong impression, are said to be "misleading."

MISNOMER. Mistake in name; the giving an incorrect name to a person in a pleading, deed, or other instrument.

MISPLEADING. Pleading incorrectly, or omitting anything in pleading which is essential to the support or defense of an action, is so called; as in the case of a plaintiff not merely stating his title in a defective manner, but setting forth a title which is essentially defective in itself; or if, to an action of debt, the defendant pleads "not guilty" instead of nil debet. Brown.

MISPRISION. In criminal law. A term used to signify every considerable misdemeanor which has not a certain name given to it by law. 3 Inst. 36.

Neglect or light account made of a crime; omission to reveal it. "Misprision of treason" is the bare knowledge and concealment of treason, without any degree of assent thereto, for any assent makes the party a principal traitor. 4 Bl. Comm. 120; 4 Steph. Comm. 200. "Misprison of felony" is the concealment of a felony committed by another, without such previous concert with or subsequent assistance of the latter as will make the party concealing an accessory before or after the fact. 4 Steph. Comm. 260. These are "misprisions," in the proper sense of the term. Contempts and high misdemeanors were formerly termed "positive misprisions." 4 Bl. Comm. 121.

Misprisions of clerks are mistakes made by clerks, etc., in writing or keeping records.

MISPRISION OF TREASON. Misprison of treason is the knowledge and concealment of treason, without otherwise assenting to or participating in the crime. Pen. Code Cal. § 38.

MISREADING. Reading a deed or other instrument to an illiterate or blind man (who is a party to it) in a false or deceitful manner, so that he conceives a wrong
MISRECITAL. The erroneous or incorrect recital of a matter of fact, either in an agreement, deed, or pleading.

MISREPRESENTATION. An intentional false statement respecting a matter of fact, made by one of the parties to a contract, which is material and influential in producing it. 20 N.J. Eq. 262.

False or fraudulent misrepresentation is a representation contrary to the fact, made by a person with a knowledge of its falsehood, and being the cause of the other party's entering into the contract. 6 Clark & F. 232.

Negligent misrepresentation is a false representation made by a person who has no reasonable grounds for believing it to be true, though he does not know that it is untrue, or even believes it to be true. L.R. 4 H.L. 79.

Innocent misrepresentation is where the person making the representation had reasonable grounds for believing it to be true. L.R. 2 Q.B. 580.

MISSA. The mass.

MISSIS PRESBYTER. A priest in orders. Blount.

MISSAL. The mass-book.

MISSILIA. In Roman law. Gifts or liberalties, which the pretors and consuls were in the habit of throwing among the people.

Inst. 2, 1, 45.

MISSING SHIP. In maritime law. A vessel is so called when, computed from her known day of sailing, the time that has elapsed exceeds the average duration of similar voyages at the same season of the year, 2 Duer, Ins. 469.

MISSIO. Lat. In the civil law. A sending or putting. Missio in bono, a putting the creditor in possession of the debtor's property. Mackeld. Rom. Law, § 521. Missio judicium in consilium, a sending out of the judices (or jury) to make up their sentence. Halifax, Civil Law, b. 3, c. 13, no. 31.

MISSIVES. In Scotch law. Writings passed between parties as evidence of a transaction. Bell.

MISTAICUS. In old records. A messenger.

MISTAKE. Some unintentional act, omission, or error arising from ignorance, surprise, imposition, or misplaced confidence. Code Ga. § 3117; 1 Story, Eq. Jur. § 110.

That result of ignorance of law or fact which has misled a person to commit that which, if he had not been in error, he would not have done. Jeremy, Eq. Jur. 338.

A mistake exists when a person, under some erroneous conviction of law or fact, does, or omits to do, some act which, but for the erroneous conviction, he would not have done or omitted. It may arise either from unconsciousness, ignorance, forgetfulness, imposition, or misplaced confidence. Bishp. Eq. § 155.

Mistake of fact is a mistake not caused by the neglect of a legal duty on the part of the person making the mistake, and consisting in (1) an unconscious ignorance or forgetfulness of a fact, past or present, material to the contract; or (2) belief in the present existence of a thing material to the contract which does not exist, or in the past existence of such a thing which has not existed. Civil Code Cal. § 1577.

A mistake of law happens when a party, having full knowledge of the facts, comes to an erroneous conclusion as to their legal effect. It is a mistaken opinion or inference, arising from an imperfect or incorrect exercise of the judgment, upon facts as they really are; and, like a correct opinion, which is law, necessarily presupposes that the person forming it is in full possession of them. The facts precede the law, and the true and false opinion alike imply an acquaintance with them. Neither can exist without it. The one is the result of a correct application to them of legal principles, which every man is presumed to know, and is called "law;" the other, the result of a faulty application, and is called a "mistake of law." 19 Wis. 124.

Mutual mistake is where the parties have a common intention, but it is induced by a common or mutual mistake.

MISTERY. A trade or calling. Cowell.

MISTRESS. The proper style of the wife of an esquire or a gentleman in England.

MISTRIAL. An erroneous, invalid, or nugatory trial; a trial of an action which cannot stand in law because of want of jurisdiction, or a wrong drawing of jurors, or disregard of some other fundamental requisite.

MISUSER. Abuse of an office or franchise. 2 Bl. Comm. 153.

MITIGATION. Abolition; abatement or diminution of a penalty or punishment imposed by law. "Mitigating circumstances" are such as do not constitute a justification or excuse of the offense in question, but which, in fairness and mercy, may be con-
sidered as extenuating or reducing the degree of moral culpability.

MITIGATION OF DAMAGES. A reduction of the amount of damages, not by proof of facts which are a bar to a part of the plaintiff's cause of action, or a justification, nor yet of facts which constitute a cause of action in favor of the defendant, but rather facts which show that the plaintiff's conceded cause of action does not entitle him to so large an amount as the showing on his side would otherwise justify the jury in allowing. 1 Suth. Dam. 226.

MITIOR SENSUS. Lat. The more favorable acceptance.

Mitius imperanti melius paretur. The more mildly one commands, the better is he obeyed. 3 Inst. 24.

MITOYENNETÉ. In French law. The joint ownership of two neighbors in a wall, ditch, or hedge which separates their estates.

MITTENDO MANUSCRIPTUM PE­DIS FINIS. An abolished judicial writ addressed to the treasurer and chamberlain of the exchequer to search for and transmit the foot of a fine acknowledged before justices in eyre into the common pleas. Reg. Orig. 14.

MITTER. L. Fr. To put, to send, or to pass; as, mitter l'estate, to pass the estate; mitter le droit, to pass a right. These words are used to distinguish different kinds of releases.

MITTER AVANT. L. Fr. In old practice. To put before; to present before a court; to produce in court.

MITTIMUS. In English law. A writ used in sending a record or its tenor from one court to another. Thus, where a nulli tiel record is pleaded in one court to the record of another court of equal or superior jurisdiction, the tenor of the record is brought into chancery by a certiorari, (g. e.) and thence sent by mittimus into the court where the action is. Tid. Pr. 745.

In criminal practice. The name of a precept in writing, issuing from a court or magistrate, directed to the sheriff or other officer, commanding him to convey to the prison the person named therein, and to the jailer, commanding him to receive and safely keep such person until he shall be delivered by due course of law. Pub. St. Mass. 1882, p. 1293.

MIXED ACTION. An action partaking of the twofold nature of real and personal actions, having for its object the demand and restitution of real property and also personal damages for a wrong sustained. 3 Bl. Comm. 118.

Mixed actions are those which are brought for the specific recovery of lands, like real actions, but comprise, joined with this claim, one for damages in respect of such property; such as the action of waste, where, in addition to the recovery of the place wasted, the demandant claims damages; the writ of entry, in which, by statute, a demand of mesne profits may be joined; and dower, in which a claim for detention may be included. 48 Me. 256.

In the civil law. An action in which some specific thing was demanded, and also some personal obligation claimed to be performed; or, in other words, an action which proceeded both in rem and in personam. Inst. 4, 6, 20.

MIXED CONTRACT. In the civil law. A contract in which one of the parties confers a benefit on the other, and requires of the latter something of less value than what he has given; as a donation subject to a charge. Poth. Obl. no. 12.

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

MIXED JURY. A bilingual jury; a jury of the half-tongue. See De Mediatæ Lingue.

Also a jury composed partly of negroes and partly of white men.

MIXED LARCENY. Otherwise called "compound" or "complicated larceny;" that which is attended with circumstances of aggravation or violence to the person, or taking from a house.

MIXED LAWS. A name sometimes given to those which concern both persons and property.

MIXED MARRIAGE. A marriage between persons of different nationalities; or, more particularly, between persons of different racial origin; as between a white person and a negro or an Indian.

MIXED PERSONALTY. Impure personalty.

MIXED POLICY. A policy of marine insurance in which not only the time is specified for which the risk is limited, but the voyage also is described by its local termi;
as opposed to policies of insurance for a particular voyage, without any limits as to time, and also to purely time policies, in which there is no designation of local termini at all. Mozley & Whitley.

MIXED PRESUMPTIONS. Presumptions partaking of the nature both of presumptions of law and presumptions of fact; i.e., presumptions of fact recognized by law.

MIXED PROPERTY. Property which is personal in its essential nature, but is invested by the law with certain of the characteristics and features of real property. Heirlooms, tombstones, monuments in a church, and title-deeds to an estate are of this nature. 2 Bl. Comm. 428; 3 Barn. & Adol. 174; 4 Bing. 106.

MIXED QUESTIONS. This phrase may mean either those which arise from the conflict of foreign and domestic laws, or questions arising on a trial involving both law and fact.

MIXED SUBJECTS OF PROPERTY. Such as fall within the definition of things real, but which are attended, nevertheless, with some of the legal qualities of things personal, as emblems, fixtures, and shares in public undertakings, connected with land. Besides these, there are others which, though things personal in point of definition, are, in respect of some of their legal qualities, of the nature of things real; such as animals feræ nature, charters and deeds, court rolls, and other evidences of the land, together with the chests in which they are contained, ancient family pictures, ornaments, tombstones, coats of armor, with pennons and other ensigns, and especially heir-looms. Wharton.

MIXED TITHES. In ecclesiastical law. Those which arise not immediately from the ground, but from those things which are nourished by the ground, e.g., colts, chickens, calves, milk, eggs, etc. 3 Burn, Ecc. Law, 880; 2 Bl. Comm. 24.

MIXED WAR. A mixed war is one which is made on one side by public authority, and on the other by mere private persons. 1 Hill, 377, 415.

MIXTION. The mixture or confusion of goods or chattels belonging severally to different owners, in such a way that they can no longer be separated or distinguished; as where two measures of wine belonging to different persons are poured together into the same cask.

MIXTUM IMPERIUM. Lat. In old English law. Mixed authority; a kind of civil power. A term applied by Lord Hale to the "power" of certain subordinate civil magistrates as distinct from "jurisdiction." Hale, Anal. § 11.

MOB. An assemblage of many people, acting in a violent and disorderly manner, defying the law, and committing, or threatening to commit, depredations upon property or violence to persons.

The word, in legal use, is practically synonymous with "riot," but the latter is the more correct term.

MOBBING AND RIOTING. In Scotch law. A general term including all those convocations of the lieges for violent and unlawful purposes, which are attended with injury to the persons or property of the lieges, or terror and alarm to the neighborhood in which it takes place. The two phrases are usually placed together; but, nevertheless, they have distinct meanings, and are sometimes used separately in legal language, the word "mobbing" being peculiarly applicable to the unlawful assemblage and violence of a number of persons, and that of "rioting" to the outrageous behavior of a single individual. Alis. Crim. Law, e. 23, p. 509.

MOBILIA. Lat. Movables; movable things; otherwise called "res mobilis."

Mobilia non habent situm. Movables have no situs or local habitation. 4 Johns. Ch. 472.


MOCADoes. A kind of cloth made in England, mentioned in St. 23 Eliz. c. 9.

MODEL. A pattern or representation of something to be made. "A fac simile of something invented, made on a reduced scale, in compliance with the patent laws.

MODERAMEN INCULPATE TUTELÆ. Lat. In Roman law. The regulation of justifiable defense. A term used to express that degree of force in defense of the person or property which a person might safely use, although it should occasion the death of the aggressor. Calvin.; Bell.

MODERATA MISERICORDIA. A writ founded on Magna Charta, which lies
for him who is amerced in a court, not of record, for any transgression beyond the quality or quantity of the offense. It is addressed to the lord of the court, or his bailiff, commanding him to take a moderate amercement of the parties. New Nat. Brev. 167; Fitzh. Nat. Brev. 76.

MODERATE CASTIGAVIT. Lat. In pleading. He moderately chastised. The name of a plea in trespass which justifies an alleged battery on the ground that it consisted in a moderate chastisement of the plaintiff by the defendant, which, from their relations, the latter had a legal right to inflict.

MODERATE SPEED. In admiralty law. As applied to a steam-vessel, "such speed only is moderate as will permit the steamer reasonably and effectually to avoid a collision by slackening speed, or by stopping and reversing, within the distance at which an approaching vessel can be seen." 35 Fed. Rep. 609; 39 Fed. Rep. 480.

MODERATOR. A chairman or president of an assembly. A person appointed to preside at a popular meeting. The presiding officer of town-meetings in New England is so called.

MODIATIO. In old English law. A certain duty paid for every tierce of wine.

Modica circumstantia facti jus mutat. A small circumstance attending an act may change the law.

MODIFICATION. A change; an alteration which introduces new elements into the details, or cancels some of them, but leaves the general purpose and effect of the subject-matter intact.

"Modification" is not exactly synonymous with "amendment," for the former term denotes some minor change in the substance of the thing, without reference to its improvement or deterioration thereby, while the latter word imports anamelioration of the thing (as by changing the phraseology of an instrument, so as to make it more distinct or specific) without involving the idea of any change in substance or essence.

In Scotch law. The term usually applied to the decree of the teind court, awarding a suitable stipend to the minister of a parish. Bell.

MODIFY. To alter; to change in incidental or subordinate features.

MODIUS. A measure, usually a bushel.

MODIUS TERRE VEL AGRI. In old English law. A quantity of ground containing in length and breadth 100 feet.

MODO ET FORMA. In manner and form. Words used in the old Latin forms of pleadings by way of traverse, and literally translated in the modern precedents, importing that the party traversing denies the allegation of the other party, not only in its general effect, but in the exact manner and form in which it is made. Steph. Pl. 189, 190.

MODUS. Lat. In the civil law. Manner; means; way.

In old conveyancing. Mode; manner; the arrangement or expression of the terms of a contract or conveyance.

Also a consideration; the consideration of a conveyance, technically expressed by the word "ut."

A qualification, involving the idea of variance or departure from some general rule or form, either by way of restriction or enlargement, according to the circumstances of a particular case, the will of a donor, the particular agreement of parties, and the like. Burrill.

In criminal pleading. The modus of an indictment is that part of it which contains the narrative of the commission of the crime; the statement of the mode or manner in which the offense was committed. Tray. Lat. Max.

In ecclesiastical law. A peculiar manner of titthing, growing out of custom.

MODUS DE NON DECIMANDO. In ecclesiastical law. A custom or prescription of entire exemption from the payment of tithes; this is not valid, unless in the case of abbey-lands.


MODUS DECIMANDI. In ecclesiastical law. A manner of titthing; a partial exemption from tithes, or a pecuniary composition prescribed by immemorial usage, and of reasonable amount; for it will be invalid as a rank modus if greater than the value of the tithes in the time of Richard I. Stim. Law Gloss.

Modus et conventio vincunt legem. Custom and agreement overrule law. This maxim forms one of the first principles relative to the law of contracts. The exceptions to the rule here laid down are in cases
against public policy, morality, etc. 2 Coke, 73; Broom, Max. 689, 691—695.

MODUS HABILIS. A valid manner.

Modus legum dat donationi. Custom gives law to the gift. Co. Litt. 19; Broom, Max. 459.


MODUS TENENDI. The manner of holding; i.e., the different species of tenures by which estates are held.

MODUS TRANSFERRENDI. The manner of transferring.

MODUS VACANDI. The manner of vacating. How and why an estate has been relinquished or surrendered by a vassal to his lord might well be referred to by this phrase. See Tray. Lat. Max. s. v.


MOERDA. The secret killing of another; murder. 4 Bl. Comm. 194.

MOFUSIL. In Hindu law. Separated; particularized; the subordinate divisions of a district in contradistinction to Sudder or Sudder, which implies the chief seat of government. Wharton.

MOHAMMEDAN LAW. A system of native law prevailing among the Mohammedans in India, and administered there by the British government.

MOHATRA. In French law. A transaction covering a fraudulent device to evade the laws against usury.

It takes place where an individual buys merchandise from another on a credit at a high price, to sell it immediately to the first seller, or to a third person who acts as his agent, at a much less price for cash. 16 Toullier, no. 44.

MOIDORE. A gold coin of Portugal, valued at twenty-seven English shillings.

MOIETY. The half of anything. Joint tenants are said to hold by moieties. Litt. 125; 3 C. B. 274, 283.

MOLENDINUM. In old records. A mill.

MOLENDUM. A grist; a certain quantity of corn sent to a mill to be ground.

MOLESTATION. In Scotch law. A possessory action calculated for continuing proprietors of landed estates in the lawful possession of them till the point of right be determined against all who shall attempt to disturb their possession. It is chiefly used in questions of commonalty or of controverted marches. Ersk. Inst. 4, 1, 48.

MOLITURA. The toll or mulcture paid for grinding corn at a mill. Jacob.

MOLITURA LIBERA. Free grinding; a liberty to have a mill without paying tolls to the lord. Jacob.

MOLLITER MANUS IMPOSIT. Lat. He gently laid hands upon. Formal words in the old Latin pleas in actions of trespass and assault where a defendant justified laying hands upon the plaintiff, as where it was done to keep the peace, etc. The phrase is literally translated in the modern precedents, and the original is retained as the name of the plea in such cases. 3 Bl. Comm. 21; 1 Chitt. Pl. 501, 502; Id. 1071.

MOLMUTIAN LAWS. The laws of Dunvallo Molmutius, a legendary or mythical king of the Britons, who is supposed to have begun his reign about 400 B. C. These laws were famous in the land till the Conquest. Tomlins; Moziey & Whitley.

MOMENTUM. In the civil law. An instant; an indivisible portion of time. Calvin.

A portion of time that might be measured; a division or subdivision of an hour; answering in some degree to the modern minute, but of longer duration. Calvin.

MONACHISM. The state of monks.

MONARCHY. A government in which the supreme power is vested in a single person. Where a monarch is invested with absolute power, the monarchy is termed "despotic;" where the supreme power is virtually in the laws, though the majesty of government and the administration are vested in a single person, it is a "limited" or "constitutional" monarchy. It is hereditary where the regal power descends immediately from the possessor to the next heir by blood, as in England; or elective, as was formerly the case in Poland. Wharton.

MONASTERIUM. A monastery; a church. Spelman.

MONASTICON. A book giving an account of monasteries, convents, and religious houses.
MONETA. Money, (q. v.)

Moneta est justum medium et mensura rerum commutabilium, nam per medium monetae fit omnium rerum convenienti, et justa estimatio. Dav. Ir. K. B. 18. Money is the just medium and measure of commutable things, for by the medium of money a convenient and just estimation of all things is made.

MONETAGIUM. Mintage, or the right of coining money. Cowell. Hence, anciently, a tribute payable to a lord who had the prerogative of coining money, by his tenants, in consideration of his refraining from changing the coinage.

Monetandi jus comprehenditur in galibus que nunquam a regio scep tro abdicatur. The right of coining money is comprehended among those royal prerogatives which are never relinquished by the royal scepter. Dav. Ir. K. B. 18.

MONEY. A general, indefinite term for the measure and representative of value; currency; the circulating medium; cash.

"Money" is a generic term, and embraces every description of coin or bank-notes recognized by common consent as a representative of value in effecting exchanges of property or payment of debts. 5 Humph. 140.

Money is used in a specific and also in a general and more comprehensive sense. In its specific sense, it means what is coined or stamped by public authority, and has its determinate value fixed by governments. In its more comprehensive and general sense, it means wealth,—the representative of commodities of all kinds, of lands, and of everything that can be transferred in commerce. 31 Tex. 10.

In its strict technical sense, "money" means coin or metal, usually gold or silver, upon which the government stamp has been impressed to indicate its value. In its more popular sense, "money" means any currency, tokens, bank-notes, or other circulating medium in general use as the representative of value. 45 Tex. 505.

The term "moneys" is not of more extensive signification than "money," and means only cash, and not things in action. 14 Johns. 1; 1 Johns. Ch. 201.

MONEY-BILL. In parliamentary language, an act by which revenue is directed to be raised, for any purpose or in any shape whatsoever, either for governmental purposes, and collected from the whole people generally, or for the benefit of a particular district, and collected in that district, or for making appropriations.

MONEY-BROKER. A money-changer; a scrivener or jobber; one who lends or raises money to or for others.

MONEY CLAIMS. In English practice. Under the judicature act of 1875, claims for the price of goods sold, for money lent, for arrears of rent, etc., and other claims where money is directly payable on a contract express or implied, as opposed to the cases where money is claimed by way of damages for some independent wrong, whether by breach of contract or otherwise. These "money claims" correspond very nearly to the "money counts" hitherto in use. Mozley & Whitley.

MONEY COUNTS. In pleading. A species of common counts, so called from the subject-matter of them; embracing the in debitatus assumpsit count for money lent and advanced, for money paid and expended, and for money had and received, together with the insinuul comptussent count, or count for money due on an account stated. 1 Burrill, Pr. 132.

MONEY DEMAND. A claim for a fixed and liquidated amount of money, or for a sum which can be ascertained by mere calculation; in this sense, distinguished from a claim which must be passed upon and liquidated by a jury, called "damages."

MONEY HAD AND RECEIVED. In pleading. The technical designation of a form of declaration in assumpsit, wherein the plaintiff declares that the defendant had and received certain money, etc.

MONEY JUDGMENT. One which adjudges the payment of a sum of money, as distinguished from one directing an act to be done or property to be restored or transferred.

MONEY LAND. A phrase descriptive of money which is held upon a trust to convert it into land.

MONEY LENT. In pleading. The technical name of a declaration in an action of assumpsit for that the defendant promised to pay the plaintiff for money lent.

MONEY MADE. The return made by a sheriff to a writ of execution, signifying that he has collected the sum of money required by the writ.

MONEY OF ADIEU. In French law. Earnest money; so called because given at parting in completion of the bargain. Arrhes is the usual French word for earnest money; "money of adieu" is a provincialism found in the province of Orleans. Poth. Cont. 507.

MONEY ORDER. Under the postal regulations of the United States, a money
order is a species of draft drawn by one post-office upon another for an amount of money deposited at the first office by the person purchasing the money order, and payable at the second office to a payee named in the order.

MONEY-ORDER OFFICE. One of the post-offices authorized to draw or pay money orders.

MONEY PAID. In pleading. The technical name of a declaration in assumpsit, in which the plaintiff declares for money paid for the use of the defendant.

MONEYED CAPITAL. This term has a more limited meaning than the term "personal property," and applies to such capital as is readily solvable in money. 23 Fed. Rep. 776.

MONEYED CORPORATION. A corporation having the power to make loans upon pledges or deposits, or authorized by law to make insurance. 2 Rev. St. N. Y. (7th Ed.) 1371.

MONGER. A dealer or seller. It is seldom or never used alone, or otherwise than after the name of any commodity, to express a seller of such commodity.

MONIERS, or MONEYEERS. Ministers of the mint; also bankers. Cowell.

MONIMENT. A memorial, superscription, or record.

MONITION. In practice. A monition is a formal order of the court commanding something to be done by the person to whom it is directed, and who is called the "person monished." Thus, when money is decreed to be paid, a monition may be obtained commanding its payment. In ecclesiastical procedure, a monition is an order monishing or warning the party complained against to do or not to do a certain act "under pain of the law and contempt thereof." A monition may also be appended to a sentence inflicting a punishment for a past offense; in that case the monition forbids the repetition of the offense. Sweet.

In admiralty practice. The summons to appear and answer, issued on filing the libel; which is either a simple monition in personam or an attachment and monition in rem. Ben. Adm. 228, 239. It is sometimes termed "monition vitis et modis," and has been supposed to be derived from the old Roman practice of summoning a defendant. 10 Wheat. 490.

The monition, in American admiralty practice, is, in effect, a summons, citation, or notice, though in form a command to the marshal to cite and admonish the defendant to appear and answer, and not a summons addressed to the party. 2 Cook. Adm. (2d Ed.) 147.

MONITORY LETTERS. Communications of warning and admonition sent from an ecclesiastical judge, upon information of scandal and abuses within the cognizance of his court.

MONOCRACY. A government by one person.

MONOCRAT. A monarch who governs alone; an absolute governor.

MONOGAMY. The marriage of one wife only, or the state of such as are restrained to a single wife. Webster.

A marriage contracted between one man and one woman, in exclusion of all the rest of mankind. The term is used in opposition to "bigamy" and "polygamy." Wolff, Dr. de la Nat. § 857.

MONOGRAM. A character or cipher composed of one or more letters interwoven, being an abbreviation of a name.

MONOGRAPH. A special treatise upon a particular subject of limited range; a treatise or commentary upon a particular branch or division of a general subject.

MONOMACHY. A duel; a single combat.

It was anciently allowed by law for the trial or proof of crimes. It was even permitted in pecuniary causes, but it is now forbidden both by the civil law and canon laws.

MONOMANIA. In medical jurisprudence. Derangement of a single faculty of the mind, or with regard to a particular subject, the other faculties being in regular exercise.

Monopolia dicitur, cum unus solus aliquud genus mercaturae universum emit, pretium ad suum ibitum statuens. 11 Coke, 86. It is said to be a monopoly when one person alone buys up the whole of one kind of commodity, fixing a price at his own pleasure.

MONOPOLIO. The sole power, right, or privilege of sale; monopoly; a monopoly. Calvin.

MONOPOLY. In commercial law. A privilege or peculiar advantage vested in one or more persons or companies, consisting in the exclusive right (or power) to carry on a
particular business or trade, manufacture a particular article, or control the sale of the whole supply of a particular commodity.

Defined in English law to be "a license or privilege allowed by the king for the sole buying and selling, making, working, or using, of anything whatsoever; whereby the subject in general is restrained from that liberty of manufacturing or trading which he had before." 4 Bl. Comm. 159; 4 Steph. Comm. 291.

MONSTER. A prodigious birth; a human birth or offsprong not having the shape of mankind; which cannot be heir to any land, albeit it be brought forth in marriage. Bract. fol. 5; Co. Litt. 7, 8; 2 Bl. Comm. 246.

MONSTRANS DE DROIT. L. Fr. In English law. A showing or manifestation of right; one of the common law methods of obtaining possession or restitution from the crown, of either real or personal property. It is the proper proceeding when the right of the party, as well as the right of the crown, appears upon record, and consists in putting in a claim of right grounded on facts already acknowledged and established, and praying the judgment of the court whether upon those facts the king or the subject has the right. 3 Bl. Comm. 256; 4 Coke, 54b.


MONSTRAVERUNT, WRIT OF. In English law. A writ which lies for the tenants of ancient demesne who hold by free charter, and not for those tenants who hold by copy of court roll, or by the rod, according to the custom of the manor. Fitzh. Nat. Brev. 14.

MONSTRUM. A box in which relics are kept; also a muster of soldiers. Cowell.

MONTES. In Spanish law. Forests or woods. White, New Recop. b. 2, tit. 1, c. 6, § 1.

MONTES PICTATIS. Public pawn-breaking establishments; institutions established by government, in some European countries, for lending small sums of money on pledges of personal property. In France they are called "monts de pitié."

MONTH. One of the divisions of a year. The space of time denoted by this term varies according as one or another of the following varieties of months is intended:

Astronomical, containing one-twelfth of the time occupied by the sun in passing through the entire zodiac.

Calendar, civil, or solar, which is one of the months in the Gregorian calendar,—January, February, March, etc.,—which are of unequal length.

Lunar, being the period of one revolution of the moon, or twenty-eight days.

MONUMENT. Anything by which the memory of a person or an event is preserved or perpetuated. A tomb where a dead body has been deposited.

Monumenta que nos recorda vocamus sunt veritatis et vetustatis vestigia. Co. Litt. 118. Monuments, which we call "records," are the vestiges of truth and antiquity.

MONUMENTS. Permanent landmarks established for the purpose of indicating boundaries.

MONYA. In Norman law. Moneyage. A tax or tribute of one shilling on every hearth, payable to the duke every three years, in consideration that he should not alter the coin. Hale, Com. Law, 148, and note.

MOOKTAR. In Hindu law. An agent or attorney.

MOOKTARAMA. In Hindu law. A written authority constituting an agent; a power of attorney.

MOOR. An officer in the Isle of Man, who summons the courts for the several shadings. The office is similar to the English bailiff of a hundred.

MOORAGE. A sum due by law or usage for mooring or fastening of ships to trees or posts at the shore, or to a wharf. 3 Bland, 373.

MOORING. In maritime law. Anchoring or making fast to the shore or dock; the securing or confining a vessel in a particular station, as by cables and anchors or by a line or chain run to the wharf. A vessel is "moored in safety," within the meaning of a policy of marine insurance, when she is thus moored to a wharf or dock, free from any immediate danger from any of the perils insured against. See 1 Phil. Ins. 968.

MOOT, adj. A subject for argument; unsettled; undecided. As a moot case, a moot point.
MOOT, n. In English law. Moots are exercises in pleading, and in arguing doubtful cases and questions, by the students of an inn of court before the benchers of the inn. Sweet.

MOOT COURT. A court held for the arguing of moot cases or questions.

MOOT HALL. The place where moot cases were argued. Also a council-chamber, hall of judgment, or town-hall.

MOOT HILL. Hill of meeting, (genot,) on which the Britons used to hold their courts, the judge sitting on the eminence; the parties, etc., on an elevated platform below. Enc. Lond.

MOOT MAN. One of those who used to argue the reader's cases in the inns of court.


MOOTING. The exercise of arguing questions of law or equity, raised for the purpose. See Moot.

MORA. Lat. In the civil law. Delay; default; neglect; culpable delay or default. Calvin.

MORA. Sax. A moor; barren or unprofitable ground; marsh; a heath; a watery bog or moor. Co. Litt. 5; Fleta. 1. 2, c. 71.

MORA MUSSA. A watery or boggy moor; a morass.


MORAL ACTIONS. Those only in which men have knowledge to guide them, and a will to choose for themselves. Ruth. Inst. lib. 1. c. 1.

MORAL CERTAINTY. In the law of criminal evidence. That degree of assurance which induces a man of sound mind to act, without doubt, upon the conclusions to which it leads. Wills, Circ. Ev. 7.

A certainty that convinces and directs the understanding and satisfies the reason and judgment of those who are bound to act conscientiously upon it.

A high degree of impression of the truth of a fact, falling short of absolute certainty, but sufficient to justify a verdict of guilty, even in a capital case. See Burrill, Circ. Ev. 198-200.

The phrase "moral certainty" has been introduced into our jurisprudence from the publicists and metaphysicians, and signifies only a very high degree of probability. It was observed by Pufendorf that, "when we declare such a thing to be morally certain, because it has been confirmed by credible witnesses, this moral certainty is nothing else but a strong presumption grounded on probable reasons, and which very seldom fails and deceives us." "Probable evidence," says Bishop Butler, in the opening sentence of his Analogy, "is essentially distinguished from demonstrative by this: that it admits of degrees, and of all variety of them, from the highest moral certainty to the very lowest presumption." 113 Mass. 33.

MORAL EVIDENCE. As opposed to "mathematical" or "demonstrative" evidence, this term denotes that kind of evidence which, without developing an absolute and necessary certainty, generates a high degree of probability or persuasive force. It is founded upon analogy or induction, experience of the ordinary course of nature or the sequence of events, and the testimony of men.

MORAL FRAUD. This phrase is one of the less usual designations of "actual" or "positive" fraud or "fraud in fact," as distinguished from "constructive" fraud or "fraud in law." It means fraud which involves actual guilt, a wrongful purpose, or moral obliquity.

MORAL INSANITY. In medical jurisprudence. A derangement of the moral system; a morbid condition, in which the passions, appetites, inclinations, and moral dispositions have escaped from the control of the will and the conscience, and are perverted to immoral acts or uses, although the faculties of perception, reason, and judgment remain normal, or nearly so, and there is no especial hallucination or illusion. Kleptomania is an example of this condition.

Incapacity, from disease, to control one's conduct according to one's knowledge; uncontrollable morbid impulse; disability of the will to refrain from what one knows is wrong and punishable; a morbid perversion of the affections, inclinations, and temper, independent of any disease or delusions operating directly on the intellect. Abbott.

MORAL OBLIGATION. A duty which is valid and binding in the forum of the conscience, but is not recognized by the law as adequate to set in motion the machinery of justice; that is, one which rests upon ethical considerations alone, and is not imposed or enforced by positive law.

MORANDE SOLUTIONIS CAUSA. Lat. For the purpose of delaying or postponing payment or performance.

MORATUR IN LEGE. Lat. He delays in law. The phrase describes the action of one who demurs, because the party
does not proceed in pleading, but rests or abides upon the judgment of the court on a certain point, as to the legal sufficiency of his opponent's pleading. The court deliberate and determine thereupon.

MORAVIANS. Otherwise called "Herrnhutters" or "United Brethren." A sect of Christians whose social polity is particular and conspicuous. It sprung up in Moravia and Bohemia, on the opening of that reformation which stripped the chair of St. Peter of so many votaries, and gave birth to so many denominations of Christians. They give evidence on their solemn affirmation. 2 Steph. Comm. 338 n.

MORBUS SONTICUS. Lat. In the civil law. A sickness which rendered a man incapable of attending to business.


MORE OR LESS. This phrase, inserted in a conveyance of land immediately after the statement of the quantity of land conveyed, means that such statement is not to be taken as a warranty of the quantity, but only an approximate estimate, and that the tract or parcel described is to pass, without regard to an excess or deficiency in the quantity it actually contains.

MORGANATIC MARRIAGE. The lawful and inseparable conjunction of a man, of noble or illustrious birth, with a woman of inferior station, upon condition that neither the wife nor her children shall partake of the titles, arms, or dignity of the husband, or succeed to his inheritance, but be contented with a certain allowed rank assigned to them by the morganatic contract. But since these restrictions relate only to the rank of the parties and succession to property, without affecting the nature of a matrimonial engagement, it must be considered as a just marriage. The marriage ceremony was regularly performed; the union was indissoluble; the children legitimate. Wharton.

MORGANGINA, or MORGANGIVA. A gift on the morning after the wedding; dowry; the husband's gift to his wife on the day after the wedding. Du Cange; Cowell.


MORGUE. A place where the bodies of persons found dead are kept for a limited time and exposed to view, to the end that their friends may identify them.

MORMONISM. A social and religious system prevailing in the territory of Utah, a distinctive feature of which is the practice of polygamy. These plural marriages are not recognized by law, but are indictable offenses under the statutes of the United States and of Utah.

MORS. Lat. Death.

Mors dicitur ultimum supplicium. Death is called the "last punishment," the "extremity of punishment." 3 Inst. 212.


MORSELLUM, or MORSELLUS. TERRÆ. In old English law. A small parcel or bit of land.

MORT CIVILE. In French law. Civil death, as upon conviction for felony. It was nominally abolished by a law of the 31st of May, 1854, but something very similar to it, in effect at least, still remains. Thus, the property of the condemned, possessed by him at the date of his conviction, goes and belongs to his successors, (héritiers,) as in case of an intestacy; and his future acquired property goes to the state by right of its prerogative, (par droit de dîshérence,) but the state may, as a matter of grace, make it over in whole or in part to the widow and children. Brown.

MORT D'ANCESTOR. An ancient and now almost obsolete remedy in the English law. An assise of mort d'ancestor was a writ which lay for a person whose ancestor died seised of lands in fee-simple, and after his death a stranger abated; and this writ directed the sheriff to summon a jury or assize, who should view the land in question and recognize whether such ancestor were seised thereof on the day of his death, and whether the demandant were the next heir.

MORTALITY. This word, in its ordinary sense, never means violent death, but death arising from natural causes. 5 Barn. & Ald. 110; 3 Barn. & C. 793.

MORTGAGE. An estate created by a conveyance absolute in its form, but intended to secure the performance of some act, such as the payment of money, and the like, by the grantor or some other person, and to become void if the act is performed agreeably to the
MORTGAGE

terms prescribed at the time of making such conveyance. 1 Washb. Real Prop. 475.

A conditional conveyance of land, designed as a security for the payment of money, the fulfillment of some contract, or the performance of some act, and to be void upon such payment, fulfillment, or performance. 44 Me. 299.

A debt by specialty, secured by a pledge of lands, of which the legal ownership is vested in the creditor, but of which, in equity, the debtor and those claiming under him remain the actual owners, until debarred by judicial sentence or their own laches. Coote, Mortg. 1.

Mortgage is a right granted to the creditor over the property of the debtor for the security of his debt, and gives him the power of having the property seized and sold in default of payment. Civil Code La. art. 3278.

Mortgage is a contract by which specific property is hypothecated for the performance of an act, without the necessity of a change of possession. Civil Code La. § 2920.

In the law of Louisiana. The conventional mortgage is a contract by which a person binds the whole of his property, or a portion of it only, in favor of another, to secure the execution of some engagement, but without divesting himself of the possession. Civil Code La. art. 3290.

The judicial mortgage is that resulting from judgments (whether these be rendered on contested cases or by default, or whether they be final or provisional) in favor of the person obtaining them. Civil Code La. art. 3321.

The law alone in certain cases gives to the creditor a mortgage on the property of his debtor, without it being requisite that the parties should stipulate it. This is called "legal mortgage." It is called also "tacit mortgage," because it is established by the law without the aid of any agreement. Civil Code La. art. 3311.

MORTGAGE OF GOODS. A conveyance of goods in gage or mortgage by which the whole legal title passes conditionally to the mortgagee; and, if the goods are not redeemed at the time stipulated, the title becomes absolute in law, although equity will interfere to compel a redemption. It is distinguished from a "pledge" by the circumstance that possession by the mortgagee is not or may not be essential to create or to support the title. Story, Bailm. § 287.

MORTGAGEE. He that takes or receives a mortgage.

MORTGAGOR. He that gives a mortgage.

MORTH. Sax. Murder, answering exactly to the French "assassinat" or "muerre de guet-apens."

MORTHLAGA. A murderer. Cowell.

MORTHLAGE. Murder. Cowell.

MORTIFICATION. In Scotch law. A term nearly synonymous with "mortmain." Bell. Lands are said to be mortified for a charitable purpose.

MORTIS CAUSA. Lat. By reason of death; in contemplation of death. Thus used in the phrase "Donatio mortis causa," (q. v.)

Mortis momentum est ultimum vitae momentum. The last moment of life is the moment of death. 4 Bradf. 245, 250.

MORTMAIN. A term applied to denote the alienation of lands or tenements to any corporation, sole or aggregate, ecclesiastical or temporal. These purchases having been chiefly made by religious houses, in consequence of which lands became perpetually inherent in one dead hand, this has occasioned the general appellation of "mortmain" to be applied to such alienations. 2 Bl. Comm. 268; Co. Litt. 2b.

MORTMAIN ACTS. These acts had for their object to prevent lands getting into the possession or control of religious corporations, or, as the name indicates, in mortua manu. After numerous prior acts dating from the reign of Edward I., it was enacted by the statute 9 Geo. II. c. 36, (called the "Mortmain Act" par excellence,) that no lands should be given to charities unless certain requisites should be observed. Brown.

MORTUARY. In ecclesiastical law. A burial-place. A kind of ecclesiastical heriot, being a customary gift of the second best living animal belonging to the deceased, claimed by and due to the minister in many parishes, on the death of his parishioners, whether buried in the church-yard or not. 2 Bl. Comm. 425.

It has been sometimes used in a civil as well as in an ecclesiastical sense, and applied to a payment to the lord of the fee. Paroch. Antiq. 470.

MORTUARY TABLES. Tables for estimating the probable duration of the life of a party at a given age. 67 Cal. 16, 6 Pac. Rep. 871.
MORTUUM VADIUM. A dead pledge; a mortgage, (q. v.;) a pledge where the profits or rents of the thing pledged are not applied to the payment of the debt.

MORTUUS. Dead. So in sheriff's return, mortuus est, he is dead.

Mortuus exitus non est exitus. A dead issue is no issue. Co. Litt. 29. A child born dead is not considered as issue.

Mos retinendus est fidelissimae vetustatis. 4 Coke, 75. A custom of the truest antiquity is to be retained.


MOTE. Sax. A meeting; an assembly. Used in composition, as burgmote, folkmote, etc.

MOTE-BELL. The bell which was used by the Saxons to summon people to the court. Cowell.

MOTEER. A customary service or payment at the mote or court of the lord, from which some were exempted by charter or privilege. Cowell.

MOTHER. A woman who has borne a child; a female parent; correlative to "son" or "daughter."

MOTHER-IN-LAW. The mother of one's wife or of one's husband.

MOTION. In practice. An occasional application to a court by the parties or their counsel, in order to obtain some rule or order, which becomes necessary either in the progress of a cause, or summarily and wholly unconnected with plenary proceedings.

A motion is a written application for an order addressed to the court or to a judge in vacation by any party to a suit or proceeding, or by any one interested therein. Rev. Code Iowa 1880, § 2911; Code N. Y. § 401.

In parliamentary law. The formal mode in which a member submits a proposed measure or resolve for the consideration and action of the meeting.

MOTION FOR DECREES. Under the chancery practice, the most usual mode of bringing on a suit for hearing when the defendant has answered is by motion for decree. To do this the plaintiff serves on the defendant a notice of his intention to move for a decree. Hunter, Suit Eq. 59; Danelli, Ch. Pr. 722.

MOTION FOR JUDGMENT. In English practice. A proceeding whereby a party to an action moves for the judgment of the court in his favor. See Sup. Ct. Rules 1883, ord. 49.

MOTION TO SET ASIDE JUDGMENT. This is a step taken by a party in an action who is dissatisfied with the judgment directed to be entered at the trial of the action.

MOTIVE. The inducement, cause, or reason why a thing is done. An act legal in itself, and which violates no right, is not actionable on account of the motive which actuated it. 5 Amer. Law Reg. (O. S.) 528.

MOTU PROPRIIO. Lat. Of his own motion. The commencing words of a certain kind of papal rescript.

MOURNING. The dress or apparel worn by mourners at a funeral and for a time afterwards. Also the expenses paid for such apparel.

MOVABLE. That which can be changed in place, as movable property; or in time, as movable feasts or terms of court.

MOVABLES. Things movable; movable or personal chattels, which may be annexed to or attendant on the person of the owner, and carried about with him from one part of the world to another. 2 Bl. Comm. 387. Movables consist—First, of inanimate things, as goods, plate, money, jewels, implements of war, garments, and the like, or vegetable productions, as the fruit or other parts of a plant when severed from the body of it, or the whole plant itself when severed from the ground; secondly, of animals, which have in themselves a principle and power of motion. 2 Steph. Comm. 67.

In the civil law. Movables (mobilia), properly denoted inanimate things; animals being distinguished as moventia, things moving. Calvin.

In Scotch law. "Movables" are opposed to "heritage." So that every species of property, and every right a man can hold, is by that law either heritable or movable. Bell.

MOVE. 1. To make an application to a court for a rule or order.

2. To propose a resolution, or recommend action in a deliberative body.

3. To pass over; to be transferred; as when the consideration of a contract is said to "move" from one party to the other.

4. To occasion; to contribute to; to tend or
lead to. The forewheel of a wagon was said "to move to the death of a man." Sayer, 249.

MOVENT. One who moves; one who makes a motion before a court; the applicant for a rule or order.

MOVING FOR AN ARGUMENT. Making a motion on a day which is not motion day, in virtue of having argued a special case; used in the exchequer after it became obsolete in the queen's bench. Wharton.

MUEBLES. In Spanish law. Movable; all sorts of personal property. White, New Recop. b. 1, tit. 3, c. 1, § 2.

MUIRBURN. In Scotch law. The offense of setting fire to a muir or moor. 1 Brown, Ch. 78, 116.

MULATTO. A mulatto is defined to be "a person that is the offspring of a negress by a white man, or of a white woman by a negro." 18 Ala. 276.

MULCT. A penalty or punishment imposed on a person guilty of some offense, tort, or misdemeanor, usually a pecuniary fine or condemnation in damages.

Mulcta damnnum famæ non irrogat. Cod. 1, 54. A fine does not involve loss of character.

MULIER. Lat. (1) A woman; (2) a virgin; (3) a wife; (4) a legitimate child. 1 Inst. 243.

MULIER PUISNÉ. L. Fr. When a man has a bastard son, and afterwards marries the mother, and by her has also a legitimate son, the elder son is bastard eigné, and the younger son is mulier puisné.

MULIERATUS. A legitimate son. Glanvil.

MULIERTY. In old English law. The state or condition of a mulier, or lawful issue. Co. Litt. 352b. The opposite of bastardy. Blount.

Multa conceduntur per obliquum quæ non conceduntur de directo. Many things are allowed indirectly which are not allowed directly. 6 Coke, 47.

MULTA, or MULTURA EPISCOPI. A fine or final satisfaction, anciently given to the king by the bishops, that they might have power to make their wills, and that they might have the probate of other men's wills, and the granting of administration. 2 Inst. 291.

Multa fidem promissa levant. Many promises lessen confidence. 11 Cush. 350.

Multa ignoramus quæ nobis non late­rent si veterum lectio nobis fuit famili­aris. 10 Coke, 73. We are ignorant of many things which would not be hidden from us if the reading of old authors was familiar to us.

Multa in jure communi contra ratio­nem disputandi, pro communi utilitate introducta sunt. Many things have been introduced into the common law, with a view to the public good, which are inconsistent with sound reason. Co. Litt. 70b; Broom, Max. 158.

Multa muta exercitata facilius quam regulis perecipit. 4 Inst. 50. You will perceive many things much more easily by practice than by rules.

Multa non vetat lex, quæ tamen tacite dænnavit. The law forbids not many things which yet it has silently condemned.

Multa transeunt cum universitate quæ non per se transeunt. Many things pass with the whole which do not pass separately. Co. Litt. 12a.

Multa multa, nemo omnia novit. 4 Inst. 348. Many men have known many things; no one has known everything.

MULTIFARIOUSNESS. In equity pleading. The fault of improperly joining in one bill distinct and independent matters, and thereby confounding them; as, for example, the uniting in one bill of several matters perfectly distinct and unconnected against one defendant, or the demand of several matters of a distinct and independent nature against several defendants, in the same bill. Story, Eq. Pl. § 271.

MULTIPARTITE. Divided into many or several parts.

MULTIPLE POINDING. In Scotch law. Double distress; a name given to an action, corresponding to proceedings by way of interpleader, which may be brought by a person in possession of goods claimed by different persons pretending a right thereto, calling the claimants and all others to settle their claims, so that the party who sues may be liable only "in once and single payment." Bell.

Multiplex et indistinctum partit con­fusionem; et questiones, quo simpli­ciores, eo lucidiores. Hob. 335. Multi­
plicity and indistinctness produce confusion; and questions, the more simple they are, the more lucid.

Multicipata transgressione crescat poane inflictio. As transgression is multiplied, the infliction of punishment should increase. 2 Inst. 479.

MULTICIPATY. A state of being many. That quality of a pleading which involves a variety of matters or particulars; undue variety. 2 Saund. 410. A multiplying or increasing. Story, Eq. Pl. § 287.

MULTICIPATY OF ACTIONS. A phrase descriptive of the state of affairs where several different suits or actions are brought upon the same issue. It is obviated in equity by a bill of peace; in courts of law, by a rule of court for the consolidation of different actions.

MULTITUDE. An assemblage of many people. According to Coke it is not a word of very precise meaning; for some authorities hold that there must be at least ten persons to make a multitude, while others maintain that no definite number is fixed by law. Co. Litt. 257.


Multitudo errantium non parit errori patrocinium. The multitude of those who err furnishes no countenance or excuse for error. 11 Coke, 75a. It is no excuse for error that it is entertained by numbers.

Multitudo imperitorum perdit curiam. The great number of unskilful practitioners ruins a court. 2 Inst. 219.

MULTO. In old records. A wether sheep.

Multo utilis est paucia idonea effundere quam multis inutilibus homines gravari. 4 Coke, 20. It is more useful to pour forth a few useful things than to oppose men with many useless things.

MULTURE. In Scotch law. The quantity of grain or meal payable to the proprietor of a mill, or to the multurier, his tacksman, for manufacturing the corns. Ersk. Inst. 2, 9, 19.

MUMIFICATION. In medical jurisprudence. A term applied to the complete drying up of the body. It is the result of burial in a dry, hot soil, or the exposure of the body to a continuously cold and dry atmosphere. 15 Amer. & Eng. Enc. Law, 261.

MUMMING. Antic diversions in the Christmas holidays, suppressed in Queen Anne's time.

MUND. In old English law. Peace; whence mundbrige, a breach of the peace.

MUNDBYRD, MUNDEBURDE. A receiving into favor and protection. Cowell.

MUNDIUM. In old French law. A tribute paid by a church or monastery to their seignorial avos and sldemes, as the price of protecting them. Steph. Lec. 236.

MUNERA. In the early ages of the feudal law, this was the name given to the grants of land made by a king or chieftain to his followers, which were held by no certain tenure, but merely at the will of the lord. Afterwards they became life-estates, and then hereditary, and were called first "benefices," and then "feuds." See Wright, Ten. 19.

MUNICEPS. In Roman law. A provincial person; a countryman. This was the designation of one born in the provinces or in a city politically connected with Rome, and who, having become a Roman citizen, was entitled to hold any offices at Rome except some of the highest. In the provinces the term seems to have been applied to the freemen of any city who were eligible to the municipal offices. Calvin.

MUNICIPAL. "Municipal" signifies that which belongs to a corporation or a city. The term includes the rules or laws by which a particular district, community, or nation is governed. It may also mean local, particular, independent. 43 Ala. 598.

"Municipal," in one of its meanings, is used in opposition to "international," and denotes that which pertains or belongs properly to an individual state or separate community, as distinguished from that which is common to, or observed between, all nations. Thus, piracy is an "international" offense, "and is denounced by "international law," but smuggling is a "municipal offense," and cognizable by "municipal law."

MUNICIPAL AID. A contribution or assistance granted by a municipal corporation towards the execution or progress of some enterprise, undertaken by private parties, but likely to be of benefit to the municipality: e. g., a railroad.

MUNICIPAL BONDS. Negotiable bonds issued by a municipal corporation, to secure its indebtedness.
MUNICIPAL CLAIMS. In Pennsylvania law. Claims filed by a city against property owners therein, for taxes, rates, levies, or assessments for local improvements, such as the cost of grading, paving, or curbing the streets, or removing nuisances.

MUNICIPAL CORPORATION. A public corporation, created by government for political purposes, and having subordinate and local powers of legislation; e.g., a county, town, city, etc. 2 Kent, Comm. 275.

An incorporation of persons, inhabitants of a particular place, or connected with a particular district, enabling them to conduct its local civil government. Glov. Mun. Corp. 1.

In English law. A body of persons in a town having the powers of acting as one person, of holding and transmitting property, and of regulating the government of the town. Such corporations existed in the chief towns of England (as of other countries) from very early times, deriving their authority from "incorporating" charters granted by the crown. Wharton.

MUNICIPAL CORPORATIONS ACT. In English law. A general statute, (5 & 6 Wm. IV. c. 76,) passed in 1833, prescribing general regulations for the incorporation and government of boroughs.

MUNICIPAL COURTS. In the judicial organization of several states, courts are established under this name, whose territorial authority is confined to the city or community in which they are erected. Such courts usually have a criminal jurisdiction corresponding to that of a police court, and, in some cases, possess civil jurisdiction in small causes.

MUNICIPAL LAW, in contradistinction to international law, is the law of an individual state or nation. It is the rule or law by which a particular district, community, or nation is governed. 1 Bl. Comm. 44.

That which pertains solely to the citizens and inhabitants of a state, and is thus distinguished from political law, commercial law, and the law of nations. Wharton.

MUNICIPAL LIEN. A lien or claim existing in favor of a municipal corporation against a property owner for his proportionate share of a public improvement, made by the municipality, whereby his property is specially and individually benefited.

MUNICIPAL OFFICER. An officer belonging to a municipality; that is, a city, town, or borough.

MUNICIPAL ORDINANCE. A law, rule, or ordinance enacted or adopted by a municipal corporation.

MUNICIPAL SECURITIES. The evidences of indebtedness issued by cities, towns, counties, townships, school-districts, and other such territorial divisions of a state. They are of two general classes: (1) Municipal warrants, orders, or certificates; (2) municipal negotiable bonds. 15 Amer. & Eng. Enc. Law, 1206.

MUNICIPAL WARRANTS. A municipal warrant or order is an instrument, generally in the form of a bill of exchange, drawn by an officer of a municipality upon its treasurer, directing him to pay an amount of money specified therein to the person named or his order, or to bearer. 15 Amer. & Eng. Enc. Law, 1206.

MUNICIPALITY. A municipal corporation; a city, town, borough, or incorporated village. Also the body of officers, taken collectively, belonging to a city.

MUNICIPIUM. In Roman law. A foreign town to which the freedom of the city of Rome was granted, and whose inhabitants had the privilege of enjoying offices and honors there; a free town. Adams, Rom. Ant. 47, 77.

MUNIMENTS. The instruments of writing and written evidences which the owner of lands, possessions, or inheritances has, by which he is enabled to defend the title of his estate. Termes de la Ley; 3 Inst. 170.

MUNIMENT HOUSE, or MUNIMENT ROOM. A house or room of strength, in cathedrals, collegiate churches, castles, colleges, public buildings, etc., purposely made for keeping deeds, charters, writings, etc. 3 Inst. 170.

MUNUS. Lat. A gift; an office; a benefice or feud. A gladiatorial show or spectacle. Calvin; Du Cange.

MURAGE. A toll formerly levied in England for repairing or building public walls.

MURDER. In criminal law. The willful killing of any subject whatever, with malice aforesaid, whether the person slain shall be an Englishman or a foreigner. Hawk. P. C. b. 1, c. 13, § 3. The killing of any person under the king's peace, with malice prepense or aforesaid, either express, or
implied by law. 1 Russ. Crimes. 421; 5 Cush. 304. When a person of sound mind and discretion unlawfully killeth any reasonable creature in being, and under the king's peace, with malice aforethought, either express or implied. 3 Inst. 47.

Murder is the unlawful killing of a human being, with malice aforethought. Pen. Code Cal. § 187.

Whoever kills any human being with malice aforethought, either express or implied, is guilty of murder. Rev. Code Iowa 1880, § 3848.

Murder is the unlawful killing of a human being, in the peace of the state, by a person of sound memory and discretion, with malice aforethought, either express or implied. Code Ga. 1882, § 4320.

The killing of a human being, without the authority of law, by any means, or in any manner, shall be murder in the following cases: When done with deliberate design to effect the death of the person killed, or of any human being; when done in the commission of an act eminently dangerous to others, and evincing a depraved heart, regardless of human life, although without any premeditated design to effect the death of any particular individual; when done without any design to effect death, by any person engaged in the commission of the crime of rape, burglary, arson, or robbery, or in any attempt to commit such felonies. Rev. Code Miss. 1880, § 2875.

Every homicide, perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or the attempt to perpetrate, any arson, rape, robbery, or burglary; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed; or perpetrated by any act greatly dangerous to the lives of others, and evidencing a depraved mind, regardless of human life, although without any preconceived purpose to deprive any particular person of life,—is murder in the first degree; and every other homicide committed under such circumstances as would have constituted murder at common law is murder in the second degree. Code Ala. 1886, § 3725.

MURDRUM. In old English law. The killing of a man in a secret manner.

MURORUM OPERATIO. The service of work and labor done by inhabitants and adjoining tenants in building or repairing the walls of a city or castle; their personal service was commuted into murage. (q. v.) Cowell.

MURTHRUM. In old Scotch law. Murther or murder. Skene.

MUSEUM. A building or institution for the cultivation of science or the exhibition of curiosities or works of art.

The term "museum" embraces not only collections of curiosities for the entertainment of the sight, but also such as would interest, amuse, and instruct the mind. 5 Stew. & P. 109.

MUSSA. In old English law. A moss or marsh ground, or a place where sedges grow; a place overrun with moss. Cowell.

MUSTER. To assemble together troops and their arms, whether for inspection, drill, or service in the field. To take recruits into the service in the army and inscribe their names on the muster-roll or official record. See 8 Allen, 498.

MUST-BOOK. A book in which the forces are registered. Termes de la Ley.

MUSTER-MASTER. One who superintended the muster to prevent frauds. St. 35 Eliz. c. 4.

MUSTER-ROLL. In maritime law. A list or account of a ship's company, required to be kept by the master or other person having care of the ship, containing the name, age, national character, and quality of every person employed in the ship. Abb. Shipp. 191, 192; Jac. Sea Laws, 161.

MUSTIZO. A name given to the issue of an Indian and a negro. Dud. (S. C.) 174.

MUTA-CANUM. A kennel of hounds; one of the mortuaries to which the crown was entitled at a bishop's or abbot's decease. 2 Bl. Comm. 426.

MUTATIO NOMINIS. Lat. In the civil law. Change of name. Cod. 9, 25.

MUTATION. In French law. This term is synonymous with "change," and is especially applied to designate the change which takes place in the property of a thing in its transmission from one person to another. Mutation, therefore, happens when the owner of the thing sells, exchanges, or gives it. Merl. Répert.

MUTATION OF LIBEL. In practice. An amendment allowed to a libel, by which
there is an alteration of the substance of the libel, as by propounding a new cause of action, or asking one thing instead of another. Dunl. Adm. Pr. 213.

MUTATIS MUTANDIS. Lat. With the necessary changes in points of detail.

MUTE. Speechless; dumb; that cannot or will not speak. In English criminal law, a prisoner is said to stand mute when, being arraigned for treason or felony, he either makes no answer at all, or answers foreign to the purpose or with such matter as is not allowable, and will not answer otherwise, or, upon having pleaded not guilty, refuses to put himself upon the country. 4 Bl. Comm. 324.

MUTILATION. In criminal law. The depriving a man of the use of any of those limbs which may be useful to him in fight, the loss of which amounts to mayhem. 1 Bl. Comm. 130.

MUTINOUS. Insubordinate; disposed to mutiny; tending to incite or encourage mutiny.

MUTINY. In criminal law. An insurrection of soldiers or seamen against the authority of their commanders; a sedition or revolt in the army or navy.

MUTINY ACT. In English law. An act of parliament annually passed to punish mutiny and desertion. 1 Bl. Comm. 415.

MUTUAL. Interchangeable; reciprocal; each acting in return or correspondence to the other; given and received; spoken of an engagement or relation in which like duties and obligations are exchanged.

"Mutual" is not synonymous with "common." The latter word, in one of its meanings, denotes that which is shared, in the same or different degrees, by two or more persons; but the former implies reciprocal action or interdependent connection.

MUTUAL ACCOUNTS. Accounts comprising mutual credits between the parties; or an existing credit on one side which constitutes a ground for credit on the other, or where there is an understanding that mutual debts shall be a satisfaction or set-off pro tanto between the parties. 27 Ark. 343.

MUTUAL CREDITS. In bankrupt law. Credits which must, from their nature, terminate in debts; as where a debt is due from one party, and credit given by him to the other for a sum of money payable at a future day, and which will then become a debt; or where there is a debt on one side, and a delivery of property with directions to turn it into money on the other. 8 Taunt. 499; 2 Smith, Lead. Cas. 179.

By this phrase, in the rule under which courts of equity allow set-off in cases of mutual credit, we are to understand a knowledge on both sides of an existing debt due to one party, and a credit by the other party, founded on and trusting to such debt, as a means of discharging it. 9 N. J. Eq. 4. Credits given by two persons mutually; i.e., each giving credit to the other. It is a more extensive phrase than "mutual debts." Thus, the sum credited by one may be due at once, that by the other payable in futuro; yet the credits are mutual, though the transaction would not come within the meaning of "mutual debts." 1 Atk. 20; 7 Term R. 373.

MUTUAL DEBTS. Money due on both sides between two persons.

MUTUAL INSURANCE. That form of insurance in which each person insured becomes a member of the company, and the members reciprocally engage to indemnify each other against losses, any loss being met by an assessment laid upon all the members.

MUTUAL MISTAKE. See MISTAKE.

MUTUAL PROMISES. Promises simultaneously made by and between two parties; each being the consideration for the other.

MUTUAL TESTAMENTS. Wills made by two persons who leave their effects reciprocally to the survivor.

MUTUALITY. Reciprocal; interchange. An acting by each of two parties; an acting in return.

In every agreement the parties must, as regards the principal or essential part of the transaction, intend the same thing; i.e., each must know what the other is to do. This is called "mutuality of assent." Chit. Cont. 13.

In a simple contract arising from agreement, it is sometimes the essence of the transaction that each party should be bound to do something under it. This requirement is called "mutuality." Sweet.

Mutuality of a contract means an obligation on each to do, or permit to be done, something in consideration of the act or promise of the other. 36 Md. 87.

MUTUANT. The person who lends chattels in the contract of mutuum. (g. v.)

MUTUARI. To borrow; mutuum, a borrowing. 2 Arch. Pr. 25.

MUTUARY. A person who borrows personal chattels to be consumed by him and re-
turned to the lender in kind and quantity; the borrower in a contract of mutuum.

MUTUS ET SURDUS. Lat. In civil and old English law. Dumb and deaf.

MUTUUM. Lat. In the law of bailments. A loan for consumption; a loan of chattels, upon an agreement that the borrower may consume them, returning to the lender an equivalent in kind and quantity. Story, Bailm. § 228.

MYNSTER-HAM. Monastic habitation; perhaps the part of a monastery set apart for purposes of hospitality, or as a sanctuary for criminals. Anc. Inst. Eng.

MYSTERY. A trade, art, or occupation. 2 Inst. 668. Masters frequently bind themselves in the indentures with their apprentices to teach them their art, trade, and mystery.

MYSTIC TESTAMENT. In the law of Louisiana. A sealed testament.

The mystic or secret testament, otherwise called the "closed testament," is made in the following manner: The testator must sign his dispositions, whether he has written them himself or has caused them to be written by another person. The paper containing those dispositions, or the paper serving as their envelope, must be closed and sealed. The testator shall present it thus closed and sealed to the notary and to seven witnesses, or he shall cause it to be closed and sealed in their presence. Then he shall declare to the notary, in presence of the witnesses, that that paper contains his testament written by himself, or by another by his direction, and signed by him, the testator. The notary shall then draw up the act of superscription, which shall be written on that paper, or on the sheet that serves as its envelope, and that act shall be signed by the testator, and by the notary and the witnesses. Civil Code La. art. 1584.