T. As an abbreviation, this letter usually stands for either “Territory,” “Trinity,” “term,” “tempore,” (in the time of) or “title.”

Every person who was convicted of felony, short of murder, and admitted to the benefit of clergy, was at one time marked with this letter upon the brawn of the thumb. The practice is abolished. 7 & 8 Geo. IV. c. 27.

By a law of the Province of Pennsylvania, A. D. 1698, it was provided that a convicted thief should wear a badge in the form of the letter “T.,” upon his left sleeve, which badge should be at least four inches long and of a color different from that of his outer garment. Linn, Laws Prov. Pa. 275.

T. R. E. An abbreviation of “Tempore Regis Edwardi,” (in the time of King Edward,) of common occurrence in Domesday, when the valuation of manors, as it was in the time of Edward the Confessor, is recounted. Cowell.

TABARD. A short gown; a herald’s coat; a surcoat.

TABARDER. One who wears a tabard or short gown; the name is still used as the title of certain graduates of arts at the old foundation of Queen’s College, Oxford. Enc. Lond.

TABELLA. Lat. In Roman law. A tablet. Used in voting, and in giving the verdict of juries; and, when written upon, commonly translated “ballot.” The laws which introduced and regulated the mode of voting by ballot were called “leges tabellariae.” Calvin.; 1 Kent, Comm. 232, note.

TABELLIO. In Roman law. An officer corresponding in some respects to a notary. His business was to draw legal instruments, (contracts, wills, etc.) and witness their execution. Calvin.

TABERNACULUM. In old records. A public inn, or house of entertainment. Cowell.

TABERNARIUS. Lat. In the civil law. A shop-keeper. Dig. 14, 3, 5, 7.

In old English law. A taverner or tavern-keeper. Fleta, lib. 2, c. 12, § 17.

TABLE. A synopsis or condensed statement, bringing together numerous items or details so as to be comprehended in a single view; as genealogical tables, exhibiting the names and relationships of all the persons composing a family; life and annuity tables, used by actuaries; interest tables, etc.

TABLE DE MARBRE. Fr. In old French law. Table of Marble; a principal seat of the admiralty, so called. These Tables de Marbre are frequently mentioned in the Ordonnance of the Marine. Burrill.

TABLE OF CASES. An alphabetical list of the adjudged cases cited, referred to, or digested in a legal text-book, volume of reports, or digest, with references to the sections, pages, or paragraphs where they are respectively cited, etc., which is commonly either prefixed or appended to the volume.

TABLE RENTS. In English law. Payments which used to be made to bishops, etc., reserved and appropriated to their table or house-keeping. Wharton.

TABLEAU OF DISTRIBUTION. In Louisiana. A list of creditors of an insolvent estate, stating what each is entitled to. 4 Mart. (N. S.) 535.

TABULA. Lat. In the civil law. A table or tablet; a thin sheet of wood, which, when covered with wax, was used for writing.

TABULA IN NAUFRAGIO. Lat. A plank in a shipwreck. This phrase is used metaphorically to designate the power subsisting in a third mortgagee, who took with out notice of the second mortgagee, to acquire the first incumbrance, attach it to his own, and thus squeeze out and get satisfaction, before the second is admitted to the fund. 1 Story, Eq. Jur. § 414; 2 Ves. Ch. 573.

TABULAE. Lat. In Roman law. Tables. Writings of any kind used as evidences of a transaction. Brissianius.

TABULE NUPTIALES. In the civil law. A written record of a marriage; or the agreement as to the dos.

TABULARIUS. Lat. A notary, or tabellio. Calvin.

TAC, TAK. In old records. A kind of customary payment by a tenant. Cowell.
TAC FREE. In old records. Free from the common duty or imposition of tac. Cowell.

TACIT. Silent; not expressed; implied or inferred; manifested by the refraining from contradiction or objection; inferred from the situation and circumstances, in the absence of express matter. Thus, tacit consent is consent inferred from the fact that the party kept silent when he had an opportunity to forbid or refuse.

TACIT LAW. A law which derives its authority from the common consent of the people without any legislative enactment. 1 Bouv. Inst. no. 120.

TACIT MORTGAGE. In the law of 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." It is called also "tacit mortgage," because it is established by the law without the aid of any agreement. Civil Code La. art. 3311.

TACIT RELOCATION. In Scotch law. The tacit or implied renewal of a lease, inferred when the landlord, instead of warning a tenant to remove at the stipulated expiration of the lease, has allowed him to continue without making a new agreement. Bell, "Relocation."

TACIT TACK. In Scottish law. An implied tack or lease; inferred from a tacksman's possessing peaceably after his tack is expired. 1 Forb. Inst. pt. 2, p. 153.

Tacita quaedam habentur pro expressis. 8 Coke, 40. Things unexpressed are sometimes considered as expressed.

TACITE. Lat. Silently; impliedly; tacitly.

TACITURNITY. In Scotch law, this signifies laches in not prosecuting a legal claim, or in acquiescing in an adverse one. Mozley & Whitley.

TACK, n. To annex some junior lien to a first lien, thereby acquiring priority over an intermediate one.

TACK. A term corresponding to the English "lease," and denoting the same species of contract.

TACK DUTY. Rent reserved upon a lease.

TACKING. The uniting securities given at different times, so as to prevent any intermediate purchaser from claiming a title to redeem or otherwise discharge one lien, which is prior, without redeeming or discharging the other liens also, which are subsequent to his own title. 1 Story, Eq. Jur. § 412.

The term is particularly applied to the action of a third mortgagee who, by buying the first lien and uniting it to his own, gets priority over the second mortgagee.

TACKSMAN. In Scotch law. A tenant or lessee; one to whom a tack is granted. 1 Forb. Inst. pt. 2, p. 153.

TACITIS SACRO SANCTIT. In old English law. Touching the holy evangelists. Fleta, lib. 3, c. 16, § 21. "A bishop may swear visis evangelis, [looking at the Gospels] and not tacitis, and it is good enough." Freem. 133.


TAIL. Limited; abridged; reduced; curtailed, as a fee or estate in fee, to a certain order of succession, or to certain heirs.

TAIL AFTER POSSIBILITY OF ISSUE EXTINCT. A species of estate tail which arises where one is tenant in special tail, and a person from whose body the issue was to spring dies without issue, or, having left issue, that issue becomes extinct. In either of these cases the surviving tenant in special tail becomes "tenant in tail after possibility of issue extinct." 2 Bl. Comm. 124.

TAIL, ESTATE IN. An estate of inheritance, which, instead of descending to heirs generally, goes to the heirs of the donee's body, which means his lawful issue, his children, and through them to his grand-children in a direct line, so long as his posterity endures in a regular order and course of descent, and upon the death of the first owner without issue, the estate determines. 1 Washb. Real Prop. *72.

An estate tail is a freehold of inheritance, limited to a person and the heirs of his body, general or special, male or female, and is the creature of the statute de Donis. The estate, provided the entail be not barred, reverts to the donor or reversioner, if the donee die without leaving descendants answering to the condition annexed to the estate upon its creation, unless there be a
TAIL FEMALE. When lands are given to a person and the female heirs of his or her body, this is called an "estate tail female," and the male heirs are not capable of inheriting it.

TAIL GENERAL. An estate in tail granted to one "and the heirs of his body begotten," which is called "tail general" because, how often sooner such donee in tail be married, his issue in general by all and every such marriage is, in successive order, capable of inheriting the estate tail per for­mam doni. 2 Bl. Comm. 113.

This is where an estate is limited to a man and the heirs of his body, without any restriction at all; or, according to some authorities, with no other restriction than that in relation to sex. Thus, tail male general is the same thing as tail male, the word "general," in such case, implying that there is no other restriction upon the descent of the estate than that it must go in the male line. So an estate in tail female general is an estate in tail female. The word "general," in the phrase, expresses a purely negative idea, and may denote the absence of any restriction, or the absence of some given restriction which is tacitly understood. Mozley & Whitelov.

TAIL MALE. When lands are given to a person and the male heirs of his or her body, this is called an "estate tail male," and the female heirs are not capable of inheriting it.

TAIL SPECIAL. An estate in tail where the succession is restricted to certain heirs of the donee's body, and does not go to all of them in general; e. g., where lands and tenements are given to a man and "the heirs of his body on Mary, his now wife, to be begotten;" here no issue can inherit but such special issue as is engendered between them two, not such as the husband may have by another wife, and therefore it is called "special tail." 2 Bl. Comm. 113.

It is defined by Cowell as the limitation of lands and tenements to a man and his wife and the heirs of their two bodies. But the phrase need not be thus restricted. Tail special, in its largest sense, is where the gift is restrained to certain heirs of the donor's body, and does not go to all of them in general. Mozley & Whitelov.

TAILAGE. A piece cut out of the whole; a share of one's substance paid by way of tribute; a toll or tax. Cowell.

TAILLE. Fr. In old French law. A tax or assessment levied by the king, or by any great lord, upon his subjects, usually taking the form of an imposition upon the owners of real estate. Brande.

In old English law. The fee which is opposed to fee-simple, because it is so minced or pared that it is not in the owner's free power to dispose of it, but it is, by the first giver, cut or divided from all other, and tied to the issue of the donee,—in short, an estate-tail. Wharton.

TAILZIE. In Scotch law. An entail. A tailzied fee is that which the owner, by exercising his inherent right of disposing of his property, settles upon others than those to whom it would have descended by law. 1 Forb. Inst. pt. 2, p. 101.

TAINT. A conviction of felony, or the person so convicted. Cowell.

TAKE. 1. To lay hold of; to gain or receive into possession; to seize; to deprive one of the possession of; to assume ownership. Thus, it is a constitutional provision that a man's property shall not be taken for public uses without just compensation. 9 Ind. 433.

2. To obtain or assume possession of a chattel unlawfully, and without the owner's consent; to appropriate things to one's own use with felonious intent. Thus, an actual taking is essential to constitute larceny. 4 Bl. Comm. 430.

3. To seize or apprehend a person; to arrest the body of a person by virtue of lawful process. Thus, a capias commands the officer to take the body of the defendant.

4. To acquire the title to an estate; to receive an estate in lands from another person by virtue of some species of title. Thus, one is said to "take by purchase," "take by descent," "take a life-interest under the devise," etc.

5. To receive the verdict of a jury; to superintend the delivery of a verdict; to hold a court. The commission of assize in England empowers the judges to take the assizes; that is, according to its ancient meaning, to take the verdict of a peculiar species of jury called an "assise:" but, in its present meaning, "to hold the assizes." 3 Bl. Comm. 59, 185.

TAKE UP. A party to a negotiable instrument, particularly an indorser or acceptor, is said to "take up" the paper, or to "re­ tire" it, when he pays its amount, or substitutes other security for it, and receives it again into his own hands.
TAKER. One who takes or acquires; particularly, one who takes an estate by devise. When an estate is granted subject to a remainder or executory devise, the devisee of the immediate interest is called the "first taker."

TAKING. In criminal law and torts. The act of laying hold upon an article, with or without removing the same.

TALE. In old pleading. The plaintiff's count, declaration, or narrative of his case. 3 Bl. Comm. 293.

The count or counting of money. Said to be derived from the same root as "tally." Cowell. Whence also the modern word "teller."

TALES. Lat. Such; such men. When, by means of challenges or any other cause, a sufficient number of unexceptionable jurors does not appear at the trial, either party may pray a "tales," as it is termed; that is, a supply of such men as are summoned on the first panel in order to make up the deficiency. Brown.

TALES DE CIRCUMSTANTIBUS. So many of the by-standers. The emphatic words of the old writ awarded to the sheriff to make up a deficiency of jurors out of the persons present in court. 3 Bl. Comm. 365.

TALESMAN. A person summoned to act as a juror from among the by-standers in the court.

TALIO. Lat. In the civil law. Like for like; punishment in the same kind; the punishment of an injury by an act of the same kind, as an eye for an eye, a limb for a limb, etc. Calvin.

Talis interpretatio semper fienda est, ut evitetur absurdum et inconveniens, et ne judicium sit illusorium. 1 Coke, 52. Interpretation is always to be made in such a manner that what is absurd and inconvenient may be avoided, and the judgment be not illusory.

Talis non est eadem; nam nullum simile est idem. 4 Coke, 18. What is like is not the same; for nothing similar is the same.

Talis res, vel tale rectum, qua vel quod non est in homine adtunc superstite sed tantummodo est et consistit in consideratione et intelligentia legis, et quod alii dixerunt talem rem vel tale rectum fore in nubibus. Such a thing or such a right as is not vested in a person then living, but merely exists in the consideration and contemplation of law [is said to be in abeyance,] and others have said that such a thing or such a right is in the clouds. Co. Litt. 342.

TALITER PROCESSUM EST. Upon pleading the judgment of an inferior court, the proceedings preliminary to such judgment, and on which the same was founded, must, to some extent, appear in the pleading, but the rule is that they may be alleged with a general allegation that "such proceedings were had," instead of a detailed account of the proceedings themselves, and this general allegation is called the "taliter processum est." A like concise mode of stating former proceedings in a suit is adopted at the present day in chancery proceedings upon petitions and in actions in the nature of bills of revivor and supplement. Brown.

TALLAGE. A word used metaphorically for a share of a man's substance paid by way of tribute, toll, or tax, being derived from the French "tailler," which signifies to cut a piece out of the whole. Cowell.

TALLAGERS. Tax or toll gatherers; mentioned by Chaucer.

TALLAGIUM. A term including all taxes. 2 Inst. 532.

TALLAGIUM FACERE. To give up accounts in the exchequer, where the method of accounting was by tallies.

TALLATIO. A keeping account by tallies. Cowell.

TALLY, or TALLY. A stick cut into two parts, on each whereof is marked, with notches or otherwise, what is due between debtor and creditor. It was the ancient mode of keeping accounts. One part was held by the creditor, and the other by the debtor. The use of tallies in the exchequer was abolished by St. 23 Geo. III. c. 82, and the old tallies were ordered to be destroyed by St. 4 & 5 Wm. IV. c. 15. Wharton.

TALLIA. L. Lat. A tax or tribute; tallage; a share taken or cut out of any one's income or means. Spelman.

TALLY TRADE. A system of dealing by which dealers furnish certain articles on credit, upon an agreement for the payment of the stipulated price by certain weekly or monthly installments. McCul. Dict.
TALTARUM'S CASE. A case reported in Yearb. 12 Edw. IV. 19-21, which is regarded as having established the foundation of common recoveries.

TAM QUAM. A phrase used as the name of a writ of error from inferior courts, when the error is supposed to be as well in giving the judgment as in awarding execution upon it. (Tom in redditione judicii, quam in adjudicatione executionis.)

A vendit ten quam was one by which a jury was summoned, as well to try an issue as to inquire of the damages on a default. 2 Tidd, Pr. 722, 895.

TAME. Domesticated; accustomed to man; reclaimed from wilderness. In the Latin phrase, tame animals are described as domita natura.

TAMEN. Lat. Notwithstanding; nevertheless; yet.

TANGIBLE PROPERTY. Property which may be touched; such as is perceptible to the senses; corporeal property, whether real or personal. The phrase is used in opposition to such species of property as patents, franchises, copyrights, rents, ways, and incorporeal property generally.

TANISTRY. In old Irish law. A species of tenure, founded on ancient usage, which allotted the inheritance of lands, castles, etc., to the "oldest and worthiest man of the deceased's name and blood." It was abolished in the reign of James I. Jacob; Wharton.

TANNERIA. In old English law. Tannery; the trade or business of a tanner. Fleta, lib. 2, c. 52, § 35.


TANTO, RIGHT OF. In Mexican law. The right enjoyed by an usufructuary of property, of buying the property at the same price at which the owner offers it to any other person, or is willing to take from another. Civil Code Mex. art. 992.

Tantum bona valent, quantum vendi possunt. Shep. Touch. 142. Goods are worth so much as they can be sold for.

TARDE VENIT. Lat. In practice. The name of a return made by the sheriff to a writ, when it came into his hands too late to be executed before the return-day.

TARE. A deficiency in the weight or quantity of merchandise by reason of the weight of the box, cask, bag, or other receptacle which contains it and is weighed with it. Also an allowance or abatement of a certain weight or quantity which the seller makes to the buyer, on account of the weight of such box, cask, etc. See Tret.

TARIFF. A cartel of commerce, a book of rates, a table or catalogue, drawn usually in alphabetical order, containing the names of several kinds of merchandise, with the duties or customs to be paid for the same, as settled by authority, or agreed on between the several princes and states that hold commerce together. Enc. Lond.

The list or schedule of articles on which a duty is imposed upon their importation into the United States, with the rates at which they are severally taxed. Also the custom or duty payable on such articles. And, derivatively, the system or principle of imposing duties on the importation of foreign merchandise.


TATH. In the counties of Norfolk and Suffolk, the lords of manors anciently claimed the privilege of having their tenants' docks or sheep brought at night upon their own demesne lands, there to be folded for the improvement of the ground, which liberty was called by the name of the "tath." Spelman.

TAURI LIBERI LIBERTAS. A common bull; because he was free to all the tenants within such a manor, liberty, etc.

TAUTOLOGY. Describing the same thing twice in one sentence in equivalent terms; a fault in rhetoric. It differs from repetition or iteration, which is repeating the same sentence in the same or equivalent terms; the latter is sometimes either excusable or necessary in an argument or address: the former (tautology) never. Wharton.

TAVERN. A place of entertainment; a house kept up for the accommodation of strangers. Originally, a house for the retailing of liquors to be drunk on the spot. Webster.

The word "tavern," is a charter provision authorizing municipal authorities to "license and regulate taverns," includes hotels. "Tavern," "hotel," and "public house" are, in this country, used synonymous; and while they entertain the traveling public, and keep guests, and receive compensation therefore, they do not lose their character, though they may not have the privilege of selling liquors. 46 Mo. 593.
TAVERN-KEEPER. One who keeps a tavern. One who keeps an inn; an innkeeper.

TAVERNER. In old English law. A seller of wine; one who kept a house or shop for the sale of wine.

TAX, v. To impose a tax; to enact or declare that a pecuniary contribution shall be made by the persons liable, for the support of government. Spoken of an individual, to be taxed is to be included in an assessment made for purposes of taxation.

In practice. To assess or determine; to liquidate, adjust, or settle. Spoken particularly of taxing costs. (q. v.)

TAX, n. Taxes are a ratable portion of the produce of the property and labor of the individual citizens, taken by the nation, in the exercise of its sovereign rights, for the support of government, for the administration of the laws, and as the means for continuing in operation the various legitimate functions of the state. Black, Tax Titles, § 2.

Taxes are the enforced proportional contribution of persons and property, levied by the authority of the state for the support of the government, and for all public needs; portions of the property of the citizen, demanded and received by the government, to be disposed of to enable it to discharge its functions. 58 Me. 590.

In a general sense, a tax is any contribution imposed by government upon individuals, for the use and service of the state, whether under the name of toll, tribute, tailage, gabel, impost, duty, custom, excise, subsidy, aid, supply, or other name. Story, Const. § 950.

By the concurrent opinion of lawyers, judges, lexicographers, and political economists, as well as by the general and popular understanding, taxes are burdens or charges imposed by the legislature upon persons or property to raise money for public purposes, or to accomplish some governmental end. 27 Iowa, 28.

A tax is a pecuniary burden, imposed for the support of government. 17 Wall. 329.

Taxes are classified as direct, which includes those which are assessed upon the property, person, business, income, etc., of those who pay them; and indirect, or those which are levied on commodities before they reach the consumer, and are paid by those upon whom they ultimately fall, not as taxes, but as part of the market price of the commodity. Cooley, Tax'n. 6.

SYNONYMS. In a broad sense, taxes undoubtedly include assessments, and the right to impose assessments has its foundation in the taxing power of the government; and yet, in practice and as generally understood, there is a broad distinction between the two terms. "Taxes," as the term is generally used, are public burdens imposed generally upon the inhabitants of the whole state, or upon some civil division thereof, for governmental purposes, without reference to pecuniary benefits to particular individuals or property. "Assessments" have reference to impositions for improvements which are specially beneficial to particular individuals or property, and which are imposed in proportion to the particular benefits supposed to be conferred. They are justified only because the improvements confer special benefits, and are just only when they are divided in proportion to such benefits. 84 N. Y. 112.

A charge imposed by law upon the assessed value of all property, real and personal, in a district, is a tax, and not an assessment, although the purpose be to make a local improvement on a road. 46 Cal. 533.

Taxes differ from subsidies, in being certain and orderly, and from forced contributions, etc., in that they are levied by authority of law, and by some rule of proportion which is intended to insure uniformity of contribution, and a just apportionment of the burdens of government. Cooley, Tax'n. 2.

The words "tax" and "excise," although often used as synonymous, are to be considered as having entirely distinct and separate significations. The former is a charge apportioned either among the whole people of the state, or those residing within certain districts, municipalities, or sections. It is required to be imposed, as we shall more fully explain hereafter, so that, if levied for the public charges of government, it shall be shared according to the estate, real and personal, which each person may possess; or, if raised to defray the cost of some local improvement of a public nature, it shall be borne by those who will receive some special and peculiar benefit or advantage which an expenditure of money for a public object may cause to those on whom the tax is assessed. An excise, on the other hand, is of a different character. It is based on no rule of apportionment or equality whatever. It is a fixed, absolute, and direct charge laid on merchandise, products, or commodities, without any regard to the amount of property belonging to those on whom it may fall, or to any supposed relation between money expended for a public object
TAX-DEED. The conveyance given upon a sale of lands made for non-payment of taxes; the deed whereby the officer of the law undertakes to convey the title of the proprietor to the purchaser at the tax-sale.

TAX-LEVY. The total sum to be raised by a tax. Also the bill, enactment, or measure of legislation by which an annual or general tax is imposed.

TAX-LIEN. A statutory lien, existing in favor of the state or municipality, upon the lands of a person charged with taxes, binding the same either for the taxes assessed upon the specific tract of land or (in some jurisdictions) for all the taxes due from the individual, and which may be foreclosed for non-payment, by judgment of a court or sale of the land.

TAX-PAYER. A person chargeable with a tax; one from whom government demands a pecuniary contribution towards its support.

TAX-PAYERS' LISTS. Written exhibits required to be made out by the taxpayers resident in a district, enumerating all the property owned by them and subject to taxation, to be handed to the assessors, at a specified date or at regular periods, as a basis for assessment and valuation.

TAX PURCHASER. A person who buys land at a tax-sale; the person to whom land, at a tax-sale thereof, is struck down.

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

TAX-TITLE. The title by which one holds land which he purchased at a tax-sale. That species of title which is inaugurated by a successful bid for land at a collector's sale of the same for non-payment of taxes, completed by the failure of those entitled to redeem within the specified time, and evidenced by the deed executed to the tax purchaser, or his assignee, by the proper officer.

TAXA. L. Lat. A tax. Spelman.

In old records. An allotted piece of work; a task.

TAXABLE. Subject to taxation; liable to be assessed, along with others, for a share in a tax. Persons subject to taxation are sometimes called "taxables;" so property which may be assessed for taxation is said to be taxable.

Applied to costs in an action, the word means proper to be taxed or charged up; legally chargeable or assessable.

TAXARE. Lat. To rate or value. Calvin.
To tax; to lay a tax or tribute. Spelman.
In old English practice. To assess; to rate or estimate; to moderate or regulate an assessment or rate.

TAXATI. In old European law. Soldiers of a garrison or fleet, assigned to a certain station. Spelman.

TAXATIO. Lat. In Roman law. Taxation or assessment of damages; the assessment, by the judge, of the amount of damages to be awarded to a plaintiff, and particularly in the way of reducing the amount claimed or sworn to by the latter.

TAXATIO ECCLESIASTICA. The valuation of ecclesiastical benefices made through every diocese in England, on occasion of Pope Innocent IV, granting to King Henry III, the tenth of all spirituals for three years. This taxation was first made by Walter, bishop of Norwich, delegated by the pope to this office in 38 Hen. Ill., and hence called "Taxatio Norwicensis." It is also called "Pope Innocent's Valor." Wharton.

TAXATIO EXPENSARUM. In old English practice. Taxation of costs.

TAXATIO NORWICENSIS. A valuation of ecclesiastical benefices made through every diocese in England, by Walter, bishop of Norwich, delegated by the pope to this office in 38 Hen. Ill. Cowell.

TAXATION. The imposition of a tax; the act or process of imposing and levying a pecuniary charge or enforced contribution, ratable, or proportioned to value or some other standard, upon persons or property, by or on behalf of a government or one of its divisions or agencies, for the purpose of providing revenue for the maintenance and expenses of government.

The term "taxation," both in common parlance and in the laws of the several states, has been ordinarily used, not to express the idea of the sovereign power which is exercised, but the exercise of that power for a particular purpose, viz., to raise a revenue for the general and ordinary expenses of the government, whether it be the state, county, town, or city government. But there is another class of expenses, also of a public nature, necessary to be provided for, peculiar to the local
government of counties, cities, towns, and even smaller subdivisions, such as opening, grading, improving in various ways, and repairing, highways and streets, and constructing sewers in cities, and canals and ditches for the purpose of drainage in the country. They are generally of peculiar local benefit. These burdens have always, in every state, from its first settlement, been charged upon the localities benefited, and have been apportioned upon various principles; but, whatever principle of apportionment has been adopted, they have been known, both in the legislation and ordinary speech of the country, by the name of "assessments." Assessments have also, very generally, if not always, been apportioned upon principles different from those adopted in "taxation," in the ordinary sense of that term; and any one can see, upon a moment's reflection, that the apportionment, to bear equally, and do substantial justice to all parties, must be made upon a different principle from that adopted in "taxation," so called. 28 Cal. 556.

The differences between taxation and taking property in right of eminent domain are that tax­ation exacts money or services from individuals, as and for their respective shares of contribution to any public burden; while private property taken for public use, by right of eminent domain, is taken, not as the owner's share of contribution to a public burden, but as so much beyond his share, and for which compensation must be made. Moreover, taxation operates upon a community, or upon a class of persons in a community, and by some rule of apportionment; while eminent domain operates upon an individual, and without reference to the amount or value exacted from any other individual, or class of individuals. 4 N. Y. 419.

TAXATION OF COSTS. In practice. The process of ascertaining and charging up the amount of costs in an action to which a party is legally entitled, or which are legally chargeable. And, in English practice, the process of examining the items in an attorney's bill of costs and making the proper deductions, if any.

TAXERS. Two officers yearly chosen in Cambridge, England, to see the true gauge of all the weights and measures.

TAXING DISTRICT. The district throughout which a particular tax or assessment is ratably apportioned and levied upon the inhabitants; it may comprise the whole state, one county, a city, a ward, or part of a street.

TAXING MASTERS. Officers of the English supreme court, who examine and allow or disallow items in bills of costs.

TAXING OFFICER. Each house of parliament has a taxing officer, whose duty it is to tax the costs incurred by the promoters or opponents of private bills. May, Parl. Pr. 843.

TAXING POWER. The power of any government to levy taxes.

TAXT-WARD. An annual payment made to a superior in Scotland, instead of the duties due to him under the tenure of ward-holding. Abolished. Wharton.

TEAM, or THEAME. In old English law. A royalty or privilege granted, by royal charter, to a lord of a manor, for the having, restraining, and judging of bond­men and villeins, with their children, goods, and chattels, etc. Gian. lib. 5, c. 2.

TEAM. Within the meaning of an exemption law, a "team" consists of either one or two horses, with their harness and the vehicle to which they are customarily attached for use. 32 Barb. 291; 31 N. Y. 655.

TEAM WORK. Within the meaning of an exemption law, this term means work done by a team as a substantial part of a man's business; as in farming, staging, express carrying, drawing of freights, peddling, or the transportation of material used or dealt in as a business. 49 Vt. 375.

TEAMSTER. One who drives horses in a wagon for the purpose of carrying goods for hire. He is liable as a common carrier. Story, Bailm. § 496.

TECHNICAL. Belonging or peculiar to an art or profession. Technical terms are frequently called in the books "words of art."

TECHNICAL MORTGAGE. A true and formal mortgage, as distinguished from other instruments which, in some respects, have the character of equitable mortgages. 50 Md. 514.

TEDDING. Spreading. Tedding grass is spreading it out after it is cut in the swath. 10 East, 5.

TEDING-PENNY. In old English law. A small tax or allowance to the sheriff from each tithing of his county towards the charge of keeping courts, etc. Cowell.

TEEP. In Hindu law. A note of hand; a promissory note given by a native banker or money-lender to ze­minudars and others, to enable them to furnish government with security for the payment of their rents. Wharton.

TEGULA. In the civil law. A tile. Dig. 19, 1, 18.
TEIND COURT. In Scotch law. A court which has jurisdiction of matters relating to teinds, or tithes.

TEIND MASTERS. Those entitled to tithes.

TEINDS. In Scotch law. A term corresponding to tithes (q. v.) in English ecclesiastical law.

TEINLAND. Sax. In old English law. Land of a thane or Saxon noble; land granted by the crown to a thane or lord. Cowell; 1 Reeve, Eng. Law, 5.

TELEGRAM. A telegraphic dispatch; a message sent by telegraph.

TELEGRAPH. In the English telegraph act of 1863, the word is defined as "a wire or wires used for the purpose of telegraphic communication, with any casing, coating, tube, or pipe inclosing the same, and any apparatus connected therewith for the purpose of telegraphic communication." St. 26 & 27 Vict. c. 112, § 3.

TELEGRAPHIE. Written evidence of things past. Blount.

TELEPHONE. In a general sense, the name "telephone" applies to any instrument or apparatus which transmits sound beyond the limits of ordinary audibility. But, since the recent discoveries in telephony, the name is technically and primarily restricted to an instrument or device which transmits sound by means of electricity and wires similar to telegraphic wires. In a secondary sense, however, being the sense in which it is most commonly understood, the word "telephone" constitutes a generic term, having reference generally to the art of telephony as an institution, but more particularly to the apparatus, as an entirely, ordinarily used in the transmission, as well as in the reception, of telephonic messages. 105 Ind. 261, 5 N. E. Rep. 178.

TELLER. One who numbers or counts. An officer of a bank who receives or pays out money. Also one appointed to count the votes cast in a deliberative or legislative assembly or other meeting. The name was also given to certain officers formerly attached to the English exchequer.

The teller is a considerable officer in the exchequer, of which officers there are four, whose office is to receive all money due to the king, and to give the clerk of the pells a bill to charge him therewith. They also pay to all persons any money payable by the king, and make weekly and yearly books of their receipts and payments, which they deliver to the lord treasurer. Cowell; Jacob.

TELLERS IN PARLIAMENT. In the language of parliament, the "tellers" are the members of the house selected to count the members when a division takes place. In the house of lords a division is effected by the "non-contents" remaining within the bar, and the "contents" going below it, a teller being appointed for each party. In the commons the "ayes" go into the lobby at one end of the house, and the "noes" into the lobby at the other end, the house itself being perfectly empty, and two tellers being appointed for each party. May, Parl. Pr.; Brown.

TELLIGRAPH. An Anglo-Saxon charter of land. 1 Reeve, Eng. Law, c. 1, p. 10.

TELLWORC. That labor which a tenant was bound to do for his lord for a certain number of days.

TEMENTALE, or TENEMENTALE. A tax of two shillings upon every plow-land; a decennary.

TEMERE. Lat. In the civil law. Rashly; inconsiderately. A plaintiff was said temere litigare who demanded a thing out of malice, or sued without just cause, and who could show no ground or cause of action. Brissonius.

TEMPEST. A violent or furious storm; a current of wind rushing with extreme violence, and usually accompanied with rain or snow. See 29 U. C. C. P. 84.

TEMPLARS. A religious order of knighthood, instituted about the year 1119, and so called because the members dwell in a part of the temple of Jerusalem, and not far from the sepulcher of our Lord. They entertained Christian strangers and pilgrims charitably, and their profession was at first to defend travelers from highwaymen and robbers. The order was suppressed A. D. 1307, and their substance given partly to the knights of St. John of Jerusalem, and partly to other religious orders. Brown.

TEMPLE. Two English inns of court, thus called because anciently the dwelling place of the Knights Templar. On the suppression of the order, they were purchased by some professors of the common law, and converted into hospitia or inns of court. They are called the "Inner" and "Middle Temple," in relation to Essex House,
which was also a part of the house of the Templars, and called the “Outer Temple,” because situated without Temple Bar. Enc. Lond.

TEMPORAL LORDS. The peers of England; the bishops are not in strictness held to be peers, but merely lords of parliament. 2 Steph. Comm. 330, 345.

TEMPORALIS. Lat. In the civil law. Temporary; limited to a certain time.

TEMPORALIS ACTIO. Lat. An action which could only be brought within a certain period.

TEMPORALIS EXCEPTIO. Lat. A temporary exception which barred an action for a time only.

TEMPORALITIES. In English law. The lay fees of bishops, with which their churches are endowed or permitted to be endowed by the liberality of the sovereign, and in virtue of which they become barons and lords of parliament. Spelman.

TEMPORALITY. The laity; secular people.

TEMPORARY. That which is to last for a limited time only, as distinguished from that which is perpetual, or indefinite, in its duration.

TEMPORE. Lat. In the time of. Thus, the volume called “Cases tempore Holt” is a collection of cases adjudged in the king’s bench during the time of Lord Holt. Wall. Rep. 398.

TEMPORIS EXCEPTIO. Lat. In the civil law. A plea of time; a plea of lapse of time, in bar of an action. Corresponding to the plea of prescription, or the statute of limitations, in our law. See Mackeld. Rom. Law, § 213.

TEMPUS. Lat. In the civil and old English law. Time in general. A time limited; a season; e. g., tempus pessonis, must time in the forest.

TEMPUS CONTINUUM. Lat. In the civil law. A continuous or absolute period of time. A term which begins to run from a certain event, even though he for whom it runs has no knowledge of the event, and in which, when it has once begun to run, all the days are reckoned as they follow one another in the calendar. Dig. 3, 2, 8; Mackeld. Rom. Law, § 195.

Tempus enim modus tollendi obligations et actiones, quia tempus currit contra desides et sui juris contemptores. For time is a means of destroying obligations and actions, because time runs against the slothful and contemners of their own rights. Fleta, l. 4, c. 5, § 12.

TEMPUS SEMESTRE. Lat. In old English law. The period of six months or half a year, consisting of one hundred and eighty-two days. Cro. Jac. 166.

TEMPUS UTILE. Lat. In the civil law. A profitable or advantageous period of time. A term which begins to run from a certain event, only when he for whom it runs has obtained a knowledge of the event, and in which, when it has once begun to run, those days are not reckoned on which one has no experianti potestas; i. e., on which one cannot prosecute his rights before a court. Dig. 3, 6, 6; Mackeld. Rom. Law, § 195.

TENANCY is the relation of a tenant to the land which he holds. Hence it signifies (1) the estate of a tenant, as in the expressions “joint tenancy,” “tenancy in common;” (2) the term or interest of a tenant for years or at will, as when we say that a lessee must remove his fixtures during his tenancy. Sweet.

TENANCY, JOINT. See Joint Tenancy.

TENANT. In the broadest sense, one who holds or possesses lands or tenements by any kind of right or title, whether in fee, for life, for years, at will, or otherwise. Cowell.

In a more restricted sense, one who holds lands of another; one who has the temporary use and occupation of real property owned by another person, (called the “landlord,”) the duration and terms of his tenancy being usually fixed by an instrument called a “lease.”

The word “tenant” conveys a much more comprehensive idea in the language of the law than it does in its popular sense. In popular language it is used more particularly as opposed to the word “landlord,” and always seems to imply that the land or property is not the tenant’s own, but belongs to some other person, of whom he immediately holds it. But, in the language of the law, every possessor of landed property is called a “tenant” with reference to such property, and this, whether such landed property is absolutely his own, or whether he merely holds it under a lease for a certain number of years. Brown.

In feudal law. One who holds of another (called “lord” or “superior”) by some service; as fealty or rent.
One who has actual possession of lands claimed in suit by another; the defendant in a real action. The correlative of “demandant.” 3 Bl. Comm. 180.

Strictly speaking, a “tenant” is a person who holds land; but the term is also applied by analogy to personality. Thus we speak of a person being tenant for life, or tenant in common, of stock. Sweet.

**Tenant a Volunte.** L. Fr. A tenant at will.

**Tenant at Sufferance.** One that comes into the possession of land by lawful title, but holds over by wrong, after the determination of his interest. 4 Kent, Comm. 116; 2 Bl. Comm. 150.

**Tenant at Will.** “Is where lands or tenements are let by one man to another, to have and to hold to him at the will of the lessor, by force of which lease the lessee is in possession. In this case the lessee is called ‘tenant at will,’ because he hath no certain nor sure estate, for the lessor may put him out at what time it pleaseth him.” Litt. § 68; Sweet.

**Tenant by Copy of Court Roll** (shortly, “tenant by copy”) is the old-fashioned name for a copyholder. Litt. § 73.

**Tenant by the Curtesy.** One who, on the death of his wife seised of an estate of inheritance, after having by her issue born alive and capable of inheriting her estate, holds the lands and tenements for the term of his life. Co. Litt. 30a; 2 Bl. Comm. 126.

**Tenant by the Manner.** One who has a less estate than a fee in land which remains in the reversioner. He is so called because in avowries and other pleadings it is specially shown in what manner he is tenant of the land, in contradistinction to the *very tenant,* who is called simply “tenant.” Ham. N. P. 393.

**Tenant for Life.** One who holds lands or tenements for the term of his own life, or for that of any other person, (in which case he is called “pur auter vie,”) or for more lives than one. 2 Bl. Comm. 120.

**Tenant for Years.** One who has the temporary use and possession of lands or tenements not his own, by virtue of a lease or demise granted to him by the owner, for a determinable period of time, as for a year or a fixed number of years. 2 Bl. Comm. 140.

**Tenant from Year to Year.** One who holds lands or tenements under the demise of another, where no certain term has been mentioned, but an annual rent has been reserved. See 1 Steph. Comm. 271; 4 Kent, Comm. 111, 114.

One who holds over, by consent given either expressly or constructively, after the determination of a lease for years. 4 Kent, Comm. 112.

**Tenant in Capite.** In feudal and old English law. Tenant in chief; one who held immediately under the king, in right of his crown and dignity. 2 Bl. Comm. 60.

**Tenant in Common.** Tenants in common are generally defined to be such as hold the same land together by several and distinct titles, but by unity of possession, because none knows his own severality, and therefore they all occupy promiscuously. 2 Bl. Comm. 191.

A tenancy in common is where two or more hold the same land, with interests accruing under different titles, or accruing under the same title, but at different periods, or conferred by words of limitation importing that the grantees are to take in distinct shares. 1 Steph. Comm. 323.

**Tenant in Dower.** This is where the husband of a woman is seised of an estate of inheritance and dies; in this case the wife shall have the third part of all the lands and tenements whereof he was seised at any time during the coverture, to hold to herself for life, as her dower. Co. Litt. 30; 2 Bl. Comm. 129.

**Tenant in Fee-Simple, (or Tenant in Fee.)** He who has lands, tenements, or hereditaments, to hold to him and his heirs forever, generally, absolutely, and simply; without mentioning what heirs, but referring that to his own pleasure, or to the disposition of the law. 2 Bl. Comm. 104; Litt. § 1.

**Tenant in Severalty.** is he who holds lands and tenements in his own right only, without any other person being joined or connected with him in point of interest during his estate therein. 2 Bl. Comm. 179.

**Tenant in Tail.** One who holds an estate in fee-tail, that is, an estate which, by the instrument creating it, is limited to some particular heirs, exclusive of others; as to the heirs of *his body* or to the heirs, *male or female,* of his body.
TENANT IN TAIL AFTER POSSIBILITY OF ISSUE EXTINCT. See TAIL AFTER POSSIBILITY, etc.

TENANT IN TAIL EXPROVISIONE VIRI. Where an owner of lands, upon or previously to marrying a wife, settled lands upon himself and his wife, and the heirs of their two bodies begotten, and then died, the wife, as survivor, became tenant in tail of the husband's lands, in consequence of the husband's provision, (ex provisione viri.) Originally, she could bar the estate-tail like any other tenant in tail; but the husband's intention having been merely to provide for her during her widowhood, and not to enable her to bar his children of their inheritance, she was very early restrained from so doing, by the statute 32 Hen. VII. c. 36. Brown.

TENANT OF THE DEMESNE. One who is tenant of a mesne lord; as, where A. is tenant of B., and C. of A., B. is the lord, A. the mesne lord, and C. tenant of the demesne. Ham. N. P. 392, 393.

TENANT PARAVAILE. The under-tenant of land; that is, the tenant of a tenant; one who held of a mesne lord.

TENANT-RIGHT. 1. A kind of customary estate in the north of England, falling under the general class of copyhold, but distinguished from copyhold by many of its incidents.

2. The so-called tenant-right of renewal is the expectation of a lessee that his lease will be renewed, in cases where it is an established practice to renew leases from time to time, as in the case of leases from the crown, from ecclesiastical corporations, or other collegiate bodies. Strictly speaking, there can be no right of renewal against the lessor without an express compact by him to that effect, though the existence of the custom often influences the price in sales.

3. The Ulster tenant-right may be described as a right on the tenant's part to sell his holding to the highest bidder, subject to the existing or a reasonable increase of rent from time to time, as circumstances may require, with a reasonable veto reserved to the landlord in respect of the incoming tenant's character and solvency. Mozley & Whitley.

TENANT TO THE PRECIPE. Before the English fines and recoveries act, if land was conveyed to a person for life with remainder to another in tail, the tenant in tail in remainder was unable to bar the entail without the concurrence of the tenant for life, because a common recovery could only be suffered by the person seised of the land. In such a case, if the tenant for life wished to concur in barring the entail, he usually conveyed his life-estate to some other person, in order that the precipe in the recovery might be issued against the latter, who was therefore called the "tenant to the precipe." Williams, Seis. 169; Sweet.

TENANT'S FIXTURES. This phrase signifies things which are fixed to the freehold of the demised premises, but which the tenant may detach and take away, provided he does so in season. 4 Gray, 256, 270.

TENANTABLE REPAIR. Such a repair as will render a house fit for present habitation.

TENANTS BY THE VERGE "are in the same nature as tenants by copy of court roll, [i.e., copyholders.]" But the reason why they be called 'tenants by the verge' is for that, when they will surrender their tenements into the hands of their lord to the use of another, they shall have a little rod (by the custom) in their hand, the which they shall deliver to the steward or to the bailiff, * * * and the steward or bailiff, according to the custome, shall deliver to him that taketh the land the same rod, or another rod, in the name of seisin; and for this cause they are called 'tenants by the verge,' but they have no other evidence [title-deed] but by copy of court roll." Litt. § 78; Co. Litt. 61a.

TENCON. L. Fr. A dispute; a quarrel. Kelham.

TEND. In old English law. To tender or offer. Cowell.

TENDER. An offer of money; the act by which one produces and offers to a person holding a claim or demand against him the amount of money which he considers and admits to be due, in satisfaction of such claim or demand, without any stipulation or condition.

Tender, in pleading, is a plea by defendant that he has been always ready to pay the debt demanded, and before the commencement of the action tendered it to the plaintiff, and now brings it into court ready to be paid to him, etc. Brown.

Legal tender. Money is said to be legal tender when a creditor cannot refuse to accept it in payment of a debt.
TENDER OF AMENDS. An offer by a person who has been guilty of any wrong or breach of contract to pay a sum of money by way of amends. If a defendant in an action make tender of amends, and the plaintiff decline to accept it, the defendant may pay the money into court, and plead the payment into court as a satisfaction of the plaintiff's claim. Mozley & Whitley.

TENDER OF ISSUE. A form of words in a pleading, by which a party offers to refer the question raised upon it to the appropriate mode of decision. The common tender of an issue of fact by a defendant is expressed by the words, "and of this he puts himself upon the country." Steph. Pl. 54, 230.

TENEMENT. This term, in its vulgar acceptance, is only applied to houses and other buildings, but in its original, proper, and legal sense it signifies everything that may be held, provided it be of a permanent nature, whether it be of a substantial and sensible, or of an unsubstantial, ideal, kind. Thus, _liberum tenementum_, frank tenement, or freehold, is applicable not only to lands and other solid objects, but also to offices, rents, commons, advowsons, franchises, peerages, etc. 2 Bl. Comm. 16.

"Tenement" is a word of greater extent than "land," including not only land, but rents, commons, and several other rights and interests issuing out of or concerning land. 1 Steph. Comm. 158, 159.

Its original meaning, according to some, was "house" or "homestead." Jacob. In modern use it also signifies rooms let in houses. Webster.

TENEMENTAL LAND. Land distributed by a lord among his tenants, as opposed to the demesnes which were occupied by himself and his servants. 2 Bl. Comm. 90.

TENEMENTIS LEGATIS. An ancient writ, lying to the city of London, or any other corporation, (where the old custom was that men might devise by will lands and tenements, as well as goods and chattels,) for the hearing and determining any controversy touching the same. Reg. Orig. 244.

TENENDAS. In Scotch law. The name of a clause in charters of heritable rights, which derives its name from its first words, "tenendas predictas terras;" it points out the superior of whom the lands are to be held, and expresses the particular tenure. Ersk. Inst. 2, 3, 24.

TENENDUM. Lat. To hold; to be held. The name of that formal part of a deed which is characterized by the words "to hold." It was formerly used to express the tenure by which the estate granted was to be held; but, since all freehold tenures have been converted into socage, the _tenendum_ is of no further use, and is therefore joined in the _habendum_, — "to have and to hold." 2 Bl. Comm. 298; 4 Cruise, Dig. 26.

TENENS. A tenant; the defendant in a real action.

TENENTIBUS IN ASSISÀ NON ONERANDIS. A writ that formerly lay for him to whom a disseisor had alienated the land whereof he disseised another, that he should not be molested in assise for damages, if the disseisor had wherewith to satisfy them. Reg. Orig. 214.

TENERE. Lat. In the civil law. To hold; to hold fast; to have in possession; to retain.

In relation to the doctrine of possession, this term expresses merely the fact of manual detention, or the corporal possession of any object, without involving the question of title; while _habere_ (and especially _possidere_) denotes the maintenance of possession by a lawful claim; i.e., civil possession, as distinguished from mere _natural_ possession.

TENERI. The Latin name for that clause in a bond in which the obligor expresses that he is "held and firmly bound" to the obligee, his heirs, etc.

TENET; TENUIT. Lat. He holds; he held. In the Latin forms of the writ of waste against a tenant, these words introduced the allegation of tenure. If the tenancy still existed, and recovery of the land was sought, the former word was used, (and the writ was said to be "in the _tenet._") If the tenancy had already determined, the latter term was used, (the writ being described as "in the _tenuit,_") and then damages only were sought.

TENHEDED, or TIENHEOFED. In old English law. A dean. Cowell.

TENMENTALE. The number of ten men, which number, in the time of the Saxons, was called a "decennary;" and ten decennaries made what was called a "hundred." Also a duty or tribute paid to the crown, consisting of two shillings for each plowland. Enc. Lond.

TENNE. A term of heraldry, meaning orange color. In engravings it should be
represented by lines in bend sinister crossed by others bar-ways. Heralds who blazon by the names of the heavenly bodies, call it “dragon’s head,” and those who employ jewels, “jacinth.” It is one of the colors called “stainand.” Wharton.

**Tenor.** A term used in pleading to denote that an exact copy is set out. 1 Chit. Crim. Law, 235.

By the tenor of a deed, or other instrument in writing, is signified the matter contained therein, according to the true intent and meaning thereof. Cowell.

“Tenor,” in pleading a written instrument, imports that the very words are set out. “Purport” does not import this, but is equivalent only to “substance.” 5 Blackf. 456; 1 Cush. 46; 5 Wend. 271.

The action of proving the tenor, in Scotland, is an action for proving the contents and purport of a deed which has been lost. Bell.


Tenor est qui legem dat feud. It is the tenor of the feudal grant which regulates its effect and extent. Craigius, Jus Feud. (3d Ed.) 66; Broom, Max. 459.

**Tenore Indicamenti Mit-Tendo.** A writ whereby the record of an indictment, and the process thereupon, was called out of another court into the queen’s bench. Reg. Orig. 69.

**Tenore Præsentium.** By the tenor of these presents, i.e., the matter contained therein, or rather the intent and meaning thereof. Cowell.

**Tenserie.** A sort of ancient tax or military contribution. Wharton.

**Tentates Panis.** The essay or assay of bread. Blount.

**Tenterden’s Act.** In English law. The statute 9 Geo. IV. c. 14, taking its name from Lord Tenterden, who procured its enactment, which is a species of extension of the statute of frauds, and requires the reduction of contracts to writing.

**Tenths.** In English law. A temporary aid issuing out of personal property, and granted to the king by parliament; formerly the real tenth part of all the moveables belonging to the subject. 1 Bl. Comm. 308

In English ecclesiastical law. The tenth part of the annual profit of every living in the kingdom, formerly paid to the pope, but by statute 26 Hen. VIII. c. 3, transferred to the crown, and afterwards made a part of the fund called “Queen Anne’s Bounty.” 1 Bl. Comm. 284-286.

**Tenuit.** A term used in stating the tenure in an action for waste done after the termination of the tenancy. See Tenet.

**Tenura.** In old English law. Tenure. Tenura est pactio contra communem feudi naturam ac rationem, in contractu interposita. Wright, Ten. 21. Tenure is a compact contrary to the common nature and reason of the fee, put into a contract.

**Tenure.** The mode or system of holding lands or tenements in subordination to some superior, which, in the feudal ages, was the leading characteristic of real property.

Tenure is the direct result of feudalism, which separated the **dominium directum,** (the dominion of the soil,) which is placed mediately or immediately in the crown, from the **dominium utile,** (the possessory title,) the right to the use and profits in the soil, designated by the term “seisin,” which is the highest interest a subject can acquire. Wharton.

Wharton gives the following list of tenures which were ultimately developed:

**Lay Tenures.**

I. Frank tenement, or freehold. (1) The military tenures (abolished, except grand serjeanty, and reduced to free socage tenures) were: Knight service proper, or tenure in chivalry; grand serjeanty; cornage. (2) Free socage, or plow-service; either petit serjeanty, tenure in burgage, or gavelkind.

II. Vileinage. (1) Pure vileinage, (whence copyholds at the lord’s [nominal] will, which is regulated according to custom.) (2) Privileged vileinage, sometimes called “vilein socage,” (whence tenure in ancient demesne, which is an exalted species of copyhold, held according to custom, and not according to the lord’s will,) and is of three kinds: Tenure in ancient demesne; privileged copyholds, customary freeholds, or free copyholds; copyholds of base tenure.

**Spiritual Tenures.**

I. Frankalmolgne, or free alms. II. Tenure by divine service.

Tenure, in its general sense, is a mode of holding or occupying. Thus, we speak of the tenure of an office, meaning the manner in which it is held, especially with regard to time, (tenure for life, tenure during good behavior,) and of tenure of land in the sense of occupation or tenancy, especially with refer-
ence to cultivation and questions of political economy; e.g., tenure by peasant proprietors, cottiers, etc. Sweet.

**TENURE BY DIVINE SERVICE** is where an ecclesiastical corporation, sole or aggregate, holds land by a certain divine service; as, to say prayers on a certain day in every year, "or to distribute in alms to an hundred poor men an hundred pence at such a day." Litt. § 137.

**TENURE OF OFFICE.** See **TENURE.**

**TERCE.** In Scotch law. Dower; a widow's right of dower, or a right to a life-estate in a third part of the lands of which her husband died seised.

**TERCER.** In Scotch law. A widow that possesses the third part of her husband's land, as her legal jointure. 1 Kames, Eq. pref.

**TERM.** A word or phrase; an expression; particularly one which possesses a fixed and known meaning in some science, art, or profession.


In estates. "Term" signifies the bounds, limitation, or extent of time for which an estate is granted; as when a man holds an estate for any limited or specific number of years, which is called his "term," and he himself is called, with reference to the term he so holds, the "termor," or "tenant of the term."

Of court. The word "term," when used with reference to a court, signifies the space of time during which the court holds a session. A session signifies the time during the term when the court sits for the transaction of business, and the session commences when the court convenes for the term, and continues until final adjournment, either before or at the expiration of the term. The term of the court is the time prescribed by law during which it may be in session. The session of the court is the time of its actual sitting. 19 Tex. App. 433.

**TERM ATTENDANT ON THE INHERITANCE.** See **ATTENDANT TERMS.**

**TERM FEE.** In English practice. A certain sum which a solicitor is entitled to charge to his client, and the client to recover, if successful, from the unsuccessful party; payable for every term in which any proceedings subsequent to the summons shall take place. Wharton.

**TERM FOR DELIBERATING.** By "term for deliberating" is understood the time given to the beneficiary heir, to examine if it be for his interest to accept or reject the succession which has fallen to him. Civil Code La. art. 1083.

**TERM FOR YEARS.** An estate for years and the time during which such estate is to be held are each called a "term;" hence the term may expire before the time, as by a surrender. Co. Litt. 45.

**TERM IN GROSS.** A term of years is said to be either in gross (outstanding) or attendant upon the inheritance. It is outstanding, or in gross, when it is unattached or disconnected from the estate or inheritance, as where it is in the hands of some third party having no interest in the inheritance; it is attendant, when vested in some trustee in trust for the owner of the inheritance. Brown.

**TERM OF LEASE.** The word "term," when used in connection with a lease, means the period which is granted for the lessee to occupy the premises, and does not include the time between the making of the lease and the tenant's entry. 5 N. Y. 463.

**TERM PROBATORY.** The period of time allowed to the promoter of an ecclesiastical suit to produce his witnesses, and prove the facts on which he rests his case. Coote, Ecc. Pr. 240, 241.

**TERM TO CONCLUDE.** In English ecclesiastical practice. An appointment by the judge of a time at which both parties are understood to renounce all further exhibits and allegations.

**TERM TO PROFOUND ALL THINGS.** In English ecclesiastical practice. An appointment by the judge of a time at which both parties are to exhibit all the acts and instruments which make for their respective causes.

**TERMES DE LA LEY.** Terms of the law. The name of a lexicon of the law French words and other technicalities of legal language in old times.

**TERMINABLE PROPERTY.** This name is sometimes given to property of such a nature that its duration is not perpetual or indefinite, but is limited or liable to terminate upon the happening of an event or the
expiration of a fixed term; *e. g.*, a leasehold, a life-annuity, etc.

**TERMINATING BUILDING SOCIETIES.** Societies, in England, where the members commence their monthly contributions on a particular day, and continue to pay them until the realization of shares to a given amount for each member, by the advance of the capital of the society to such members as required it, and the payment of interest as well as principal by them, so as to insure such realization within a given period of years. They have been almost superseded by permanent building societies. Wharton.

**TERMINER.** L. Fr. To determine. See *Over and Terminer.*

**TERMINI.** Lat. Ends; bounds; limiting or terminating points.

**TERMINO.** In Spanish law. A common; common land. Common because of vicinage. White, New Recop. b. 2, tit. 1, c. 6, § 1, note.

**TERMINUM.** A day given to a defendant. Spelman.

**TERMINUM QUI PRETERIIT,** WRIT OF ENTRY AD. A writ which lay for the reversioner, when the possession was withheld by the lessee, or a stranger, after the determination of a lease for years. Brown.

**TERMINUS.** Boundary; a limit, either of space or time.

The phrases *"terminus a quo"* and *"terminus ad quem"* are used, respectively, to designate the starting point and terminating point of a private way. In the case of a street, road, or railway, either end may be, and commonly is, referred to as the "terminus."

Terminus annorum certus debet esse et determinatus. Co. Litt. 45. A term of years ought to be certain and determinate.

Terminus et feodum non possunt constare simul in una eademque persona. Plowd. 29. A term and the fee cannot both be in one and the same person at the same time.

**TERMINUS HOMINIS.** In English ecclesiastical practice. A time for the determination of appeals, shorter than the *terminus juris*, appointed by the judge. Halifax, Civil Law, b. 3, c. 11, no. 36.

**TERMINUS JURIS.** In English ecclesiastical practice. The time of one or two years, allowed by law for the determination of appeals. Halifax, Civil Law, b. 3, c. 11, no. 38.

**TERMOR.** He that holds lands or tenements for a term of years or life. But we generally confine the application of the word to a person entitled for a term of years. Mozley & Whitley.

**TERMS.** In the law of contracts. Conditions; propositions stated or promises made which, when assented to or accepted by another, settle the contract and bind the parties. Webster.

**TERMS, TO BE UNDER.** A party is said to be *under terms* when an indulgence is granted to him by the court in its discretion, on certain conditions. Thus, when an injunction is granted *ex parte*, the party obtaining it is put *under terms* to abide by such order as to damages as the court may make at the hearing. Mozley & Whitley.

**TERRA.** Lat. Earth; soil; arable land. Kennett, Gloss.

**TERRA AFFIRMATA.** Land let to farm.

**TERRA BOSCALIS.** Woody land.

**TERRA CULTA.** Cultivated land.

**TERRA DEBILIS.** Weak or barren land.

**TERRA DOMINICA, or INDOMINICATA.** The demesne land of a manor. Cowell.

**TERRA EXCULTABILIS.** Land which may be plowed. Mon. Ang. i. 426.

**TERRA EXTENDENDA.** A writ addressed to an escheator, etc., that he inquire and find out the true yearly value of any land, etc., by the oath of twelve men, and to certify the extent into the chancery. Reg. Writs, 293.

**TERRA FRUSCA, or FRISCA.** Fresh land, not lately plowed. Cowell.

**TERRA HYDATA.** Land subject to the payment of hydage. Selden.

**TERRA LUCRABILIS.** Land gained from the sea or inclosed out of a waste. Cowell.

Terra manens vacua occupanti conceditur. 1 Sid. 347. Land lying unoccupied is given to the first occupant.
TERRA NORMANORUM. Land held by a Norman. Paroch. Antiq. 197.

TERRA NOVA. Land newly converted from wood ground or arable. Cowell.

TERRA PUTURA. Land in forests, held by the tenure of furnishing food to the keepers therein. 4 Inst. 307.

TERRA SABULOSA. Gravelly or sandy ground.

TERRA SALICA. In Salic law. The land of the house; the land within that inclosure which belonged to a German house. No portion of the inheritance of Salic land passes to a woman, but this the male sex acquires; that is, the sons succeed in that inheritance. Lex Salic. tit. 62, § 6.

TERRA TESTAMENTALIS. Gavel-kind land, being disposable by will. Spelman.

TERRA VESTITA. Land sown with corn. Cowell.

TERRA WAINABILIS. Tillable land. Cowell.

TERRA WARRENATA. Land that has the liberty of free-warren.

TERRÆ DOMINICALES REGIS. The demesne lands of the crown.

TERRAGE. In old English law. A kind of tax or charge on land; a boon or duty of plowing, reaping, etc. Cowell.

TERRAGES. An exemption from all uncertain services. Cowell.

TERRARIUS. In old English law. A landholder.

TERRE-TENANT. He who is literally in the occupation or possession of the land, as distinguished from the owner out of possession. But, in a more technical sense, the person who is seised of the land, though not in actual occupancy of it. 4 Watts & S. 256; 1 Etten, 177.

TERRIER. In English law. A landroll or survey of lands, containing the quantity of acres, tenants' names, and such like; and in the exchequer there is a terrier of all the glebe lands in England, made about 1338. In general, an ecclesiastical terrier contains a detail of the temporal possessions of the church in every parish. Cowell; Tomlins; Mozley & Whitley.

TERRIS BONIS ET CATALLIS RE-HABENDIS POST PURGATIONEM. A writ for a clerk to recover his lands, goods, and chattels, formerly seized, after he had cleared himself of the felony of which he was accused, and delivered to his ordinary to be purged. Reg. Orig.

TERRIS ET CATALLIS TENTULTRA DEBITUM LEVATUM. A judicial writ for the restoring of lands or goods to a debtor who is distracted above the amount of the debt. Reg. Jud.

TERRIS LIBERANDIS. A writ that lay for a man convicted by attainder, to bring the record and process before the king, and take a fine for his imprisonment, and then to deliver to him his lands and tenements again, and release him of the strip and waste. Reg. Orig. 232. Also it was a writ for the delivery of lands to the heir, after homage and relief performed, or upon security taken that he should perform them. Id. 293.

TERRITORIAL, TERRITORIALITY. These terms are used to signify connection with, or limitation with reference to, a particular country or territory. Thus, "territorial law" is the correct expression for the law of a particular country or state, although "municipal law" is more common. "Territorial waters" are that part of the sea adjacent to the coast of a given country which is by international law deemed to be within the sovereignty of that country, so that its courts have jurisdiction over offenses committed on those waters, even by a person on board a foreign ship. Sweet.

TERRITORIAL COURTS. The courts established in the territories of the United States.

TERRITORY. A part of a country separated from the rest, and subject to a particular jurisdiction.

In American law. A portion of the United States, not within the limits of any state, which has not yet been admitted as a state of the Union, but is organized, with a separate legislature, and with executive and judicial officers appointed by the president.

TERRITORY OF A JUDGE. The territorial jurisdiction of a judge; the bounds, or district, within which he may lawfully exercise his judicial authority.

TERROR. Alarm; fright, dread; the state of mind induced by the apprehension of hurt from some hostile or threatening event or manifestation; fear caused by the appear-
ance of danger. *In an indictment for riot, it must be charged that the acts done were "to the terror of the people."*

**TERTIA DENUNCIATIO.** Lat. In old English law. Third publication or proclamation of intended marriage.

**TERTIUS INTERVENIENS.** Lat. In the civil law. A third person intervening; a third person who comes in between the parties to a suit; one who interpleads. Gilbert's Forum Rom. 47.

**TEST.** To bring one to a trial and examination, or to ascertain the truth or the quality or fitness of a thing.

Something by which to ascertain the truth respecting another thing.

**TEST ACT.** The statute 25 Car. II. c. 2, which directed all civil and military officers to take the oaths of allegiance and supremacy, and make the declaration against transubstantiation, within six months after their admission, and also within the same time receive the sacrament according to the usage of the Church of England, under penalty of £500 and disablement to hold the office. 4 Bl. Comm. 58, 59. This was abolished by St. 9 Geo. IV. c. 17, so far as concerns receiving the sacrament, and a new form of declaration was substituted.

**TEST ACTION.** An action selected out of a considerable number of suits, concurrently depending in the same court, brought by several plaintiffs against the same defendant, or by one plaintiff against different defendants, all similar in their circumstances, and embracing the same questions, and to be supported by the same evidence, the selected action to go first to trial, (under an order of court equivalent to consolidation,) and its decision to serve as a test of the right of recovery in the others, all parties agreeing to be bound by the result of the test action.

**TEST OATH.** An oath required to be taken as a criterion of the fitness of the person to fill a public or political office; but particularly an oath of fidelity and allegiance (past or present) to the established government.

**TESTA DE NEVIL.** An ancient and authentic record in two volumes, in the custody of the queen's remembrancer in the exchequer, said to be compiled by John de Nevil, a justice itinerant, in the eighteenth and twenty-fourth years of Henry III. Cowell. These volumes were printed in 1507, under the authority of the commissioners of the public records, and contain an account of fees held either immediately of the king or of others who held of the king in capite; fees held in frankalmoigne; serjeanties held of the king; widows and heiresses of tenants in capite, whose marriages were in the gift of the king; churches in the gift of the king; escheats, and sums paid for securtes and aids, especially within the county of Hereford. Cowell; Wharton.

**TESTABLE.** A person is said to be testable when he has capacity to make a will; a man of twenty-one years of age and of sane mind is testable.

**TESTACY.** The state or condition of leaving a will at one's death. Opposed to "intestacy."

**TESTAMENT.** A disposition of personal property to take place after the owner's decease, according to his desire and direction.

A testament is the act of last will, clothed with certain solemnities, by which the testator disposes of his property, either universally, or by universal title, or by particular title. Civil Code La. art. 1571.

Strictly speaking, the term denotes only a will of personal property; a will of land not being called a "testament." The word "testament" is now seldom used, except in the heading of a formal will, which usually begins: "This is the last will and testament of me, A. B.," etc. Sweet.

Testament is the true declaration of a man's last will as to that which he would have to be done after his death. It is compounded, according to Justinian, from testamentio mentis; but the better opinion is that it is a simple word formed from the Latin testor, and not a compound word. Molloy & Whitney.

Testamenta cum duo inter se pugnantia reperiuntur, ultimum ratum est; sic est, cum duo inter se pugnantia reperiuntur in eodem testamento. Co. Litt. 112. When two conflicting wills are found, the last prevails; so it is when two conflicting clauses occur in the same will.

Testamenta latissimam interpretationem habere debent. Jenk. Cent. 81. Wills ought to have the broadest interpretation.

**TESTAMENTARY.** Pertaining to a will or testament; as testamentary causes. Derived from, founded on, or appointed by a testament or will; as a testamentary guardian, letters testamentary, etc.

A paper, instrument, document, gift, ap-
TESTAMENTARY CAPACITY. That measure of mental ability which is recognized in law as sufficient for the making a will.

TESTAMENTARY CAUSES. In English law. Causes or matters relating to the probate of wills, the granting of administrations, and the suing for legacies, of which the ecclesiastical courts have jurisdiction. 3 Bl. Comm. 95, 98.

Testamentary causes are causes relating to the validity and execution of wills. The phrase is generally confined to those causes which were formerly matters of ecclesiastical jurisdiction, and are now dealt with by the court of probate. Mozley & Whitley.

TESTAMENTARY GUARDIAN. A guardian appointed by the last will of a father for the person and real and personal estate of his child until the latter arrives of full age. 1 Bl. Comm. 462; 2 Kent, Comm. 224.

TESTAMENTARY PAPER. An instrument in the nature of a will; an unprobated will; a paper writing which is of the character of a will, though not formally such, and which, if allowed as a testament, will have the effect of a will upon the devolution and distribution of property.

TESTAMENTI FACTIO. Lat. In the civil law. The ceremony of making a testament, either as testator, heir, or witness.

TESTAMENTUM. Lat. In the civil law. A testament; a will, or last will.

In old English law. A testament or will; a disposition of property made in contemplation of death. Bract. fol. 60.

A general name for any instrument of conveyance, including deeds and charters, and so called either because it furnished written testimony of the conveyance, or because it was authenticated by witnesses, (testes.) Spelman.

Testamentum est voluntatis nostrae justa sententia, de eo quod quis post mortem suam fieri velit. A testament is the just expression of our will concerning that which any one wishes done after his death, [or, as Blackstone translates, “the legal declaration of a man’s intentions which he wills to be performed after his death.”] Dig. 23, 1, 1; 2 Bl. Comm. 499.

Testamentum, i. e., testatio mentis, facta nullo presente metu periicii, sed cogitatione mortalitatis. Co. Litt. 322. A testament, i. e., the witnessing of one’s intention, made under no present fear of danger, but in expectancy of death.

TESTAMENTUM INOFFICIOSUM. Lat. In the civil law. An inofficious testament, (q. v.) Testamentum omne morte consummatum. Every will is perfected by death. A will speaks from the time of death only. Co. Litt. 232.

TESTARI. Lat. In the civil law. To testify; to attest; to declare, publish, or make known a thing before witnesses. To make a will. Calvin.

TESTATE. One who has made a will; one who dies leaving a will.

TESTATION. Witness; evidence.

TESTATOR. One who makes or has made a testament or will; one who dies leaving a will. This term is borrowed from the civil law. Inst. 2, 14, 5, 6.

Testatoris ultima voluntas est perimpla secundum veram intentionem suam. Co. Litt. 322. The last will of a testator is to be thoroughly fulfilled according to his real intention.

TESTATRIX. A woman who makes a will; a woman who dies leaving a will; a female testator.

TESTATUM. In practice. When a writ of execution has been directed to the sheriff of a county, and he returns that the defendant is not found in his bailiwick, or that he has no goods there, as the case may be, then a second writ, reciting this former writ and the sheriff’s answer to the same, may be directed to the sheriff of some other county wherein the defendant is supposed to be, or to have goods, commanding him to execute the writ as it may require; and this second writ is called a “testatum” writ, from the words with which it concludes, viz.: “Whereupon, on behalf of the said plaintiff, it is testified in our said court that the said defendant is [or has goods, etc.] within your bailiwick.”

In conveyancing. That part of a deed which commences with the words, “This indenture witnesseth.”
TESTATUM WRIT. In practice. A writ containing a testatum clause; such as a testatum copias, a testatum fl. fa., and a testatum ca. sa. See Testatum.

TESTATUS. Lat. In the civil law. Testate; one who has made a will. Dig. 50, 17, 7.

TESTE MEIPSO. Lat. In old English law and practice. A solemn formula of attestation by the sovereign, used at the conclusion of charters, and other public instruments, and also of original writs out of chancery. Spelman.

TESTE OF A WRIT. In practice. The concluding clause, commencing with the word "Witness," etc. A writ which bears the teste is sometimes said to be tested.

"Teste" is a word commonly used in the last part of every writ, wherein the date is contained, beginning with the words, "Teste meipso," meaning the sovereign, if the writ be an original writ, or be issued in the name of the sovereign; but, if the writ be a judicial writ, then the word "Teste" is followed by the name of the chief judge of the court in which the action is brought, or, in case of a vacancy of such office, in the name of the senior puisne judge. Mozley & Whitley.

TESTED. To be tested is to bear the teste, (q. v.)

TESTES. Lat. Witnesses.

Testes ponderantur, non numerantur. Witnesses are weighed, not numbered. That is, in case of a conflict of evidence, the truth is to be sought by weighing the credibility of the respective witnesses, not by the mere numerical preponderance on one side or the other.

Testes qui postulat debet eis sumptus competentes. Whosoever demands witnesses must find them in competent provision.

TESTES, TRIAL PER. A trial had before a judge without the intervention of a jury, in which the judge is left to form in his own breast his sentence upon the credit of the witnesses examined; but this mode of trial, although it was common in the civil law, was seldom resorted to in the practice of the common law, but it is now becoming common when each party waives his right to a trial by jury. Brown.

Testibus deponentibus in pari numero, dignioribus est credendum. Where the witnesses who testify are in equal number, [on both sides,] the more worthy are to be believed. 4 Inst. 279.

TESTIFY. To bear witness; to give evidence as a witness; to make a solemn declaration, under oath or affirmation, in a judicial inquiry, for the purpose of establishing or proving some fact.

Testimonia ponderanda sunt, non numeranda. Evidence is to be weighed, not enumerated.

TESTIMONIAL. Besides its ordinary meaning of a written recommendation to character, "testimonial" has a special meaning, under St. 39 Eliz. c. 17, § 3, passed in 1597, under which it signified a certificate under the hand of a justice of the peace, testifying the place and time when and where a soldier or mariner landed, and the place of his dwelling or birth, unto which he was to pass, and a convenient time limited for his passage. Every idle and wandering soldier or mariner not having such a testimonial, or willfully exceeding for above fourteen days the time limited thereby, or forging or counterfeiting such testimonial, was to suffer death as a felon, without benefit of clergy. This act was repealed, in 1812, by St. 52 Geo. III. c. 31. Mozley & Whitley.

TESTIMONIAL PROOF. In the civil law. Proof by the evidence of witnesses, i. e., parol evidence, as distinguished from proof by written instruments, which is called "literal" proof.

TESTIMONIES. In Spanish law. An attested copy of an instrument by a notary.

TESTIMONIUM CLAUSE. In conveyancing. That clause of a deed or instrument with which it concludes: "In witness whereof, the parties to these presents have hereunto set their hands and seals."

TESTIMONY. Evidence of a witness; evidence given by a witness, under oath or affirmation; as distinguished from evidence derived from writings, and other sources. Testimony is not synonymous with evidence. It is but a species, a class, or kind of evidence. Testimony is the evidence given by witnesses. Evidence is whatever may be given to the jury as tending to prove a case. It includes the testimony of witnesses, documents, admissions of parties, etc. 13 Ind. 389. See Evidence.

TESTIS. Lat. A witness; one who gives evidence in court, or who witnesses a document.

Testis de visu præponderat aliis. 4 Inst. 279. An eye-witness is preferred to others.
Testis lupanaris sufficit ad factum in lupanari. Moore, 817. A lewd person is a sufficient witness to an act committed in a brothel.

Testis nemo in sua causa esse potest. No one can be a witness in his own cause.

Testis oculatus unus plus valet quam auriti decem. 4 Inst. 279. One eye-witness is worth more than ten ear-witnesses.

TESTMOIGNE. An old law French term, denoting evidence or testimony.

Testmoignes ne poent testifier le negative, mes l'affirmative. Witnesses cannot testify to a negative; they must testify to an affirmative. 4 Inst. 279.

TEST-PAPER. In practice. A paper or instrument shown to a jury as evidence. A term used in the Pennsylvania courts. 7 Pa. St. 428.

TEXT-BOOK. A legal treatise which lays down principles or collects decisions on any branch of the law.

TEXTUS ROFFENSIS. In old English law. The Rochester text. An ancient manuscript containing many of the Saxon laws, and the rights, customs, tenures, etc., of the church of Rochester, drawn up by Ermulph, bishop of that see from A. D. 1114 to 1124. Cowell.

THANAGE OF THE KING. A certain part of the king's land or property, of which the ruler or governor was called "thane." Cowell.

THANE. An Anglo-Saxon nobleman; an old title of honor, perhaps equivalent to "baron." There were two orders of thanes,—the king's thanes and the ordinary thanes. Soon after the Conquest this name was disused. Cowell.

THANELANDS. Such lands as were granted by charter of the Saxon kings to their thanes with all immunities, except from the trinoda necessitas. Cowell.

THANESHIP. The office and dignity of a thane; the seigniory of a thane.

That which I may defeat by my entry I make good by my confirmation. Co. Litt. 300.

THAVIES INN. An inn of chancery. See INNS OF CHANCERY.

THE. An article which particularizes the subject spoken of. "Grammatical niceties should not be resorted to without necessity; but it would be extending liberality to an unwarrantable length to confound the articles 'a' and 'the.' The most unlettered persons understand that 'a' is indefinite, but 'the' refers to a certain object." Per Tilghman, C. J., 2 Bin. 516.

The fund which has received the benefit should make the satisfaction. 4 Bouv. Inst. no. 3730.

THEATER. Any edifice used for the purpose of dramatic or operatic or other representations, plays, or performances, for admission to which entrance-money is received, not including halls rented or used occasionally for concerts or theatrical representations. Act Cong. July 19, 1806, § 9, (14 St. at Large, 128.)

THEFT. An unlawful felonious taking away of another man's movable and personal goods against the will of the owner. Jacob.

Theft is the fraudulent taking of corporeal personal property belonging to another, from his possession, or from the possession of some person holding the same for him, without his consent, with intent to deprive the owner of the value of the same, and to appropriate it to the use or benefit of the person taking. 1 Tex. App. 65.

In Scotch law. The secret and felonious abstraction of the property of another for sake of lucre, without his consent. Alls. Crim. Law, 250.

THEFT-BOTE. The offense committed by a party who, having been robbed and knowing the felon, takes back his goods again, or receives other amends, upon an agreement not to prosecute.

Theft-bote est emenda furti capta, sine consideratione curiae domini regis. 3 Inst. 134. Theft-bote is the paying money to have goods stolen returned, without having any respect for the court of the king.

THELONIO IRRATIONABILI HABENDO. A writ that formerly lay for him that had any part of the king's demesne in fee-farm, to recover reasonable toll of the king's tenants there, if his demesne had been accustomed to be tolled. Reg. Orig. 87.

THELONIUM. An abolished writ for citizens or burgesses to assert their right to exemption from toll. Fitzh. Nat. Brev. 226.

THELONMANNUS. The toll-man or officer who receives toll. Cowell.

THELUSSON ACT. The statute 39 & 40 Geo. III. c. 98, which restricted accumulations to a term of twenty-one years from the
testator's death. It was passed in consequence of litigation over the will of one The-
lusson.

THEME. In Saxon law. The power of having jurisdiction over naifs or villeins, with their suits or offspring, lands, goods, and chattels. Co. Litt. 116a.

THEMAGIUM. A duty or acknowledgment paid by inferior tenants in respect of theme or team. Cowell.

THEN. This word, as an adverb, means "at that time," referring to a time specified, either past or future. It has no power in itself to fix a time. It simply refers to a time already fixed. 16 S. C. 329. It may also denote a contingency, and be equivalent to "in that event." 20 N. J. Law, 505.

THENCE. In surveying, and in descriptions of lands by courses and distances, this word, preceding each course given, imports that the following course is continuous with the one before it. 141 Mass. 66, 6 N. E. Rep. 702.

THEOCRACY. Government of a state by the immediate direction of God, (or by the assumed direction of a supposititious divinity,) or the state thus governed.

THEODEN. In Saxon law. A husbandman or inferior tenant; an under-thane. Cowell.

THEODOSIAN CODE. See CODEX THEODOSIANUS.

THEOF. In Saxon law. Offenders who joined in a body of seven to commit depredations. Wharton.

THEOWES, THEOWMEN, or THEWS. In feudal law. Slaves, captives, or bondmen. Spel. Feuds, c. 5.

THEREUPON. At once; without interruption; without delay or lapse of time. 133 Mass. 205.

THESAURER. Treasurer. 3 State Tr. 691.

THESAURAS, THESAURIUM. The treasury; a treasure.

THESAURUS ABSCONDITUS. In old English law. Treasure hidden or buried. Spelman.

Thesaurus competit domino regi, et non domino liberatis, nisi sit per verba specialia. Fitz. Coron. 281. A treasure belongs to the king, and not to the lord of a liberty, unless it be through special words.

THESAURUS INVENTUS. In old English law. Treasure found; treasure-trove. Bract. fols. 119, 123.

Thesaurus inventus est vetus dispositio pecuniae, etc., cujus non extat modo memoria, adeo ut jam dominium non habeat. 3 Inst. 132. Treasure-trove is an ancient hiding of money, etc., of which no recollection exists, so that it now has no owner.

Thesaurus non competit regi, nisi quando nemo se sit qui abscondit thesa­rum. 3 Inst. 132. Treasure does not belong to the king, unless no one knows who hid it.

Thesaurus regis est vinculum pacis et bellorum nervus. Godb. 293. The king's treasure is the bond of peace and the sinews of war.

THESMO THETE. A law-maker; a law-giver.

THEOTHINGA. A tithing

THIA. Lat. In the civil and old European law. An aunt.

THIEF. One who has been guilty of larceny or theft. The term covers both compound and simple larceny. 1 Hill, 25.

THINGS. The most general denomination of the subjects of property, as contradistinguished from persons. 2 Bl. Comm. 16.

The word "estate" in general is applicable to anything of which riches or fortune may consist. The word is likewise relative to the word "things," which is the second object of jurisprudence, the rules of which are applicable to persons, things, and actions. Civil Code La. art. 448.

Such permanent objects, not being persons, as are sensible, or perceptible through the senses. Aust. Jur. § 452.

A "thing" is the object of a right; i.e., whatever is treated by the law as the object over which one person exercises a right, and with reference to which another person lies under a duty. Holl. Jur. § 53.

Things are the subjects of dominion or property, as distinguished from persons. They are distributed into three kinds: (1) Things real or immovable, comprehending lands, tenements, and hereditaments; (2) things personal or movable, comprehending goods and chattels; and (3) things mixed, partaking of the characteristics of the two former, as a title-deed, a term for years. The civil law divided things into corporeal (tangibile possessum) and incorporeal (tangibl non possessum.) Wharton.

Things accessory are of the nature of the principal. Finch, Law, b. 1. c. 3, n. 25.

Things are construed according to that which was the cause thereof. Finch, Law, b. 1. c. 3, n. 4.
Things are dissolved as they be contracted. Finch, Law, b. 1, c. 3, n. 7.

Things grounded upon an ill and void beginning cannot have a good perfection. Finch, Law, b. 1, c. 3, n. 8.

THINGS IN ACTION. A thing in action is a right to recover money or other personal property by a judicial proceeding. Civil Code Cal. § 953. See CHOICE IN ACTION.

Things in action, entry, or re-entry cannot be granted over. 19 N. Y. 100, 103.

Things incident cannot be severed. Finch, Law, b. 3, c. 1, n. 12.

Things incident pass by the grant of the principal. 25 Barb. 284, 310.

Things incident shall pass by the grant of the principal, but not the principal by the grant of the incident. Co. Litt. 152a, 151b; Broom, Max. 433.

THINGS PERSONAL. Goods, money, and all other movables, which may attend the owner’s person wherever he thinks proper to go. 2 Bl. Comm. 16. Things personal consist of goods, money, and all other movables, and of such rights and profits as relate to movables. 1 Steph. Comm. 156.

THINGS REAL. Such things as are permanent, fixed, and immovable, which cannot be carried out of their place; as lands and tenements. 2 Bl. Comm. 16. This definition has been objected to as not embracing incorporeal rights. Mr. Stephen defines things real to “consist of things substantial and immovable, and of the rights and profits annexed to or issuing out of these.” 1 Steph. Comm. 156. Things real are otherwise described to consist of lands, tenements, and hereditaments.

THINGUS. In Saxon law. A thane or nobleman; knight or freeman. Cowell.

THINK. In a special finding by a jury, this word is equivalent to “believe,” and expresses the conclusion of the jury with sufficient positiveness. 59 Iowa, 414, 13 N. W. Rep. 424.

THIRD-NIGHT-AWN-HINDE. By the laws of St. Edward the Confessor, if any man lay a third night in an inn, he was called a “third-night-awn-hinde,” and his host was answerable for him if he committed any offense. The first night, forman-night, or uncuth, (unknown,) he was reckoned a stranger; the second night, twa-night, a guest; and the third night, an awn-hinde, a domestic. Bract. 1. 3.

THIRD PARTIES. A term used to include all persons who are not parties to the contract, agreement, or instrument of writing by which their interest in the thing conveyed is sought to be affected. 1 Mart. (N. S.) 384.

THIRD PENNY. A portion (one-third) of the amount of all fines and other profits of the county court, which was reserved for the earl, in the early days when the jurisdiction of those courts was extensive, the remainder going to the king.

THIRDBOROUGH, or THIRDBORROW. An under-constable. Cowell.

THIRDINGS. The third part of the corn growing on the land, due to the lord for a heriot on the death of his tenant, within the manor of Turfet, in Hereford. Blount.

THIRDS. The designation, in colloquial language, of that portion of a decedent’s personal estate (one-third) which goes to the widow where there is also a child or children.

THIRLAGE. In Scotch law. A servitude by which lands are stricktured or “thirled” to a particular mill, to which the possessors must carry the grain of the growth of the stricktured lands to be ground, for the payment of such duties as are either expressed or implied in the constitution of the right. Ersk. Inst. 2, 9, 18.

THIRTY-NINE ARTICLES. See ARTICLES OF RELIGION.

THIS. When “this” and “that” refer to different things before expressed, “this” refers to the thing last mentioned, and “that” to the thing first mentioned. 96 Pa. St. 251.

THIS DAY SIX MONTHS. Fixing “this day six months,” or “three months,” for the next stage of a bill, is one of the modes in which the house of lords and the house of commons reject bills of which they disapprove. A bill rejected in this manner cannot be reintroduced in the same session. Wharton.

THISTLE-TAKE. It was a custom within the manor of Halton, in Chester, that if, in driving beasts over a common, the driver permitted them to graze or take but a thistle, he should pay a halfpenny a-piece to the lord of the fee. And at Fiskerton, in Nottinghamshire, by ancient custom, if a
native or a cottager killed a swine above a
year old, he paid to the lord a penny, which
purchase of leave to kill a hog was also called
"thistle-take." Cowell.

THOROUGHFARE. The term means,
according to its derivation, a street or passage
through which one can fare, (travel;) that is,
a street or highway affording an unob-
structed exit at each end into another street
or public passage. If the passage is closed at
one end, admitting no exit there, it is called
a "cui de sac."

THRAVE. In old English law. A meas-
ure of corn or grain, consisting of twenty-
four sheaves or four shocks, six sheaves to
every shock. Cowell.

THREAD. A middle line; a line run-
ning through the middle of a stream or road.
See FILUM; FILUM AQUÆ; FILUM VITÆ.

THREAT. In criminal law. A menace;
a declaration of one's purpose or intention to
work injury to the person, property, or rights
of another.

A threat has been defined to be any menace of
such a nature and extent as to unseal the mind
of the person on whom it operates, and to take
away from his acts that free, voluntary action
which alone constitutes consent. Abbott.

THREATENING LETTERS. Sending
threatening letters is the name of the offense
of sending letters containing threats of the
third recognized by the statute as criminal.

THREE-DOLLAR PIECE. A gold
coin of the United States, of the value of
three dollars; authorized by the seventh sec-
tion of the act of Feb. 21, 1853.

THREANGES. Vassals, but not of the
lowest degree; those who held lands of the
chief lord.

THRIPPING. In Saxon and Old
English law. The third part of a county; a di-
vision of a county consisting of three or more
hundreds. Cowell. Corrupted to the modern
"riding," which is still used in Yorkshire.
1 Bl. Comm. 116.

THROAT. In medical jurisprudence.
The front or anterior part of the neck.
Where one was indicted for murder by "cut-
ing the throat" of the deceased, it was held
that the word "throat" was not to be con-
fined to that part of the neck which is scien-
tifically so called, but must be taken in its
common acceptation. 6 Car. & P. 401.

THROUGH. This word is sometimes
equivalent to "over;" as in a statute in ref-
ference to laying out a road "through" certain
grounds. 119 Ill. 147, 7 N. E. Rep. 627.

THROW OUT. To ignore, (a bill of in-
dictment.)

THRUSTING. Within the meaning of
a criminal statute, "thrusting" is not neces-
sarily an attack with a pointed weapon; it
means pushing or driving with force, whether
the point of the weapon be sharp or not. 33

THRYMSA. A Saxon coin worth four-
pence. Du Fresne.

THUDE-WEALD. A woodward, or per-
son that looks after a wood.

THURINGIAN CODE. One of the
"barbarian codes," as they are termed; sup-
posed by Montesquieu to have been given by
Theodoric, king of Austrasia, to the Thuringi-
gans, who were his subjects. Esprit des
Lois, lib. 28, c. l.

THWERTNICK. In old English law
The custom of giving entertainments to a
sheriff, etc., for three nights.

TICK. A colloquial expression for credit
or trust; credit given for goods purchased.

TICKET. In contracts. A slip of pa-
per containing a certificate that the person to
whom it is issued, or the holder, is entitled
to some right or privilege therein mentioned
or described; such, for example, are railroad
tickets, theater tickets, parish tickets, lottery
tickets, etc.

In election law. A ticket is a paper up-
on which is written or printed the names of
the persons for whom the elector intends to
vote, with a designation of the office to which
each person so named is intended by him to
be chosen. Pol. Code Cal. § 1185.

TICKET OF LEAVE. In English law.
A license or permit given to a convict, as a
reward for good conduct, particularly in the
penal settlements, which allows him to go
at large, and labor for himself, before the ex-
piration of his sentence, subject to certain
specific conditions, and revocable upon sub-
sequent misconduct.

TICKET-OF-LEAVE MAN. A con-
vict who has obtained a ticket of leave.

TIDAL. In order that a river may be
"tidal" at a given spot, it may not be ne-
cessary that the water should be salt, but the
spot must be one where the tide, in the ordi-
nary and regular course of things, flows and
reflows. 8 Q. B. Div. 639.
TIDE. The ebb and flow of the sea.

TIDE-WATER. Water which falls and rises with the ebb and flow of the tide. The term is not usually applied to the open sea, but to coves, bays, rivers, etc.

TIDESMEN, in English law, are certain officers of the custom-house, appointed to watch or attend upon ships till the customs are paid; and they are so called because they go aboard the ships at their arrival in the mouth of the Thames, and come up with the tide. Jacob.

TIE, n. To bind. "The parson is not tied to find the parish clerk." 1 Leon. 94.

TIE, a. When, at an election, neither candidate receives a majority of the votes cast, but each has the same number, there is said to be a "tie." So when the number of votes cast in favor of any measure, in a legislative or delibrative body, is equal to the number cast against it.

TIEIL. L. Fr. Such. Nul tiel record, no such record.

TIEMPO INHABIL. Span. A time of inability; a time when the person is not able to pay his debts, (when, for instance, he may not alienate property to the prejudice of his creditors.) The term is used in Louisiana. 3 Mart. (N. S.) 270; 4 Mart. (N. S.) 292.

TIERCE. L. Fr. Third. Tierce meta, third hand. Brit. c. 120.

TIERCE. A liquid measure, containing the third part of a pipe, or forty-two gallons.

TIGH. In old records. A close or enclosure; a croft. Cowell.

TIGHT. As colloquially applied to a note, bond, mortgage, lease, etc., this term signifies that the clauses providing the creditor's remedy in case of default (as, by foreclosure, execution, distress, etc.) are summary and stringent.

TIGNI IMMITTENDI. Lat. In the civil law. The name of a servitude which is the right of inserting a beam or timber from the wall of one house into that of a neighboring house, in order that it may rest on the latter, and that the wall of the latter may bear this weight. Wharton. See Dig. 8, 2, 33.

TIGNUM. A civil-law term for building material; timber.

TIHLER. In old Saxon law. An accusation.

TILLAGE. A place tilled or cultivated; land under cultivation, as opposed to lands lying fallow or in pasture.

TIMBER. Wood felled for building or other such like use. In a legal sense it generally means (in England) oak, ash, and elm, but in some parts of England, and generally in America, it is used in a wider sense, which is recognized by the law.

The term "timber," as used in commerce, refers generally only to large sticks of wood, squared or capable of being squared for building houses or vessels; and certain trees only having been formerly used for such purposes, namely, the oak, the ash, and the elm, they alone were recognized as timber trees. But the numerous uses to which wood has come to be applied, and the general employment of all kinds of trees for some valuable purpose, has wrought a change in the general acceptance of terms in connection therewith, and we find that Webster defines "timber" to be "that sort of wood which is proper for buildings or for tools, utensils, furniture, carriages, fences, ships, and the like." This would include all sorts of wood from which any useful articles may be made, or which may be used to advantage in any class of manufacture or construction. 14 Fed. Rep. 894.

TIMBER-TREES. Oak, ash, elm, in all places, and, by local custom, such other trees as are used in building. 2 Bl. Comm. 281. See Timber.

TIMBERLODE. A service by which tenants were bound to carry timber felled from the woods to the lord's house. Cowell.

TIME. The measure of duration. The word is expressive both of a precise point or terminus and of an interval between two points.

In pleading. A point in or space of duration at or during which some fact is alleged to have been committed.

TIME-BARGAIN. In the language of the stock exchange, a time-bargain is an agreement to buy or sell stock at a future time, or within a fixed time, at a certain price. It is in reality nothing more than a bargain to pay differences.

TIME IMMEMORIAL. Time whereof the memory of a man is not to the contrary.


Lord Coke defines time of memory to be "when no man alive hath had any proof to the contrary, nor hath any commandance to the contrary." Co. Lit. 56c, 56d.

TIME OUT OF MEMORY. Time beyond memory; time out of mind; time to which memory does not extend.
TIME-POLICY. A policy of marine insurance in which the risk is limited, not to a given voyage, but to a certain fixed term or period of time.

TIME. REASONABLE. "Reasonable time" has never been held to be any determined number of days or years as applied to every case, like the statute of limitations, but must be decided in each case upon all the elements of it which affect that question. 91 U. S. 591.

TIME THE ESSENCE OF THE CONTRACT. A case in which "time is of the essence of the contract" is one where the parties evidently contemplated a punctual performance, at the precise time named, as vital to the agreement, and one of its essential elements. Time is not of the essence of the contract in any case where a moderate delay in performance would not be regarded as an absolute violation of the contract.

TIMOCRACY. An aristocracy of property; government by men of property who are possessed of a certain income.

Timores vani sunt aestimandi qui non cadunt in constantem virum. 7 Coke, 17. Fears which do not assail a resolute man are to be accounted vain.

TINBOUNDING is a custom regulating the manner in which tin is obtained from waste-land, or land which has formerly been waste-land, within certain districts in Cornwall and Devon. The custom is described in the leading case on the subject as follows: "Any person may enter on the waste-land of another, and may mark out by four corner boundaries a certain area. A written description of the plot of land so marked out with metes and bounds, and the name of the person, is recorded in the local stannaries court, and is proclaimed on three successive court-days. If no objection is sustained by any other person, the court awards a writ to the bailiff to deliver possession of the said 'bounds of tin-work' to the 'bounder,' who thereupon has the exclusive right to search for, dig, and take for his own use all tin and tin-ore within the inclosed limits, paying as a royalty to the owner of the waste a certain proportion of the produce under the name of 'toll-tin.'" 10 Q. B. 26, cited in Elton Commons, 113. The right of tinbounding is not a right of common, but is an interest in land, and, in Devonshire, a corporeal hereditament. In Cornwall tin bounds are personal estate. Sweet.

TINEL. L. Fr. A place where justice was administered. Kelham.

TINEMAN. Sax. In old forest law. A petty officer of the forest who had the care of vert and venison by night, and performed other servile duties.

TINET. In old records. Brush-wood and thorns for fencing and hedging. Cowell; Blount.

TINEWALD. The ancient parliament or annual convention in the Isle of Man, held upon Midsummer-day, at St. John's chapel. Cowell.

TINKERMEN. Fishermen who destroyed the young fry on the river Thames by nets and unlawful engines. Cowell.

TINELLUS. In old Scotch law. The sea-mark; high-water mark. Tide-mouth. Skene.

TINPENNY. A tribute paid for the liberty of digging in tin-mines. Cowell.

TINSEL OF THE FEU. In Scotch law. The loss of the feu, from allowing two years of feu duty to run into the third unpaid. Bell.

TIPPLING HOUSE. A place where intoxicating drinks are sold in drams or small quantities to be drunk on the premises, and where men resort for drinking purposes. See 47 Ill. 370.

TIPSTAFF. In English law. An officer appointed by the marshal of the king's bench to attend upon the judges with a kind of rod or staff tipped with silver, who take into their custody all prisoners, either committed or turned over by the judges at their chambers, etc. Jacob.

In American law. An officer appointed by the court, whose duty is to wait upon the court when it is in session, preserve order, serve process, guard juries, etc.

TITHE RENT-CHARGE. A rent-charge established in lieu of tithes, under the tithes commutation act, 1836, (St. 6 & 7 Wm. IV. c. 71.) As between landlord and tenant, the tenant paying the tithe rent-charge is entitled, in the absence of express agreement, to deduct it from his rent, under section 70 of the above act. And a tithe rent-charge unpaid is recoverable by distress as rent in arrear. Mozley & Whitley.

TITHE-FREE. Exempted from the payment of tithes.

TITHE-FREE.
TITHER. One who gathers tithes.

TITHES. In English law. The tenth part of the increase, yearly arising and renewing from the profits of lands, the stock upon lands, and the personal industry of the inhabitants. 2 Bl. Comm. 24. A species of incorporeal hereditament, being an ecclesiastical inheritance collateral to the estate of the land, and due only to an ecclesiastical person by ecclesiastical law. 1 Crabb, Real Prop. § 133.

Pradial tithes are such as arise immediately from the ground; as grain of all sorts, hay, wood, fruits, and herbs. Mixed tithes are such as do not arise immediately from the ground, but from things nourished by the ground; as calves, lambs, chickens, colts, milk, cheese, and eggs. Personal tithes are such as arise by the industry of man, being the tenth part of the clear gain, after charges deducted. 1 Crabb, Real Prop. § 133.

TITHING. One of the civil divisions of England, being a portion of that greater division called a "hundred." It was so called because ten freeholders with their families composed one. It is said that they were all knit together in one society, and bound to the king for the peaceable behavior of each other. In each of these societies there was one chief or principal person, who, from his office, was called "teething-man," now "tithing-man." Brown.

TITHING-MAN. In Saxon law. This was the name of the head or chief of a decennary. In modern English law, he is the same as an under-constable or peace-officer.

In modern law. A constable, "After the introduction of justices of the peace, the offices of constable and tithing-man became so similar that we now regard them as precisely the same." Willc. Const. Introd.

In New England. A parish officer annually elected to preserve good order in the church during divine service, and to make complaint of any disorderly conduct. Webster.

TITHING-PENNY. In Saxon and old English law. Money paid to the sheriff by the several tithings of his county. Cowell.

TITIUS. In Roman law. A proper name, frequently used in designating an indefinite or fictitious person, or a person referred to by way of illustration. "Titius" and "Selius," in this use, correspond to "John Doe" and "Richard Roe," or to "A. B." and "C. D."

TITLE. The radical meaning of this word appears to be that of a mark, style, or designation; a distinctive appellation; the name by which anything is known. Thus, in the law of persons, a title is an appellation of dignity or distinction, a name denoting the social rank of the person bearing it; as "duke" or "count." So, in legislation, the title of a statute is the heading or preliminary part, furnishing the name by which the act is individually known. It is usually prefixed to the statute in the form of a brief summary of its contents; as "An act for the prevention of gaming." Again, the title of a patent is the short description of the invention, which is copied in the letters patent from the inventor's petition; e.g., "a new and improved method of drying and preparing malt." Johns. Pat. Man. 90.

In the law of trade-marks, a title may become a subject of property; as one who has adopted a particular title for a newspaper, or other business enterprise, may, by long and prior user, or by compliance with statutory provisions as to registration and notice, acquire a right to be protected in the exclusive use of it. Abbott.

The title of a book, or any literary composition, is its name; that is, the heading or caption prefixed to it, and disclosing the distinctive appellation by which it is to be known. This usually comprises a brief description of its subject-matter and the name of its author.

"Title" is also used as the name of one of the subdivisions employed in many literary works, standing intermediate between the divisions denoted by the term "books" or "parts," and those designated as "chapters" and "sections."

In real property law. Title is the means whereby the owner of lands has the just possession of his property. Co. Litt. 345; 2 Bl. Comm. 195.

Title is the means whereby a person's right to property is established. Code Ga. 1882, § 2348.

Title may be defined generally to be the evidence of right which a person has to the possession of property. The word "title" certainly does not merely signify the right which a person has to the possession of property; because there are many instances in which a person may have the right to the possession of property, and at the same time have no title to the same. In its ordinary legal acceptance, however, it generally seems to imply a right of possession also. It therefore appears, on the whole, to signify the outward evi-
dence of the right, rather than the mere right itself. Thus, when it is said that the “most imperfect degree of title consists in the mere naked possession or actual occupation of an estate,” it means that the mere circumstance of occupying the estate is the weakest species of evidence of the occupier’s right to such possession. The word is defined by Sir Edward Coke thus: Titulus est justa causa possessioni, t. quod nostrum est. (1 Inst. 84); that is to say, the ground, whether purchase, gift, or other such ground of acquiring; “titulus” being distinguished in this respect from “modus acquirendi,” which is the traditio, i.e., delivery or conveyance of the thing. Brown.

Title is when a man hath lawful cause of entry into lands whereof another is seized; and it signifies also the means whereby a man comes to lands or tenements, as by feoffment, last will and testament, etc. The word “title” includes a right, but is the more general word. Every right is a title, though every title is not a right for which an action lies. Jacob.

A title is a lawful cause or ground of possessing that which is ours. An interest, though primarily it includes the terms “estate,” “right,” and “title,” has latterly come often to mean less, and to be the same as “concern,” “share,” and the like. 73 N. Y. 456.

The investigation of titles is one of the principal branches of conveyancing, and in that practice the word “title” has acquired the sense of “history,” rather than of “right.” Thus, we speak of an abstract of title, and of investigating a title, and describe a document as forming part of the title to property. Sweet.

In pleading. The right of action which the plaintiff has. The declaration must show the plaintiff’s title, and, if such title be not shown in that instrument, the defect cannot be cured by any of the future pleadings. Bac. Abr. “Pleas,” etc., B 1.

In procedure, every action, petition, or other proceeding has a title, which consists of the name of the court in which it is pending, the names of the parties, etc. Administration actions are further distinguished by the name of the deceased person whose estate is being administered. Every pleading, summons, affidavit, etc., commences with the title. In many cases it is sufficient to give what is called the “short title” of an action, namely, the court, the reference to the record, and the surnames of the first plaintiff and the first defendant. Sweet.

TITLE, COVENANTS FOR. Covenants usually inserted in a conveyance of land, on the part of the grantor, and binding him for the completeness, security, and continuance of the title transferred to the grantee. They comprise “covenants for seisin, for right to convey, against incumbrances, for quiet enjoyment, sometimes for further assurance, and almost always of warranty.” Rawle, Cov. § 21.

TITLE-DEEDS. Deeds which constitute or are the evidence of title to lands.

TITLE OF A CAUSE. The distinctive appellation by which any cause in court, or other judicial proceeding, is known and discriminated from others.

TITLE OF AN ACT. The heading, or introductory clause, of a statute, wherein is briefly recited its purpose or nature, or the subject to which it relates.

TITLE OF CLERGYMEN, (to orders.) Some certain place where they may exercise their functions; also an assurance of being preferred to some ecclesiastical benefit. 2 Steph. Comm. 661.

TITLE OF DECLARATION. That preliminary clause of a declaration which states the name of the court and the term to which the process is returnable.

TITLE OF ENTRY. The right to enter upon lands. Cowell.

TITLE TO ORDERS. In English ecclesiastical law, a title to orders is a certificate of preferment or provision required by the thirty-third canon, in order that a person may be admitted into holy orders, unless he be a fellow or chaplain in Oxford or Cambridge, or master of arts of five years’ standing in either of the universities, and living there at his sole charges; or unless the bishop himself intends shortly to admit him to some benefice or curacy. 2 Steph. Comm. 661.

TITULADA. In Spanish law. Title. White, New Recop. b. 1, tit. 5, c. 3, § 2.

TITULARS OF ERECTION. Persons who in Scotland, after the Reformation, obtained grants from the crown of the monasteries and priories then erected into temporal lordships. Thus the titles formerly held by the religious houses, as well as the property of the lands, were conferred on these grantees, who were also called “lords of erection” and “titulars of the teinds.” Bell.

TITULUS. Lat. In the civil law. Title; the source or ground of possession; the means whereby possession of a thing is acquired, whether such possession be lawful or not.

In old ecclesiastical law. A temple or church; the material edifice. So called be-
cause the priest in charge of it derived therefrom his name and title. Spelman.

Titulus est justa causa possidenti id quod nostrum est; dicitur a tuendo. 8 Coke, 153. A title is the just right of possessing that which is our own; it is so called from "tuendo," defending.

TO. This is a word of exclusion, when used in describing premises; it excludes the terminus mentioned. 69 Me. 514.

TO HAVE AND TO HOLD. The words in a conveyance which show the estate intended to be conveyed. Thus, in a conveyance of land in fee-simple, the grant is to "A and his heirs, to have and to hold the said [land] unto and to the use of the said A., his heirs and assigns forever." Williams, Real Prop. 198.

Strictly speaking, however, the words "to have" denote the estate to be taken, while the words "to hold" signify that it is to be held of some superior lord, i.e., by way of tenure, (g. e.) The former clause is called the "habendum;" the latter, the "tenendum." Co. Litt. 6a.

TOALIA. A towel. There is a tenure of lands by the service of waiting with a towel at the king's coronation. Cowell.

TOBACCONIST. Any person, firm, or corporation whose business it is to manufacture cigars, snuff, or tobacco in any form. Act of congress of July 13, 1866, § 9; 14 St. at Large, 120.

TOFT. A place or piece of ground on which a house formerly stood, which has been destroyed by accident or decay. 2 Broom & H. Comm. 17.

TOFTMAN. In old English law. The owner of a toft. Cowell; Spelman.

TOGATI. Lat. In Roman law. Advocates; so called under the empire because they were required, when appearing in court to plead a cause, to wear the toga, which had then ceased to be the customary dress in Rome. Vicat.

TOKEN. A sign or mark; a material evidence of the existence of a fact. Thus, cheating by "false tokens" implies the use of fabricated or deceitfully contrived material objects to assist the person's own fraud and falsehood in accomplishing the cheat.

TOKEN-MONEY. A conventional medium of exchange consisting of pieces of metal, fashioned in the shape and size of coins, and circulating among private persons, by consent, at a certain value. No longer permitted or recognized as money. 2 Chit. Com. Law, 182.

TOLERATION. The allowance of religious opinions and modes of worship in a state which are contrary to, or different from, those of the established church or belief. Webster.

TOLERATION ACT. The statute 1 W. & M. St. 1, c. 18, for exempting Protestant dissenters from the penalties of certain laws is so called. Brown.

TOLL, n. To bar, defeat, or take away; thus, to toll the entry means to deny or take away the right of entry.

TOLL, a. In English law. Toll means an excise of goods; a seizure of some part for permission of the rest. It has two significations: A liberty to buy and sell within the precincts of the manor, which seems to import as much as a fair or market; a tribute or custom paid for passage. Wharton.

A Saxon word, signifying, properly, a payment in towns, markets, and fairs for goods and cattle bought and sold. It is a reasonable sum of money due to the owner of the fair or market, upon sale of things tollable within the same. The word is used for a liberty as well as to take as to be free from toll. Jacob.

In modern English law. A reasonable sum due to the lord of a fair or market for things sold there which are tollable. 1 Crabb, Real Prop. p. 350, § 683.

In contracts. A sum of money for the use of something, generally applied to the consideration which is paid for the use of a road, bridge, or the like, of a public nature.

TOLL AND TEAM. Sax. Words constantly associated with Saxon and old English grants of liberties to the lords of manors. Bract. fols. 56, 1046, 124b, 154b. They appear to have imported the privileges of having a market, and jurisdiction of villeins. See TEAM.

TOLL-GATHERER. The officer who takes or collects toll.

TOLL-THOROUGH. In English law. A toll for passing through a highway, or over a ferry or bridge. Cowell. A toll paid to a town for such a number of beasts, or for every beast that goes through the town, or over a bridge or ferry belonging to it. Com. Dig. "Toll," C. A toll claimed by an individual where he is bound to repair some particular highway. 3 Steph. Comm. 257.
TOLL-TRAVERSE. In English law. A toll for passing over a private man's ground. Cowell. A toll for passing over the private soil of another, or for driving beasts across his ground. Cro. Eliz. 710.

TOLL-TURN. In English law. A toll on beasts returning from a market. 1 Crabb, Real Prop. p. 101, § 102. A toll paid at the return of beasts from fair or market, though they were not sold. Cowell.

TOLLAGE. Payment of toll; money charged or paid as toll; the liberty or franchise of charging toll.

TOLLBOOTH. A prison; a custom-house; an exchange; also the place where goods are weighed. Wharton.

TOLLDISH. A vessel by which the toll of corn for grinding is measured.

Tolle voluntatem et erit omnis actus indifferentis. Take away the will, and every action will be indifferent. Bract. fol. 2.

TOLLER. One who collects tribute or taxes.

TOLLERE. Lat. In the civil law. To lift up or raise; to elevate; to build up.

TOLLS. In a general sense, tolls signify any manner of customs, subsidy, prestation, imposition, or sum of money demanded for exporting or importing of any wares or merchandise to be taken of the buyer. 2 Inst. 58.

TOLLESESTER. An old excise; a duty paid by tenants of some manors to the lord for liberty to brew and sell ale. Cowell.

TOLSEY. Thesame as "tollbooth." Also a place where merchants meet; a local tribunal for small civil causes held at the Guildhall, Bristol.

TOLT. A writ whereby a cause depending in a court baron was taken and removed into a county court. Old Nat. Brev. 4.

TOLTA. Wrong; rapine; extortion. Cowell.

TON. A measure of weight; differently fixed, by different statutes, at two thousand pounds avoidupois, (1 Rev. St. N. Y. 609, § 35,) or at twenty hundred-weights, each hundred-weight being one hundred and twelve pounds avoidupois, (Rev. St. U. S. § 2951.)

TONNAGE. The capacity of a vessel for carrying freight or other loads, calculated in tons. But the way of estimating the tonnage varies in different countries. In England, tonnage denotes the actual weight in tons which the vessel can safely carry; in America, her carrying capacity estimated from the cubic dimensions of the hold. See 40 N. Y. 259.

The "tonnage" of a vessel is her capacity to carry cargo, and a charter of "the whole tonnage" of a ship transfers to the charterer only the space necessary for that purpose. 102 Mass. 465.

The tonnage of a vessel is her internal cubic capacity, in tons. 94 U. S. 238.

TONNAGE DUTY. In English law. A duty imposed by parliament upon merchandise exported and imported, according to a certain rate upon every ton. Brown.

In American law. A tax laid upon vessels according to their tonnage or cubic capacity.

A tonnage duty is a duty imposed on vessels in proportion to their capacity. The vital principle of a tonnage duty is that it is imposed, whatever the subject, solely according to the rule of weight, either as to the capacity to carry or the actual weight of the thing itself. 94 U. S. 238.

The term "tonnage duty," as used in the constitutional prohibition upon state laws imposing tonnage duties, describes a duty proportioned to the tonnage of the vessel; a certain rate on each ton. But it is not to be taken in this restricted sense in the constitutional provision. The general prohibition upon the states against levying duties on imports or exports would have been ineffectual if it had not been extended to duties on the ships which serve as the vehicles of conveyance. The prohibition extends to any duty on the ship, whether a fixed sum upon its whole tonnage or a sum to be ascertained by comparing the amount of tonnage with the rate of duty. 6 Wall. 31.

A tonnage tax is defined to be a duty levied on a vessel according to the tonnage or capacity. It is a tax upon the boat as an instrument of navigation, and not a tax upon the property of a citizen of the state. 6 Biss. 505.

TONNAGE-RENT. When the rent reserved by a mining lease or the like consists of a royalty on every ton of minerals gotten in the mine, it is often called a "tonnage-rent." There is generally a dead rent in addition. Sweet.

TONNAGIUM. In old English law. A custom or impost upon wines and other merchandise exported or imported, according to a certain rate per ton. Spelman; Cowell.

TONNETIGHT. In old English law. The quantity of a ton or tun, in a ship's freight or bulk, for which tonnage or tonnage was paid to the king. Cowell.

TONODERACH. In old Scotch law. A thief-taker.

TONSURA. Lat. In old English law. A shaving, or polling; the having the crown
of the head shaven; tonsure. One of the peculiar badges of a clerk or clergyman.

TONSURE. In old English law. A being shaven; the having the head shaven; a shaven head. 4 Bl. Comm. 367.

TONTINE. In French law. A species of association or partnership formed among persons who are in receipt of perpetual or life annuities, with the agreement that the shares or annuities of those who die shall accrue to the survivors. This plan is said to be thus named from Tonti, an Italian, who invented it in the seventeenth century. The principle is used in some forms of life insurance. Merl. Repert.

TOOK AND CARRIED AWAY. In criminal pleading. Technical words necessary in an indictment for simple larceny.

TOOL. The usual meaning of the word "tool" is "an instrument of manual operation;" that is, an instrument to be used and managed by the hand instead of being moved and controlled by machinery. 124 Mass. 420.

TOP ANNUAL. In Scotch law. An annual rent out of a house built in a burgh. Whishaw. A duty which, from the act 1551, c. 10, appears to have been due from certain lands in Edinburgh, the nature of which is not now known. Bell.

TORT. Wrong; injury; the opposite of right. So called, according to Lord Coke, because it is forested, or crooked, being contrary to that which is right and straight. Co. Litt. 1586. In modern practice, tort is constantly used as an English word to denote a wrong or wrongful act, for which an action will lie, as distinguished from a contract. 3 Bl. Comm. 117.

A tort is a legal wrong committed upon the person or property independent of contract. It may be either (1) a direct invasion of some legal right of the individual; (2) the infraction of some public duty by which special damage accrues to the individual; (3) the violation of some private obligation by which like damage accrues to the individual. In the former case, no special damage is necessary to entitle the party to recover. In the two latter cases, such damage is necessary. Code Ga. 1882, § 2951.

TORT-FEASOR. A wrong-doer; one who commits or is guilty of a tort.

TORTIOUS. Wrongful; of the nature of a tort. Formerly certain modes of conveyance (e. g., feoffments, fines, etc.) had the effect of passing not merely the estate of the person making the conveyance, but the whole fee-simple, to the injury of the person really entitled to the fee; and they were hence called "tortious conveyances." Litt. § 611; Co. Litt. 271b, n. 1; 330b, n. 1. But this operation has been taken away. Sweet.

Tortura legum possima. The torture or wrenching of laws is the worst [kind of torture.] 4 Bacon's Works. 434.

TORTURE. In old criminal law. The question; the infliction of violent bodily pain upon a person, by means of the rack, wheel, or other engine, under judicial sanction and superintendence, in connection with the interrogation or examination of the person, as a means of extorting a confession of guilt, or of compelling him to disclose his accomplices.

TORY. Originally a nickname for the wild Irish in Ulster. Afterwards given to, and adopted by, one of the two great parliamentary parties which have alternately governed Great Britain since the Revolution in 1688. Wharton.

The name was also given, in America, during the struggle of the colonies for independence, to the party of those residents who favored the side of the king and opposed the war.

TOT. In old English practice. A word written by the foreign opposer or other officer opposite to a debt due the king, to denote that it was a good debt; which was hence said to be lotted.

TOTA CURIA. L. Lat. In the old reports. The whole court.

TOTAL LOSS. In marine insurance, a total loss is the entire destruction or loss, to the insured, of the subject-matter of the policy, by the risks insured against. An actual total loss is the absolute destruction or perishing of the subject, so that nothing remains of it. A constructive total loss occurs where the damage to the property is such that, although it may still subsist in specie, or there may be salvage from it or claims or equities growing out of the circumstances of its loss, the assured has the right, either by express stipulation or implication of law, to abandon and surrender to the underwriters the surviving portion of the property, or his rights and claims in regard to it, and thereby recover the same amount of insurance as under an actual total loss.
In fire insurance, a total loss is the complete destruction of the insured property by fire, so that nothing of value remains from it; as distinguished from a partial loss, where the property is damaged, but not entirely destroyed.

Total loss, in marine insurance, signifies the total destruction of the thing insured, or such damage to the thing insured as renders it, though it may specifically remain, of little or no value to the owner. 1 Mass. 204.

An actual total loss is where the vessel ceases to exist in specie, and becomes a "more congeries of planks," incapable of being repaired; or where, by the peril insured against, it is placed beyond the control of the insured and beyond his power of recovery. A constructive loss is where the vessel remains in specie, and is susceptible of repairs or recovery, but at an expense, according to the rule of the English common law, exceeding its value when restored. 23 Ohio St. 64.

The words "total loss," in their literal sense, mean complete physical annihilation and destruction of the thing, but, in a sense adopted in insurance, they signify a loss which is total to the owner; as where the goods are seized and taken away, or have been rendered worthless for the uses or purposes for which they are designed. 3 Rob. Adm. 283.

TOTIDEM VERBIS. In so many words.

TOTIES QUOTIES. As often as occasion shall arise.

TOTIS VIRIBUS. With all one's might or power; with all his might; very strenuously.

TOTTED. A good debt to the crown, i.e., a debt paid to the sheriff, to be by him paid over to the king. Cowell; Mozley & Whitley.

Totum præferitur unicuique partici. 3 Coke, 41. The whole is preferable to any single part.

TOUCH. In insurance law. To stop at a port. If there be liberty granted by the policy to touch, or to touch and stay, at an intermediate port on the passage, the better opinion now is that the insured may trade there, when consistent with the object and the furtherance of the adventure, by breaking bulk, or by discharging and taking in cargo, provided it produces no unnecessary delay, nor enhances nor varies the risk. 3 Kent, Comm. 314.

TOUCHING A DEAD BODY. It was an ancient superstition that the body of a murdered man would bleed freshly when touched by his murderer. Hence, in old criminal law, this was resorted to as a means of ascertaining the guilt or innocence of a person suspected of the murder.

TOUJOURS ET UNCORE PRIST. L. Fr. Always and still ready. This is the name of a plea of tender.

TOUR D'ECHELLE. In French law. An easement consisting of the right to rest ladders upon the adjoining estate, when necessary in order to repair a party-wall or buildings supported by it. Also the vacant space surrounding a building left unoccupied in order to facilitate its repARATION when necessary. Merl. Repert.

TOURN. In old English law. A court of record, having criminal jurisdiction, in each county, held before the sheriff, twice a year, in one place after another, following a certain circuit or rotation.

TOUT. Fr. All; whole; entirely. Tout temps prist, always ready.

Tout ce que la loi ne défend pas est permis. Everything is permitted which is not forbidden by law.

TOUT TEMPS PRIST. L. Fr. Always ready. The emphatic words of the old plea of tender; the defendant alleging that he has always been ready, and still is ready, to discharge the debt. 3 Bl. Comm. 303; 2 Salk. 622.

TOUT UN SOUND. L. Fr. All one sound; sounding the same; idem sonans.

Toute exception non surveillée tend à prendre la place du principe. Every exception not watched tends to assume the place of the principle.

TOWAGE. The act or service of towing ships and vessels, usually by means of a small steamer called a "tug." That which is given for towing ships in rivers.

Towage is the drawing a ship or barge along the water by another ship or boat, fastened to her, or by men or horses, etc., on land. It is also money which is given by bargemen to the owner of ground next a river, where they tow a barge or other vessel. Jacob.

TOWAGE SERVICE. In admiralty law. A service rendered to a vessel, by towing, for the mere purpose of expediting her voyage, without reference to any circumstances of danger. It is confined to vessels that have received no injury or damage. 1 W. Rob. 177; 9 Fed. Rep. 53.

TO-WIT. That is to say; namely; sicutio; videlicet.

TOWN. In English law. Originally, a vill or tithe; but now a generic term, which comprehends under it the several spe-
TOWN

cles of cities, boroughs, and common towns. 1 Bl. Comm. 114.

In American law. A civil and political division of a state, varying in extent and importance, but usually one of the divisions of a county. In the New England states, the town is the political unit, and is a municipal corporation. In some other states, where the county is the unit, the town is merely one of its subdivisions, but possesses some powers of local self-government. In still other states, such subdivisions of a county are called "townships," and "town" is the name of a village, borough, or smaller city.

A village and a town are not identical. A village is ordinarily less than a town, and more occupied by agriculturists; yet the two cannot be definitely distinguished by the size of the place or employment of the inhabitants. 46 Iowa, 356.

TOWN CAUSE. In English practice. A cause tried at the sittings for London and Middlesex. 3 Steph. Comm. 517.

TOWN-CLERK. In those states where the town is the unit for local self-government, the town-clerk is a principal officer who keeps the records, issues calls for town-meetings, and performs generally the duties of a secretary to the political organization.

TOWN COLLECTOR. One of the officers of a town charged with collecting the taxes assessed for town purposes.

TOWN COMMISSIONER. In some of the states where the town is the political unit, the town commissioners constitute a board of administrative officers, charged with the general management of the town's business.

TOWN-CRIER. An officer in a town whose business it is to make proclamations.

TOWN-HALL. The building maintained by a town for town-meetings and the offices of the municipal authorities.

TOWN-MEETING. Under the municipal organization of the New England states, the town-meeting is a legal assembly of the qualified voters of a town, held at stated intervals or on call, for the purpose of electing town officers, and of discussing and deciding on questions relating to the public business, property, and expenses of the town.

TOWN ORDER or WARRANT. An official direction in writing by the auditing officers of a town, directing the treasurer to pay a sum of money.

TOWN POUND. A place of confinement maintained by a town for estrays.

TOWN PURPOSE. When it is said that taxation by a town, or the expenditure of the town's money, must be for town purposes, it is meant that the purposes must be public with respect to the town; i.e., concern the welfare and advantage of the town as a whole.

TOWN-REEVE. The reeve or chief officer of a town.

TOWN TAX. Such tax as a town may levy for its peculiar expenses; as distinguished from a county or state tax.

TOWN TREASURER. The treasurer of a town which is an organized municipal corporation.

TOWNSHIP. 1. In surveys of the public land of the United States, a "township" is a division of territory six miles square, containing thirty-six sections.

2. In some of the states, this is the name given to the civil and political subdivisions of a county. See Town.

TOWNSHIP TRUSTEE. One of a board of officers to whom, in some states, affairs of a township are intrusted.

TOXICAL. Poisonous; containing poison.

TOXICOLOGY. The science of poisons.

TRACT. A lot, piece, or parcel of land, of greater or less size, the term not importing, in itself, any precise dimension. See 28 N. J. Law, 45.

Tractent fabrilia fabri. Let smiths perform the work of smiths. 3 Co. Epist.

TRADAS IN BALLUM. You deliver to bail. In old English practice. The name of a writ which might be issued in behalf of a party who, upon the writ de odio et atia, had been found to have been maliciously accused of a crime, commanding the sheriff that, if the prisoner found twelve good and
lawful men of the county who would be mainporners for him, he should deliver him in bail to those twelve, until the next assize. Bract. fol. 123; 1 Reeve, Eng. Law, 252.

TRADE. The act or business of exchanging commodities by barter; or the business of buying and selling for money; traffic; barter. Webster.

The business which a person has learned and which he carries on for procuring subsistence, or for profit; occupation, particularly mechanical employment; distinguished from the liberal arts and learned professions, and from agriculture. Id.

Traffic; commerce, exchange of goods for other goods, or for money. All wholesale trade, all buying in order to sell again by wholesale, may be reduced to three sorts: The home trade, the foreign trade of consumption, and the carrying trade. 2 Smith, Wealth Nat. b. 2, c. 5.

TRADE DOLLAR. A silver coin of the United States, of the weight of four hundred and twenty grains, troy. Rev. St. § 3513.

TRADE-MARK. A distinctive mark, motto, device, or emblem, which a manufacturer stamps, prints, or otherwise affixes to the goods he produces, so that they may be identified in the market, and their origin be vouch'd for.

TRADE-MARKS REGISTRATION ACT, 1875. This is the statute 38 & 39 Vict. c. 91, amended by the acts of 1876 and 1877. It provides for the establishment of a register of trade-marks under the superintendence of the commissioners of patents, and for the registration of trade-marks as belonging to particular classes of goods, and for their assignment in connection with the goodwill of the business in which they are used. Sweet.

TRADE-NAME. A trade-name is a name which by user and reputation has acquired the property of indicating that a certain trade or occupation is carried on by a particular person. The name may be that of a person, place, or thing, or it may be what is called a "fancy name," (i.e., a name having no sense as applied to the particular trade,) or word invented for the occasion, and having no sense at all. Seb. Trade-Marks, 37. Sweet.

TRADE UNION. A combination or association of men employed in the same trade, (usually a manual or mechanical trade,) united for the purpose of regulating the customs and standards of their trade, fixing prices or hours of labor, influencing the relations of employer and employed, enlarging or maintaining their rights and privileges, and other similar objects.

TRADE-UNION ACT. The statute 34 & 35 Vict. c. 31, passed in 1871, for the purpose of giving legal recognition to trade unions, is known as the "trade-union act," or "trade-union funds protection act." It provides that the members of a trade union shall not be prosecuted for conspiracy merely by reason that the rules of such union are in restraint of trade; and that the agreements of trade unions shall not on that account be void or voidable. Provisions are also made with reference to the registration and registered offices of trade unions, and other purposes connected therewith. Mozley & Whitley.

TRADE USAGE. The usage or customs commonly observed by persons conversant in, or connected with, a particular trade.

TRADER. A person engaged in trade; one whose business is to buy and sell merchandise, or any class of goods, deriving a profit from his dealings. 2 Kent, Comm. 389; 80 N. C. 481.

TRADESMAN. In England, a shopkeeper; a small shop-keeper. In the United States, a mechanic or artificer of any kind, whose livelihood depends upon the labor of his hands. 4 Pa. St. 472.

"Primarily the words 'trader' and 'tradesman' mean one who trades, and they have been treated by the courts in many instances as synonymous. But, in their general application and usage, I think they describe different vocations. By 'tradesman' is usually meant a shop-keeper. Such is the definition given the word in Burrill's Law Dictionary. It is used in this sense by Adam Smith. He says, (Wealth of Nations;) 'A tradesman in London is obliged to hire a whole house in that part of the town where his customers live. His shop is on the ground floor,' etc. Dr. Johnson gives it the same meaning, and quotes Prior and Goldsmith as authorities." 7 Biss. 155.


TRADITIO. Lat. In the civil law. Delivery; transfer of possession; a derivative mode of acquiring, by which the owner of a corporeal thing, having the right and the will of aliening it, transfers it for a lawful consideration to the receiver. Heincc. Elem. lib. 2, tit. 1, § 380.
TRADITIO BREVI MANU. In the civil law. A species of constructive or implied delivery. When he who already holds possession of a thing in another's name agrees with that other that thenceforth he shall possess it in his own name, in this case a delivery and redelivery are not necessary. And this species of delivery is termed "traditio brevi manu." Mackeld. Rom. Law, § 284.

TRADITIO CLAVIUM. In the civil law. Delivery of keys; a symbolical kind of delivery, by which the ownership of merchandise in a warehouse might be transferred to a buyer. Inst. 2, 1, 44.

TRADITIO LONGA MANU. In the civil law. A species of delivery which takes place where the transferor places the article in the hands of the transferee, or, on his order, delivers it at his house. Mackeld. Rom. Law, § 284.

Tradiito loqui facit chartam. Delivery makes a deed speak. 5 Coke, 1a. Delivery gives effect to the words of a deed. Id.

Traditio nihil amplius transfore debet vel potest, ad eum qui accipit, quam est apud eum qui tradit. Delivery ought to, and can, transfer nothing more to him who receives than is with him who delivers. Dig, 41, 1, 20, pr.

TRADITIO REI. Delivery of the thing. See 5 Maule & S. 82.


The tradition or delivery is the transferring of the thing sold into the power and possession of the buyer. Civil Code La. art. 2477.

TRADITOR. In old English law, A traitor; one guilty of high treason. Fleta, lib. 1, c. 21, § 8.

TRADITUR IN BALLIUM. In old practice. Is delivered to bail. Emphatic words of the old Latin bail-piece. 1 Salk. 105.

TRAFFIC. Commerce; trade; dealings in merchandise, bills, money, and the like.

TRAHENS. Lat. In French law. The drawer of a bill. Story, Bills, § 12, note.

TRAIL-BASTON. Justices of trail-baston were justices appointed by King Ed-

WARD I., during his absence in the Scotch and French wars, about the year 1305. They were so styled, says Hollingshed, for trailing or drawing the staff of justice. Their office was to make inquisition, throughout the kingdom, of all officers and others, touching extortion, bribery, and such like grievances, of intruders into other men's lands, barrators, robbers, breakers of the peace, and divers other offenders. Cowell; Tomlins.

TRAINBANDS. The militia; the part of a community trained to martial exercises.

TRAISTIS. In old Scotch law. A roll containing the particular dittyta taken up upon malefactors, which, with the porteens, is delivered by the justice clerk to the coroner, to the effect that the persons whose names are contained in the porteens may be attached, conform to the dittyta contained in the traistis. So called, because committed to the traist, [trust,] faith, and credit of the clerks and coroner. Skene; Burril.

TRAITOR. One who, being trusted, betrays; one guilty of treason.

TRAITOROUSLY. In criminal pleading. An essential word in indictments for treason. The offense must be laid to have been committed traitorously. Whart. Crim. Law, 100.

TRAJECTITIUS. Lat. In the civil law. Sent across the sea.

TRAM-WAYS. Rails for conveyance of traffic along a road not owned, as a railway is, by those who lay down the rails and convey the traffic. Wharton.

TRAMP. A strolling beggar; a vagrant or vagabond.

TRANSACT. In Scotch law. To compound. Amb. 185.

TRANSACTIO. Lat. In the civil law. The settlement of a suit or matter in controversy, by the litigating parties, between themselves, without referring it to arbitration. Hallifax, Civil Law, b. 3, c. 8, no. 14. An agreement by which a suit, either pending or about to be commenced, was borne or discontinued on certain terms. Calvin.

TRANSACTION. In the civil law. A transaction or compromise is an agreement between two or more persons, who, for preventing or putting an end to a lawsuit, adjust their differences by mutual consent, in the manner which they agree on, and which every
one of them prefers to the hope of gaining, balanced by the danger of losing. This contract must be reduced into writing. Civil Code La. art. 3071.

In common law. Whatever may be done by one person which affects another’s rights, and out of which a cause of action may arise. 18 Kan. 406.

“Transaction” is a broader term than “contract.” A contract is a transaction, but a transaction is not necessarily a contract. 70 Cal. 113, 11 Pac. Rep. 599.

TRANSCRIPT. An official copy of certain proceedings in a court. Thus, any person interested in a judgment or other record of a court can obtain a transcript of it.

TRANSPLANTIO PEDIS FINIS LEVATI MITTENDO IN CANCEL- LARIUM. A writ which certified the foot of a fine levied before justices in eyre, etc., into the chancery. Reg. Orig. 669.

TRANSPLANTIO RECOGNITIONIS FACTÆ CORAM JUSTICIARIIS ITINERANTIBUS, Etc. An old writ to certify a cognizance taken by justices in eyre, Reg. Orig. 152.

TRANSFER, v. To carry or pass over; to pass a thing over to another; to convey.

TRANSFER, n. The passing of a thing or of property from one person to another; alienation; conveyance. 2 Bl. Comm. 294.

Transfer is an act of the parties, or of the law, by which the title to property is conveyed from one living person to another. Civil Code Cal. § 1039.

In procedure, “transfer” is applied to an action or other proceeding, when it is taken from the jurisdiction of one court or judge, and placed under that of another.

TRANSFER OF A CAUSE. The removal of a cause from the jurisdiction of one court or judge to another by lawful authority.

TRANSFERABLE. A term used in a quasi legal sense, to indicate that the character of assignability or negotiability attaches to the particular instrument, or that it may pass from hand to hand, carrying all rights of the original holder. The words “not transferable” are sometimes printed upon a ticket, receipt, or bill of lading, to show that the same will not be good in the hands of any person other than the one to whom first issued.

TRANSFEREE. He to whom a transfer is made.

TRANSFERENCE. In Scotch law. The proceeding to be taken upon the death of one of the parties to a pending suit, whereby the action is transferred or continued, in its then condition, from the decedent to his representatives. Transference is either active or passive; the former, when it is the pursuer (plaintiff) who dies; the latter, upon the death of the defender. Ersk. Inst, 4, 1, 60.

The transferring of a legacy from the person to whom it was originally given to another; this is a species of ademption, but the latter is the more general term, and includes cases not covered by the former.

TRANSFERROR. One who makes a transfer.

Transferuntur dominia sine titulo et traditione, per usucaptionem, scil. per longam continent et pacificam possessionem. Co. Litt. 113. Rights of dominion are transferred without title or delivery, by usucaption, to-wit, long and quiet possession.

TRANSFRETATIO. Lat. In old English law. A crossing of the strait, [of Dover:] a passing or sailing over from England to France. The royal passages or voyages to Gascony, Brittany, and other parts of France were so called, and time was sometimes computed from them.

TRANSGRESSIO. In old English law. A violation of law. Also trespass; the action of trespass.

Transgressio est cum modus non servatur nec mensura, debit enim qui- libet in suo facto modum habere et mensuram. Co. Litt. 37. Transgression is when neither mode nor measure is preserved, for every one in his act ought to have a mode and measure.

TRANSGRESSIONE. In old English law. A writ or action of trespass.

Transgressione multiplicata, crescent poenae infictio. When transgression is multiplied, let the infliction of punishment be increased. 2 Inst. 479.

TRANSHIPMENT. In maritime law. The act of taking the cargo out of one ship and loading it in another.

TRANSIENT. In poor-laws. A “transient person” is not exactly a person on a
journey from one known place to another, but rather a wanderer ever on the tramp. 6 Vt. 203; 51 Vt. 423.

In Spanish law. A "transient foreigner" is one who visits the country, without the intention of remaining. 10 Tex. 170.

TRANSIRE, v. Lat. To go, or pass over; to pass from one thing, person, or place to another.

TRANSIRE, n. In English law. A warrant or permit for the custom-house to let goods pass.

Transit in rem judicatam. It passes into a matter adjudged; it becomes converted into a res judicata or judgment. A contract upon which a judgment is obtained is said to pass in rem judicatam. 2 Sumn. 436; 3 East, 251; 18 Johns. 480.

Transit terra cum onere. Land passes subject to any burden affecting it. Co. Litt. 231a; Broom, Max. 455, 706.

TRANSITIVE COVENANT. One which binds not only the covenanter, but also passes over, with obligatory force, to his representatives.

TRANSITORY. Passing from place to place; that may pass or be changed from one place to another; not confined to one place; the opposite of "local."

TRANSITORY ACTION. Actions are said to be either local or transitory. An action is "local," when the principal facts on which it is founded pertain to a particular place. An action is termed "transitory," when the principal fact on which it is founded is of a transitory kind, and might be supposed to have happened anywhere; and therefore all actions founded on debts, contracts, and such like matters relating to the person or personal property, come under this latter denomination. Steph. Pl. 316, 317.

TRANSITUS. Lat. Passage from one place to another; transit. In transitu, on the passage, transit, or way. 2 Kent, Comm. 543.

TRANSLADO. Span. A transcript.

TRANSLATION. The reproduction in one language of a book, document, or speech delivered in another language.

The transfer of property; but in this sense it is seldom used. 2 Bl. Comm. 294.

In ecclesiastical law. As applied to a bishop, the term denotes his removal from one diocese to another.

TRANSLATITUM EDICTUM. In Roman law. The pretor, on his accession to office, did not usually publish an entirely new edict, but retained the whole or a part of that promulgated by his predecessor, as being of an approved or permanently useful character. The portion thus repeated or handed down from year to year was called the "edictum translatitium." See Mackeld. Rom. Law, § 36.

TRANSLATIVE FACT. A fact by means of which a right is transferred or passes from one person to another; one, that is, which fulfills the double function of terminating the right of one person to an object, and of originating the right of another to it.

TRANSMISSION. In the civil law. The right which heirs or legatees may have of passing to their successors the inheritance or legacy to which they were entitled, if they happen to die without having exercised their rights. Domat, liv. 3, t. 1, s. 10; 4 Tourlier, no. 186; Dig. 50, 17, 54; Code, 6, 51.

TRANSPORT. In old New York law. A conveyance of land.

TRANSPORTATION. The removal of goods or persons from one place to another, by a carrier.

In criminal law. A species of punishment consisting in removing the criminal from his own country to another, (usually a penal colony,) there to remain in exile for a prescribed period.

TRANSUMPTS. In Scotch law, an action of transumpt is an action competent to any one having a partial interest in a writing, or immediate use for it, to support his title or defenses in other actions. It is directed against the custodier of the writing, calling upon him to exhibit it, in order that a transumpt, i.e., a copy, may be judicially made and delivered to the pursuer. Bell.

TRASLADO. In Spanish law. A copy a sight. White, New Recop. b. 3, tit. 7, c. 3.

A copy of a document taken by the notary from the original, or a subsequent copy taken from the protocol, and not a copy taken directly from the matrix or protocol. (Tex.) 16 S. W. Rep. 54.

TRASSANS. Drawing; one who draws The drawer of a bill of exchange.

TRASSATUS. One who is drawn, or drawn upon. The drawee of a bill of exchange. Heinece. de Camb. c. 6, §§ 5, 6.
TRAVAIL. The act of child-bearing. A woman is said to be in her travail from the time the pains of child-bearing commence until her delivery. 5 Pick. 63.

TRAVEL. To go from one place to another at a distance; to journey; spoken of voluntary change of place.

TRAVELER. The term is used in a broad sense to designate those who patronize inns. Traveler is one who travels in any way. Distance is not material. A townsman or neighbor may be a traveler, and therefore a guest at an inn, as well as he who comes from a distance or from a foreign country. 35 Conn. 185.

TRVERSE. In the language of pleading, a traverse signifies a denial. Thus, where a defendant denies any material allegation of fact in the plaintiff's declaration, he is said to traverse it, and the plea itself is therefore frequently termed a "traverse." Brown.

A common traverse is a simple and direct denial of the material allegations of the opposite pleading, concluding to the country, and without inducement or abaque hoc. Gould, Pl. 7, 11.

A general traverse is one preceded by a general inducement, and denying all that is last before alleged on the opposite side, in general terms, instead of pursuing the words of the allegation which it denies. Id. 7, 5.

A special traverse is one which commences with the words "abaque hoc," and pursues the material portion of the words of the allegation which it denies. Id. 7, 6.

A traverse upon a traverse is one growing out of the same point or subject-matter as is embraced in a preceding traverse on the other side. Id. 7, 422a.

In criminal practice. To put off or delay the trial of an indictment till a succeeding term. More properly, to deny or take issue upon an indictment. 4 Bl. Comm. 351.

TRVERSE JURY. A petit jury; a trial jury; a jury impaneled to try an action or prosecution, as distinguished from a grand jury.

TRVERSE OF INDICTMENT or PRESENTMENT. The taking issue upon and contradicting or denying some chief point of it. Jacob.

TRVERSE OF OFFICE. The proving that an inquisition made of lands or goods by the escheator is defective and untruly made. Tomlins.

TREASON. It is the challenging, by a subject, of an inquest of office, as being defective and untruly made. Mozley & Whitley.

TRVERSER. In pleading. One who traverses or denies. A prisoner or party indicted; so called from his traversing the indictment.

TRVERSING NOTE. This is a pleading in chancery, and consists of a denial put in by the plaintiff on behalf of the defendant, generally denying all the statements in the plaintiff's bill. The effect of it is to put the plaintiff upon proof of the whole contents of his bill, and is only resorted to for the purpose of saving time, and in a case where the plaintiff can safely dispense with an answer. A copy of the note must be served on the defendant. Brown.

TREACHER, TRECHETOUR, or TREACHOUR. A traitor.

TREAD-MILL, or TREAD-WHEEL, is an instrument of prison discipline, being a wheel or cylinder with an horizontal axis, having steps attached to it, up which the prisoners walk, and thus put the axis in motion. The men hold on by a fixed rail, and, as their weight presses down the step upon which they tread, they ascend the next step, and thus drive the wheel. Enc. Brit.

TREASON. The offense of attempting to overthrow the government of the state to which the offender owes allegiance; or of betraying the state into the hands of a foreign power. Webster.

In England, treason is an offense particularly directed against the person of the sovereign, and consists (1) in compassing or imagining the death of the king or queen, or their eldest son and heir; (2) in violating the king's companion, or the king's eldest daughter unmarried, or the wife of the king's eldest son and heir; (3) in levying war against the king in his realm; (4) in adhering to the king's enemies in his realm, giving to them aid and comfort in the realm or elsewhere, and (5) slaying the chancellor, treasurer, or the king's justices of the one bench or the other, justices in eyre, or justices of assize, and all other justices assigned to hear and determine, being in their places doing their offices. 4 Steph. Comm. 185-193; 4 Bl. Comm. 76-84.

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort." U. S. Const. art. 3, § 3, cl. 1.
TREASON-FELONY, under the English statute 11 & 12 Vict. c. 12, passed in 1848, is the offense of compassing, devising, etc., to depose her majesty from the crown; or to levy war in order to intimidate either house of parliament, etc., or to stir up foreigners by any printing or writing to invade the kingdom. This offense is punishable with penal servitude for life, or for any term not less than five years, etc., under statutes 11 & 12 Vict. c. 12, § 3; 20 & 21 Vict. c. 3, § 2; 27 & 28 Vict. c. 47, § 2. By the statute first above mentioned, the government is enabled to treat as felony many offenses which must formerly have been treated as high treason. Mozley & Whitley.

TREASONABLE. Having the nature or guilt of treason.

TREASURE. A treasure is a thing hidden or buried in the earth, on which no one can prove his property, and which is discovered by chance. Civil Code La. art. 3423, par. 2. See TREASURE-TROVE.

TREASURE-TROVE. Literally, treasure found. Money or coin, gold, silver, plate or bullion found hidden in the earth or other private place, the owner thereof being unknown. 1 Bl. Comm. 235. Called in Latin "thesaurus inventus;" and in Saxon "fynferinga."

TREASURER. An officer of a public or private corporation, company, or government, charged with the receipt, custody, and disbursement of its moneys or funds.

TREASURER, LORD HIGH. Formerly the chief treasurer of England, who had charge of the moneys in the exchequer, the chancellor of the exchequer being under him. He appointed all revenue officers and eschätzors, and leased crown lands. The office is obsolete, and his duties are now performed by the lords commissioners of the treasury. Stim. Gloss.

TREASURER OF A COUNTY. See County Treasurer.

TREASURER'S REMEMBRANCER. In English law. He whose charge was to put the lord treasurer and the rest of the judges of the exchequer in remembrance of such things as were called on and dealt in for the sovereign's behoof. There is still one in Scotland. Wharton.

TREASURY. A place or building in which stores of wealth are reposed; particularly, a place where the public revenues are deposited and kept, and where money is disbursed to defray the expenses of government. Webster.

That department of government which is charged with the receipt, custody, and disbursement (pursuant to appropriations) of the public revenues or funds.

TREASURY BENCH. In the English house of commons, the first row of seats on the right hand of the speaker is so called, because occupied by the first lord of the treasury or principal minister of the crown. Brown.

TREASURY CHEST FUND. A fund, in England, originating in the unusual balances of certain grants of public money, and which is used for banking and loan purposes by the commissioners of the treasury. Its amount was limited by St. 24 & 25 Vict. c. 127, and has been further reduced to one million pounds, the residue being transferred to the consolidated fund, by St. 36 & 37 Vict. c. 56. Wharton.

TREATY. In international law. An agreement between two or more independent states. Brande. An agreement, league, or contract between two or more nations or sovereigns, formally signed by commissioners properly authorized, and solemnly ratified by the several sovereigns or the supreme power of each state. Webster.

In private law, "treaty" signifies the discussion of terms which immediately precedes the conclusion of a contract or other transaction. A warranty on the sale of goods, to be valid, must be made during the "treaty" preceding the sale. Chit. Cont. 419; Sweet.

TREATY OF PEACE. A treaty of peace is an agreement or contract made by belligerent powers, in which they agree to lay down their arms, and by which they stipulate the conditions of peace and regulate the manner in which it is to be restored and supported. Vattel, b. 4, c. 2, § 9.

TREBELLANIC PORTION. "In consequence of this article, the trebellanic portion of the civil law—that is to say, the portion of the property of the testator which the instituted heir had a right to detain when he was charged with a fidei commissa or fiduciary bequest—is no longer a part of our law." Civil Code La. art. 1520, par. 3.

TREBLE COSTS. In practice. A rate of costs given in certain actions, consisting, according to its technical import, of the common costs, half of these, and half of the lat-
TREBLE COSTS

2. Tidd, Pr. 388. The word "treble," in this application, is not understood in its literal sense of thrice the amount of single costs, but signifies merely the addition together of the three sums fixed as above. Id. Treble costs have been abolished in England, by St. 5 & 6 Vict. c. 97.

In American law. In Pennsylvania the rule is different. When an act of assembly gives treble costs, the party is allowed three times the usual costs, with the exception that the fees of the officers are not to be trebled when they are not regularly or usually payable by the defendant. 2 Rawle, 201.

TREBLE DAMAGES. In practice. Damages given by statute in certain cases, consisting of the single damages found by the jury, actually tripled in amount. The usual practice has been for the jury to find the single amount of the damages, and for the court, on motion, to order that amount to be trebled. 2 Tidd, Pr. 893, 894.

TREBUCKET. A tumbrel, castigatory, or cucking-stool.

TREET. In old English law. Fine wheat.

TREMAGIUM, TREMESIUM. The season or time of sowing summer corn, being about March, the third month, to which the word may allude. Cowell.

Tres faciunt collegium. Three make a corporation; three members are requisite to constitute a corporation. Dig. 50, 16, 8; 1 Bl. Comm. 469.


TRESAYLE. An abolished writ sued on ouster by abatement, on the death of the grandfather's grandfather.

TRESPASS. Any misfeasance or act of one man whereby another is injuriously treated or damned. 3 Bl. Comm. 203.

An injury or misfeasance to the person, property, or rights of another person, done with force and violence, either actual or implied in law.

In the strictest sense, an entry on another's ground, without a lawful authority, and doing some damage, however inconsiderable, to his real property. 3 Bl. Comm. 209.

Trespass, in its most comprehensive sense, signifies any transgression or offense against the law of nature, of society, or of the country in which we live; and this, whether it relates to a man's person or to his property. In its more limited and ordinary sense, it signifies an injury committed with violence, and this violence may be either actual or implied; and the law will imply violence though none is actually used, when the injury is of a direct and immediate kind, and committed on the person or tangible and corporeal property of the plaintiff. Of actual violence, an assault and battery is an instance; of implied, a peaceable but wrongful entry upon a person's land. Brown.

A continuing trespass is one which is permanent in its nature; as, where a person builds on his own land so that part of the building overhangs his neighbor's land.

In practice. A form of action, at the common law, which lies for redress in the shape of money damages for any unlawful injury done to the plaintiff, in respect either to his person, property, or rights, by the immediate force and violence of the defendant.

TRESPASS DE BONIS ASPORTATIS. (Trespass for goods carried away.) In practice. The technical name of that species of action of trespass for injuries to personal property which lies where the injury consists in carrying away the goods or property. See 3 Bl. Comm. 150, 151.

TRESPASS FOR MESNE PROFITS. A form of action supplemental to an action of ejectment, brought against the tenant in possession to recover the profits which he has wrongfully received during the time of his occupation. 3 Bl. Comm. 205.

TRESPASS ON THE CASE. The form of action, at common law, adapted to the recovery of damages for some injury resulting to a party from the wrongful act of another, unaccompanied by direct or immediate force, or which is the indirect or secondary consequence of such act. Commonly called, by abbreviation, "Case."

TRESPASS QUARE CLAUSUM FREGIT. "Trespass wherefore he broke the close." The common-law action for damages for an unlawful entry or trespass upon the plaintiff's land. In the Latin form of the writ, the defendant was called upon to show why he broke the plaintiff's close; i.e., the real or imaginary structure inclosing the land, whence the name. It is commonly abbreviated to "trespass qu. cl. fr."

TRESPASS TO TRY TITLE. The name of the action used in several of the states for the recovery of the possession of real property, with damages for any trespass committed upon the same by the defendant.
TRESPASS VI ET ARMIS. Trespass with force and arms. The common-law action for damages for any injury committed by the defendant with direct and immediate force or violence against the plaintiff or his property.

TRESPASSER. One who has committed trespass; one who unlawfully enters or intrudes upon another's land, or unlawfully and forcibly takes another's personal property.

TRESPASSER AB INITIO. Trespasser from the beginning. A term applied to a tort-feasor whose acts relate back so as to make a previous act, at the time innocent, unlawful; as, if he enter peaceably, and subsequently commit a breach of the peace, his entry is considered a trespass. Stin. Gloss.

TRESTORNARE. In old English law. To turn aside; to divert a stream from its course. Bract. fol. 115, 231b. To turn or alter the course of a road. Cowell.

TRESVIRI. Lat. In Roman law. Officers who had the charge of prisons, and the execution of condemned criminals. Calvin.

TRET. An allowance made for the water or dust that may be mixed with any commodity. It differs from tare, (q. v.)

TRETHINGA. In old English law. A trithing; the court of a trithing.

TREYT. Withdrawn, as a juror. Written also treat. Cowell.

TRIA CAPITA, in Roman law, were civitas, libertas, and familia; i. e., citizenship, freedom, and family rights.

TRIAL. The examination before a competent tribunal, according to the law of the land, of the facts or law put in issue in a cause, for the purpose of determining such issue. 32 Cal. 267; 4 Mason, 232; 39 Ind. 1.

A trial is the judicial examination of the issues between the parties, whether they be issues of law or of fact. Code N. Y. § 252; Code N. C. § 397.

The examination of a cause, civil or criminal, before a judge who has jurisdiction over it, according to the laws of the land. 1 Inst. 124.

TRIAL AT BAR. A species of trial now seldom resorted to, excepting in cases where the matter in dispute is one of great importance and difficulty. It is a trial which takes place before all the judges at the bar of the court in which the action is brought. Brown. See 2 Tidd, Pr. 747; Steph. Pr. 84.

TRIAL AT NISI PRIUS. In practice. The ordinary kind of trial which takes place at the sittings, assizes, or circuit, before a single judge. 2 Tidd, Pr. 751, 819.

TRIAL BY CERTIFICATE. A form of trial allowed in cases where the evidence of the person certifying was the only proper criterion of the point in dispute. Under such circumstances, the issue might be determined by the certificate alone, because, if sent to a jury, it would be conclusive upon them, and therefore their intervention was unnecessary. Tomlins.

TRIAL BY GRAND ASSIZE is a peculiar mode of trial allowed in writs of right. See Assize; Grand Assize.

TRIAL BY INSPECTION OR EXAMINATION is a form of trial in which the judges of the court, upon the testimony of their own senses, decide the point in dispute.

TRIAL BY JURY. A trial in which the issues of fact are to be determined by the verdict of a jury of twelve men, duly selected, impaneled, and sworn.

The terms "jury" and "trial by jury" are, and for ages have been, well known in the language of the law. They were used at the adoption of the constitution, and always, it is believed, before that time, and almost always since, in a single sense. A jury for the trial of a cause was a body of twelve men, described as upright, well-qualified, and lawful men, disinterested and impartial, not of kin nor personal dependents of either of the parties, having their homes within the jurisdictional limits of the court, drawn and selected by officers free from all bias in favor of or against either party, duly impaneled under the direction of a competent court, sworn to render a true verdict according to the law and the evidence given them, who, after hearing the parties and their evidence, and receiving the instructions of the court relative to the law involved in the trial, and deliberating, when necessary, apart from all extraneous influences, must return their unanimous verdict upon the issue submitted to them. All the books of the law describe a trial jury substantially as we have stated it; and a "trial by jury" is a trial by such a body so constituted and conducted. 11 Nev. 60.

TRIAL BY PROVISO. A proceeding allowed where the plaintiff in an action desists from prosecuting his suit, and does not bring it to trial in convenient time. The defendant, in such case, may take out the venire fucias to the sheriff, containing these words, "proviso quod," etc., i. e., provided that. If plaintiff take out any writ to that purpose, the sheriff shall summon but one
jury on them both. This is called "going to trial by proviso." Jacob, tit. "Proviso."

TRIAL BY THE RECORD. A form of trial resorted to where issue is taken upon a plea of null ul record, in which case the party asserting the existence of a record as pleaded is bound to produce it in court on a day assigned. If the record is forthcoming, the issue is tried by inspection and examination of it. If the record is not produced, judgment is given for his adversary. 3 Bl. Comm. 330.

TRIAL BY WAGER OF BATTLE. This was a species of trial introduced into England, among other Norman customs, by William the Conqueror, in which the person accused fought with his accuser, under the apprehension that Heaven would give the victory to him who was in the right. 3 Bl. Comm. 337-341.

TRIAL BY WAGER OF LAW. In old English law. A method of trial, where the defendant, coming into court, made oath that he did not owe the claim demanded of him, and eleven of his neighbors, as compurgators, swore that they believed him to speak the truth. 3 Bl. Comm. 343. See Wager of Law.

TRIAL BY WITNESSES. The name "trial per testes" has been used for a trial without the intervention of a jury, is the only method of trial known to the civil law, and is adopted by deposition in chancery. The judge is thus left to form, in his own breast, his sentence upon the credit of the witnesses examined. But it is very rarely used at common law. Tomlins.

TRIAL LIST. A list of cases marked down for trial for any one term.

TRIAL WITH ASSESSORS. Admiralty actions involving nautical questions, e.g., actions of collision, are generally tried in England before a judge, with Trinity Masters sitting as assessors. Rosc. Adm. 179.

Triatio ibi semper debet fieri, ubi juratores meliorem possunt habere notitiam. Trial ought always to be had where the jurors can have the best information. 7 Coke, 1.

TRIBUERE. Lat. In the civil law. To give; to distribute.

TRIBUNAL. The seat of a judge; the place where he administers justice; a judicial court; the bench of judges.

In Roman law. An elevated seat occupied by the praetor, when he judged, or heard causes in form. Originally a kind of stage made of wood in the form of a square, and moveable, but afterwards built of stone in the form of a semi-circle. Adams, Rom. Ant. 132, 133.

TRIBUNAUX DE COMMERCE. In French law. Certain courts composed of a president, judges, and substitutes, which take cognizance of all cases between merchants, and of disagreements among partners. Appeals lie from them to the courts of justice. Brown.

TRIBUTE. A contribution which is raised by a prince or sovereign from his subjects to sustain the expenses of the state. A sum of money paid by an inferior sovereign or state to a superior potentate, to secure the friendship or protection of the latter. Brande.

TRICESIMA. An ancient custom in a borough in the county of Hereford, so called, because thirty burgesses paid 1d. rent for their houses to the bishop, who was lord of the manor. Wharton.

TRIDING-MOTE. The court held for a triding or trithing. Cowell.

TRIDUUM. In old English law. The space of three days. Fleta, lib. 1, c. 31, § 7.

TRIENNIAL ACT. An act limiting the duration of every parliament to three years, unless sooner dissolved. It was passed by the long parliament in 1649, and afterwards repealed, and the term was fixed at seven years by the septennial act, (St. 1 Geo. I. St. 2, c. 38.)

TRIENS. Lat. In Roman law. A subdivision of the as, containing four unciae; the proportion of four-twelfths or one-third. 2 Bl. Comm. 482, note m. A copper coin of the value of one-third of the as. Brande.

In feudal law. Dower or third. 2 Bl. Comm. 129.

TRIGAMUS. In old English law. One who has been thrice married; one who, at different times and successively, has had three wives; a trigamist. 3 Inst. 88.

TRIGILD. In Saxon law. A triple gild, geld, or payment; three times the value of a thing, paid as a composition or satisfaction. Spelman.

TRINEPOS. Lat. In the civil law. A great-grandson's or great-granddaughter's
great-grandson. A male descendant in the sixth degree. Inst. 3, 6, 4.

TRINEPTIS. Lat. In the civil law. A great-grandson's or great-granddaughter's great-granddaughter. A female descendant in the sixth degree. Inst. 3, 6, 4.

TRINITY HOUSE. In English law. A society at Deptford Strond, incorporated by Hen. VIII. in 1515, for the promotion of commerce and navigation by licensing and regulating pilots, and ordering and erecting beacons, light-houses, etc. Wharton.

TRINITY MASTERS are elder brethren of the Trinity House. If a question arising in an admiralty action depends upon technical skill and experience in navigation, the judge or court is usually assisted at the hearing by two Trinity Masters, who sit as assessors, and advise the court on questions of a nautical character. Williams & B. Adm. Jur. 271; Sweet.

TRINITY SITTINGS. Sittings of the English court of appeal and of the high court of justice in London and Middlesex, commencing on the Tuesday after Whitsun week, and terminating on the 8th of August.

TRINITY TERM. One of the four terms of the English courts of common law, beginning on the 22d day of May, and ending on the 12th of June. 3 Steph. Comm. 562.

TRINIMUMGELDUM. In old European law. An extraordinary kind of composition for an offense, consisting of three times nine, or twenty-seven times the single gold or payment. Spelman.

TRINODA NECESSITAS. In Saxon law. A threefold necessity or burden. A term used to denote the three things from contributing to the performance of which no lands were exempted, viz., pontis reparatio, (the repair of bridges,) arcis constructio, (the building of castles,) et expedtio contra hostem, (military service against an enemy.) 1 Bl. Comm. 263, 357.

TRIORS. In practice. Persons who are appointed to try challenges to jurors, i.e., to hear and determine whether a juror challenged for favor is or is not qualified to serve. The lords chosen to try a peer, when indicted for felony, in the court of the lord high steward, are also called "triors." Mozley & Whitley.

TRIPARTITE. In conveyancing. Of three parts; a term applied to an indenture to which there are three several parties, (of the first, second, and third parts,) and which is executed in triplicate.

TRIPUGACIION. L. Fr. In old pleading. A rejoinder in pleading; the defendant's answer to the plaintiff's replication. Brit. c. 77.

TRIPICATIO. In the civil law. The reply of the plaintiff to the rejoinder of the defendant. It corresponds to the surrejoin­der of common law. Inst. 4, 14; Bract. l. 5, t. 5, c. 1.

TRIPLY. In Scotch practice. A pleading corresponding with the Latin "triplio," from which the term also was taken. 3 How. State Tr. 478, 637, 638.

TRISTRIS. In old forest law. A freedom from the duty of attending the lord of a forest when engaged in the chase. Spelman.

TRITAVIA. Lat. In the civil law. A great-grandmother's great-grandmother; the female ascendant in the sixth degree.

TRITAVUS. Lat. In the civil law. A great-grandfather's great-grandfather; the male ascendant in the sixth degree.

TRITHING. In Saxon law. One of the territorial divisions of England, being the third part of a county, and comprising three or more hundreds. Within the trithing there was a court held (called "trithing-mote") which resembled the court-leet, but was inferior to the county court.

TRITHING-MOTE. The court held for a trithing or riding.

TRITHING-REEVE. The officer who superintended a trithing or riding.

TRIUMVIR. In old English law. A trithing man or constable of three hundred Cowell.

TRIUMVIRI CAPITALES. In Roman law. Officers who had charge of the prison, through whose intervention punishments were inflicted. They had eight iectors to execute their orders. Vicat, Voc. Jur.

TRIVERNIAL DAYS. In the civil law. Juridical days; days allowed to the praetor for deciding causes; days on which the praetor might speak the three characteristic words of his office, viz., do, dico, addico. Calvin.

TRIVIAL. Trifling; inconsiderable; of small worth or importance. In equity, a demurrer will lie to a bill on the ground of the triviality of the matter in dispute, as being below the dignity of the court. 4 Bouv. Inst. no. 4237.

TRONAGE. In English law. A customary duty or toll for weighing wool; so called because it was weighed by a common trona, or beam. Fleta, lib. 2, c. 12.

TRONATOR. A weigher of wool. Cowell.

TROPHY MONEY. Money formerly collected and raised in London, and the several counties of England, towards providing harness and maintenance for the militia, etc.

TROVER. In common-law practice, the action of trover (or trover and conversion) is a species of action on the case, and originally lay for the recovery of damages against a person who had found another's goods and wrongfully converted them to his own use. Subsequently the allegation of the loss of the goods by the plaintiff and the finding of them by the defendant was merely fictitious, and the action became the remedy for any wrongful interference with or detention of the goods of another. 3 Stephan. Comm. 425. Sweet.

TROY WEIGHT. A weight of twelve ounces to the pound, having its name from Troyes, a city in Aube, France.

TRUCE. In international law. A suspension or temporary cessation of hostilities by agreement between belligerent powers; an armistice. Wheat. Int. Law, 442.

TRUCE OF GOD. In medieval law. A truce or suspension of arms promulgated by the church, putting a stop to private hostilities at certain periods or during certain sacred seasons.

TRUCK ACT. In English law. This name is given to the statute 1 & 2 Wm. IV. c. 37, passed to abolish what is commonly called the "truck system," under which employers were in the practice of paying the wages of their work people in goods, or of requiring them to purchase goods at certain shops. This led to laborers being compelled to take goods of inferior quality at a high price. The act applies to all artificers, workmen, and laborers, except those engaged in certain trades, especially iron and metal works, quarries, cloth, silk, and glass manufactories. It does not apply to domestic or agricultural servants. Sweet.

TRUE. Conformable to fact; correct; exact; actual; genuine; honest.

"In one sense, that only is true which is conformable to the actual state of things. In that sense, a statement is untrue which does not express things exactly as they are. But in another and broader sense, the word 'true' is often used as a synonym of 'honest,' 'sincere,' 'not fraudulent.'" 111 U. S. 345, 4 Sup. Ct. Rep. 466.

TRUE BILL. In criminal practice. The indorsement made by a grand jury upon a bill of indictment, when they find it sustained by the evidence laid before them, and are satisfied of the truth of the accusation. 4 Bl. Comm. 306.

TRUE, PUBLIC, AND NOTORIOUS. These three qualities used to be formally predicated in the libel in the ecclesiastical courts, of the charges which it contained, at the end of each article severally. Wharton.

TRUST. An equitable or beneficial right or title to land or other property, held for the beneficiary by another person, in whose resides the legal title or ownership, recognized and enforced by chancery courts.

An obligation upon a person, arising out of a confidence reposed in him, to apply property faithfully, and according to such confidence. Willis, Trustees, c. 1, p. 2.

"A trust, in the general and enlarged sense, is a right on the part of the custui que trust to receive the profits, and to dispose of the lands in equity." 4 Kent, Comm. 304.

Classification. Trusts are either express or implied; the former being trusts which are created in so many fit and appropriate terms; the latter being trusts founded on the presumable, though unexpressed, intention of the party who creates them.

Express trusts are those created and manifested by agreement of the parties. Implied trusts are such as are inferred by law from the nature of the transaction, or the conduct of the parties. Code Ga. 1852, § 2899.

Trusts are also either executed or executory. An executed trust is one which the person creating it has fully and finally declared, whence also it is called a "complete" trust; while an executory trust is one which the person creating it has not fully or finally declared, but has given merely an outline of it by way of direction to the conveyancer, whence also it is called sometimes an "incomplete" and sometimes a "directory" trust. Brown.

Trusts are again classified as special (or
active) and simple (or passive, or dry.) The special trust is where the machinery of a trustee is introduced for the execution of some purpose particularly pointed out, and the trustee is not, as before, a mere passive depository of the estate, but is called upon to exert himself actively in the execution of the settlor's intention; as where a conveyance is to trustees upon trust to sell for payment of debts. Lewin, Trusts, 18. A simple trust is one which requires the performance of no duty by the trustee to carry out the trust, but by force of which the mere legal title rests in the trustee.

Trusts are also either voluntary or involuntary. A voluntary trust is an obligation arising out of a personal confidence reposed in, and voluntarily accepted by, one for the benefit of another. An involuntary trust is one which is created by operation of law. Civil Code Cal. §§ 2216, 2217.

According to another use of the term, "voluntary trusts" are such as are made in favor of a volunteer; that is, a person who gives nothing in exchange for the trust, but receives it as a pure gift. And in this use the term is distinguished from "trusts for value," the latter being such as are in favor of purchasers, mortgagees, etc.

Constructive trusts are such as are founded neither on an expressed nor on any presumable intention of the party, but which are raised by construction of equity without any regard to intention, and simply for the purpose of satisfying the demands of justice and good conscience. Brown.

Public trusts. "By 'public' must be understood such as are constituted for the benefit either of the public at large or of some considerable portion of it answering a particular description. To this class all trusts for charitable purposes, and indeed 'public trusts' and 'charitable trusts' may be considered in general as synonymous expressions." Lewin, Trusts, 20.

Private trusts. "In private trusts the beneficial interest is vested absolutely in one or more individuals, who are, or within a certain time may be, definitely ascertained, and to whom, therefore, collectively, unless under some legal disability, it is, or within the allowed limit will be, competent to control, modify, or determine the trust." Lewin, Trusts, 20.

For a discussion of the differences between "trust" and "use," see 50 N. H. 491.

In mercantile law. An organization of persons or corporations, formed mainly for the purpose of regulating the supply and price of commodities, etc.

**Trust-Deed.** 1. A species of mortgage given to a trustee for the purpose of securing a numerous class of creditors, as the bondholders of a railroad corporation, with power to foreclose and sell on failure of the payment of their bonds, notes, or other claims.

2. In some of the states, and in the District of Columbia, a trust-deed is a security resembling a mortgage, being a conveyance of lands to trustees to secure the payment of a debt, with a power of sale upon default, and upon a trust to apply the net proceeds to paying the debt and to turn over the surplus to the grantor.

**Trustee.** The person appointed, or required by law, to execute a trust; one in whom an estate, interest, or power is vested, under an express or implied agreement to administer or exercise it for the benefit or to the use of another.

"Trustee" is also used in a wide and perhaps inaccurate sense, to denote that a person has the duty of carrying out a transaction, in which he and another person are interested, in such manner as will be most for the benefit of the latter, and not in such a way that he himself might be tempted, for the sake of his personal advantage, to neglect the interests of the other. In this sense, directors of companies are said to be "trustees for the shareholders." Sweet.

**Trustee Acts.** The statutes 13 & 14 Vict. c. 60, passed in 1850, and 15 & 16 Vict. c. 55, passed in 1852, enabling the court of chancery, without bill filed, to appoint new trustees in lieu of any who, on account of death, lunacy, absence, or otherwise, are unable or unwilling to act as such; and also to make vesting orders by which legal estates and rights may be transferred from the old trustee or trustees to the new trustee or trustees so appointed. Mozley & Whitley.

**Trustee Ex Maleficio.** A person who, being guilty of wrongful or fraudulent conduct, is held by equity to the duty and liability of a trustee, in relation to the subject-matter, to prevent him from profiting by his own wrong.

**Trustee in Bankruptcy.** A trustee in bankruptcy is a person in whom the property of a bankrupt is vested in trust for the creditors.
TRUSTEE PROCESS. The name given, in the New England states, to the process of garnishment or foreign attachment.

TRUSTEE RELIEF ACTS. The statute 10 & 11 Vict. c. 96, passed in 1847, and statute 12 & 13 Vict. c. 74, passed in 1849, by which a trustee is enabled to pay money into court, in cases where a difficulty arises respecting the title to the trust fund. Mozley & Whitley.

TRUSTER. In Scotch law. The maker or creator of a trust.

TRUSTIS. In old European law. Trust; faith; confidence; fidelity.

TRUSTOR. A word occasionally, though rarely, used as a designation of the creator, donor, or founder of a trust.

TRY. To examine judicially; to examine and investigate a controversy, by the legal method called "trial," for the purpose of determining the issues it involves.

TU AS RES TIBI HABETO. Lat. Have or take your things to yourself. The form of words by which, according to the old Roman law, a man divorced his wife. Calvin.

TUB. In mercantile law. A measure containing sixty pounds of tea, and from fifty-six to eighty-six pounds of camphor. Jacob.

TUB-MAN. In English law. A barrister who has a preaudience in the exchequer, and also one who has a particular place in court, is so called. Brown.

TUCHAS. In Spanish law. Objections or exceptions to witnesses. White, New Recop. b. 3, tit. 7, c. 10.

TUERTO. In Spanish law. Tort. Las Partidas, pt. 7, tit. 6, l. 5.

TUG. A steam vessel built for towing; synonymous with "tow-boat."

TULLIANUM. Lat. In Roman law. That part of a prison which was under ground. Supposed to be so called from Servius Tullius, who built that part of the first prison in Rome. Adams, Rom. Ant. 290.

TUMBREL. A castigatory, trebucket, or ducking-stool, or ducking-stool, anciently used as a punishment for common scolds.

TUMULTUOUS PETITIONING. Under St. 13 Car. II. St. 1, c. 5, this was a misdemeanor, and consisted in more than twenty persons signing any petition to the crown or either house of parliament for the alteration of matters established by law in church or state, unless the contents thereof had been approved by three justices, or the majority of the grand jury at assizes or quarter sessions. No petition could be delivered by more than ten persons. 4 Bl. Comm. 147; Mozley & Whitley.

TUN. A measure of wine or oil, containing four hogheads.

TUNGREVE. A town-reeve or bailiff. Cowell.

TURBA. Lat. In the civil law. A multitude; a crowd or mob; a tumultuous assembly of persons. Said to consist of ten or fifteen, at the least. Calvin.

TURBARY. Turbar, or common of turbar, is the right or liberty of digging turf upon another man's ground. Brown.

TURN, or TOURN. The great court-leet of the county, as the old county court was the court-baron. Of this the sheriff is judge, and the court is incident to his office; wherefore it is called the "sheriff's tourn;" and it had its name originally from the sheriff making a turn of circuit about his shire, and holding this court in each respective hundred. Wharton.

TURNED TO A RIGHT. This phrase means that a person whose estate is divested by usurpation cannot expel the possessor by mere entry, but must have recourse to an action, either possessory or drotiral. Mozley & Whitley.

TURNKEY. A person, under the superintendence of a jailor, who has the charge of the keys of the prison, for the purpose of opening and fastening the doors.

TURNPIKE. A gate set across a road, to stop travelers and carriages until toll is paid for the privilege of passage thereon.

TURNPIKE ROADS. These are roads on which parties have by law a right to erect gates and bars, for the purpose of taking toll, and of refusing the permission to pass along them to all persons who refuse to pay. 6 Mees. & W. 428.

A turnpike road is a public highway, established by public authority for public use, and is to be regarded as a public easement, and not as private property. The only difference between this and a common highway is that, instead of being made at the public expense in the first instance, it is authorized and laid out by public authority, and
TURPIS. Lat. In the civil law. Base; mean; vile; disgraceful; infamous; unlawful. Applied both to things and persons. Calvin.

TURPIS CAUSA. Lat. A base cause; a vile or immoral consideration; a consideration which, on account of its immorality, is not allowed by law to be sufficient either to support a contract or found an action; e. g., future illicit intercourse.

TURPIS CONTRACTUS. Lat. An immoral or iniquitous contract.

Turpis est pars quae non convenit cum suo toto. The part which does not agree with its whole is of mean account. [entitled to small or no consideration.] Plowd. 101; Shep. Touch. 87.

TURPITUDE. Everything done contrary to justice, honesty, modesty, or good morals is said to be done with turpitude.

TURPITUDO. Lat. Baseness; infamy; immorality; turpitude.

Tuta est custodia quae sibi metitur. Hob. 340. That guardianship is secure which is intrusted to itself alone.

TUTELA. Lat. In the civil law. Tutelage; that species of guardianship which continued to the age of puberty; the guardian being called "tutor," and the ward, "pu­pilus." 1 Dom. Civil Law, b. 2, tit. 1, p. 260.

TUTELA LEGITIMA. Lat. In the civil law. Legal tutelage; tutelage created by act of law, as where none had been created by testament. Inst. 1, 15, pr.

TUTELA TESTAMENTARIA. Lat. In the civil law. Testamentary tutelage or guardianship; that kind of tutelage which was created by will. Calvin.

TUTELÆ ACTIO. Lat. In the civil law. An action of tutelage; an action which lay for a ward or pupil, on the termination of tutelage, against the tutor or guardian, to compel an account. Calvin.

TUTELAGE. Guardianship; state of being under a guardian.

TUTELAM REDDERE. Lat. In the civil law. To render an account of tutelage. Calvin. Tutelam reposcere, to demand an account of tutelage.

TUTER. In French law. A kind of guardian.

TUTER OFFICIEUX. In French law, a person over fifty years of age may be appointed a tutor of this sort to a child over fifteen years of age, with the consent of the parents of such child, or, in their default, the conseil de famille. The duties which such a tutor becomes subject to are analogous to those in English law of a person who puts himself in loco parentis to any one. Brown.

TUTER SUBROGÉ. In French law. The title of a second guardian appointed for an infant under guardianship. His functions are exercised in case the interests of the infant and his principal guardian conflict. Code Nap. 420; Brown.

Tutius erratur ex parte mitiore. 3 Inst. 220. It is safer to err on the gentler side.

Tutius semper est errare acquietando, quam in puniendo, ex parte misericordiae quam ex parte justitiae. It is always safer to err in acquitting than punishing, on the side of mercy than on the side of justice. Branch, Princ.; 2 Hale, P. C. 290; Broom, Max. 326; 9 Metc. (Mass.) 116.

TUTOR. In the civil law. This term corresponds nearly to "guardian," (i. e., a person appointed to have the care of the person of a minor and the administration of his estate,) except that the guardian of a minor who has passed a certain age is called "curator," and has powers and duties differing somewhat from those of a tutor.

By the laws of Louisiana, minors under the age of fourteen years, if males, and under the age of twelve years, if females, are, both as to their persons and their estates, placed under the authority of a tutor. Above that age, and until their majority or emancipation, they are placed under the authority of a curator. Civil Code La. 1838, art. 263.

TUTOR ALIENUS. In English law. The name given to a stranger who enters upon the lands of an infant within the age of fourteen, and takes the profits. Co. Litt. 896, 90a.

TUTOR PROPRIUS. The name given to one who is rightly a guardian in socage, in contradistinction to a tutor alienus.

TUTORSHIP. The office and power of a tutor.

TUTORSHIP BY NATURE. After the dissolution of marriage by the death of
TUTORSHIP BY WILL. The right of appointing a tutor, whether a relation or a stranger, belongs exclusively to the father or mother dying last. This is called "tutorship by will," because generally it is given by testament; but it may likewise be given by any declaration by the surviving father or mother, executed before a notary and two witnesses. Civil Code La. art. 257.

TUTRIX. A female tutor.

TWA NIGHT GEST. In Saxon law. A guest on the second night. By the laws of Edward the Confessor it was provided that a man who lodged at an inn, or at the house of another, should be considered, on the first night of his being there, a stranger, (uncuth;) on the second night, a guest; on the third night, a member of the family. This had reference to the responsibility of the host or entertainer for offenses committed by the guest.

TWELFHINDI. The highest rank of men in the Saxon government, who were valued at 1200s. If any injury were done to such persons, satisfaction was to be made according to their worth. Cowell.

TWELVE TABLES. The earliest statute or code of Roman law, framed by a commission of ten men, B. C. 450, upon the return of a commission of three who had been sent abroad to study foreign laws and institutions. The Twelve Tables consisted partly of laws transcribed from the institutions of other nations, partly of such as were altered and accommodated to the manners of the Romans, partly of new provisions, and mainly, perhaps, of laws and usages under their ancient kings. They formed the source and foundation for the whole later development of Roman jurisprudence. They exist now only in fragmentary form. See 1 Kent, Comm. 520.

TWELVE-DAY WRIT. A writ issued under the St. 18 & 19 Vict. c. 67, for summary procedure on bills of exchange and promissory notes, abolished by rule of court in 1880. Wharton.

TWELVE-MONTH, in the singular number, includes all the year; but twelve months are to be computed according to twenty-eight days for every month. 6 Coke, 62.

TWICE IN JEOPARDY. See JEOPARDY; ONCE IN JEOPARDY.

TYWINDI. The lower order of Saxons, valued at 200s. in the scale of pecuniary multics inflicted for crimes. Cowell.

TYBURN TICKET. A certificate which was given to the prosecutor of a felon to conviction.

TYHTLAN. In Saxon law. An accusation, impeachment, or charge of any offense.

TYLWITH. Brit. A tribe or family branching or issuing out of another. Cowell.

TYRANNY. Arbitrary or despotic government; the severe and autocratic exercise of sovereign power, either vested constitutionally in one ruler, or usurped by him by breaking down the division and distribution of governmental powers.

TYRANT. A despot; a sovereign or ruler, legitimate or otherwise, who uses his power unjustly and arbitrarily, to the oppression of his subjects.

TYRRA, or TOIRA. A mount or hill. Cowell.

TYTHE. Tithe, or tenth part.

TYTHING. A company of ten; a district; a tenth part. See Tithing.

TZAR, TZARINA. The emperor and empress of Russia. See Czar.
U. B. An abbreviation for "Upper Bench."

U. C. An abbreviation for "Upper Canada," used in citing the reports.

U. R. Initials of "uti rogas," be it as you desire, a ballot thus inscribed, by which the Romans voted in favor of a bill or candidate. Tayl. Civil Law, 191.

U. S. An abbreviation for "United States."

UBERRIMA FIDES. Lat. The most abundant good faith; absolute and perfect candor or openness and honesty; the absence of any concealment or deception, however slight.

Ubi aliquid conceditur, conceditur et id sine quo res ipsa esse non potest. When anything is granted, that also is granted without which the thing granted cannot exist. Broom. Max. 483; 13 Mees. & W. 706.

Ubi aliquid impeditur propter unum, eo remoto, tollitur impedimentum. Where anything is impeded by one single cause, if that be removed, the impediment is removed. Branch, Princ., citing 5 Coke, 77a.

Ubi cessat remedium ordinarium, ibi decurratur ad extraordinarium. Where the ordinary remedy fails, recourse must be had to an extraordinary. 4 Coke, 92b.

Ubi culpa est, ibi poena subesse debet. Where the crime is committed, there ought the punishment to be undergone. Jenk. Cent. 325.

Ubi damna dantur, victus victori in expensis condemnari debet. Where damages are given, the vanquished party ought to be condemned in costs to the victor. 2 Inst. 289.

Ubi eadem ratio, ibi eadem lex; et de similibus idem est judicium. 7 Coke, 18. Where the same reason exists, there the same law prevails; and, of things similar, the judgment is similar.

Ubi et dantis et accipientis turpitudo versatur, non posse repeti dicoimus; quotiens autem accipientis turpitudo versatur, repeti posse. Where there is turpitude on the part of both giver and receiver, we say it cannot be recovered back; but as often as the turpitude is on the side of the receiver [alone] it can be recovered back. 17 Mass. 562.

Ubi factum nullum, ibi fortia nulla. Where there is no principal fact, there can be no accessory. 4 Coke, 426.

Ubi jus, ibi remedium. Where there is a right, there is a remedy. Broom, Max. 191, 204; 1 Term R. 512; Co. Litt. 197b.

Ubi jus incertum, ibi jus nullum. Where the law is uncertain, there is no law.

Ubi lex aliquem cogit ostendere causam, necesse est quod causa sit justa et legitima. Where the law compels a man to show cause, it is necessary that the cause be just and lawful. 2 Inst. 289.

Ubi lex est specialis, et ratio ejus generalis, generaliter accipienda est. 2 Inst. 43. Where the law is special, and the reason of it general, it ought to be taken as being general.

Ubi lex non distinguuit, nec nos distinguere debemus. Where the law does not distinguish, neither ought we to distinguish. 7 Coke, 5b.

Ubi major pars est, ibi totum. Where the greater part is, there the whole is. That is, majorities govern. Moore, 578.

Ubi non adest norma legis, omnia quasi pro suspectis habenda sunt. When the law fails to serve as a rule, almost everything ought to be suspected. Bac. Aphorisms, 25.

Ubi non est annua renovatio, ibi de­cimae non debent solvi. Where there is no annual renovation, there tithes ought not to be paid.

Ubi non est condendi auctoritas, ibi non est parendi necessitas. Dav. Ir. K. B. 69. Where there is no authority for establishing a rule, there is no necessity of obeying it.

Ubi non est directa lex, standum est arbitrio judicis, vel procedendum ad similia. Ellesm. Post. N. 41. Where there is no direct law, the opinion of the judge is to be taken, or references to be made to similar cases.
UBI NON EST LEX, ETC. 1197  ULTRA MARE

UBI NON EST LEX, IBI NON EST TRANS­GRESSIO, QUOD MUNDUM. Where there is no law, there is no transgression, so far as relates to the world. 4 Coke, 16b.

UBI NON EST MANIFESTA INJUSTITIA, JU­DICES HABENTUR PRO BONIS VIRIS, ET JUDI­CENTUM PRO VERITATE. Where there is no manifest injustice, the judges are to be regarded as honest men, and their judgment as truth. 1 Johns. Cas. 341, 345.

UBI NON EST PRINCIPALIS, NON POTEST ESSE ACCESSORIUS. 4 Coke, 43. Where there is no principal, there cannot be an accessory.

UBI NULLA EST CONJECTURA QUAE DU­CAT ALIO, VERBA INTELLIGENDA SUNT EX PRO­PRIETATE, NON GRAMMATICA, SED PopULARI EX USU. Where there is nothing to call for a different construction, [the] words [of an instrument] are to be understood, not according to their strict grammatical meaning, but according to their popular and ordinary sense. Grot. de Jure B. lib. 2, c. 16.

UBI NULLUM MATRIMONIUM, IBI NULLA DOS. Where there is no marriage, there is no dower. Bract. fol. 92; 2 Bl. Comm. 130.

UBI PERICULUM, IBI ET LUCRUM COLLOCAT­UR. He at whose risk a thing is, should receive the profits arising from it.

UBI PUGNANTIA INTER SE IN TESTAMENTO JUBERENTUR, NEUTRUM RATUM EST. Where repugnant or inconsistent directions are contained in a will, neither is valid. Dig. 50, 17, 188, pr.

UBI QUID GENERALITER CONCEDITUR INE­ST HEC EXCEPTIONI, SI NON ALIQUID SIT CONTRA JUS FASQUE. 10 Coke, 78. Where a thing is conceded generally this exception is implied: that there shall be nothing contrary to law and right.

UBI QVIS DELLINQUIT, IBI PUNITUR. Where a man offends, there he shall be punished. 6 Coke, 476. In cases of felony, the trial shall be always by the common law in the same place where the offense was, and shall not be supposed in any other place. Id.

UBI RE VERA. Where in reality; when in truth or in point of fact. Cro. Eliz. 645; Cro. Jac. 4.

UBI VERBA CONJUNCTA NON SUNT SUFFICI­ENT ALTERUTRUM ESSE FACTUM. Dig. 50, 17, 110, 3. Where words are not conjoined, it is enough if one or other be complied with.

UBIQUITY. Omnipresence; presence in several places, or in all places, at one time.

A fiction of English law is the "legal ubiquity" of the sovereign, by which he is constructively present in all the courts. 1 Bl. Comm. 270.

UDAL. A term mentioned by Blackstone as used in Finland to denote that kind of right in real property which is called, in English law, "alodial." 2 Bl. Comm. 45, note f.

UKAAS, UKASE. The name of a law or ordinance made by the czar of Russia.

ULLAGE. In commercial law. The amount wanting when a cask, on being gauged, is found not to be completely full.

ULNA FERREA. In old English law. The iron ell; the standard ell of iron, kept in the exchequer for the rule of measure.

ULNAGE. Alnage, (which see.)

ULTIMA RATIO. Lat. The last argument; the last resort; the means last to be resorted to.

Ultima voluntas testatoris est perim­plenda secundum veram intentionem suam. Co. Litt. 322. The last will of a testator is to be fulfilled according to his true intention.

ULTIMATE FACTS. In pleading and practice. Facts in issue; opposed to probative or evidential facts, the latter being such as serve to establish or disprove the issues. 2 Utah, 379.

ULTIMATUM. Lat. The last. The final and ultimate proposition made in negotiating a treaty, or a contract, or the like.

ULTIMUM SUPPLICIUM. Lat. The extreme punishment; the extremity of punishment; the punishment of death. 4 Bl. Comm. 17.

Ultimum supplicium esse mortem solam interpretatur. The extremest punishment we consider to be death alone. Dig. 48, 19, 21.

ULTIMUS HÆRES. Lat. The last or remote heir; the lord. So called in contradistinction to the hæres proximus and the hæres remotor. Dalr. Feud. Prop. 110.

ULTRA. Lat. Beyond; outside of; in excess of. Damages ultra, damages beyond a sum paid into court.

ULTRA MARE. Beyond sea. One of the old essoins or excuses for not appearing
in court at the return of process. Bract. fol. 338.

Ultra posse non potest esse, et vice versa. What is beyond possibility cannot exist, and the reverse, [what cannot exist is not possible.] Wing. Max. 100.

ULTRA REPRISSES. After deduction of drawbacks; in excess of deductions or expenses.

ULTRA VIRES. A term used to express the action of a corporation which is beyond the powers conferred upon it by its charter, or the statutes under which it was instituted. 13 Amer. Law Rev. 632.

"Ultra vires" is also sometimes applied to an act which, though within the powers of a corporation, is not binding on it because the consent or agreement of the corporation has not been given in the manner required by its constitution. Thus, where a company delegates certain powers to its directors, all acts done by the directors beyond the scope of those powers are ultra vires, and not binding on the company, unless it subsequently ratifies them. Sweet.

ULTRONEOUS WITNESS. In Scotch law. A volunteer witness; one who appears to give evidence without being called upon. 2 Alis. Crim. Pr. 393.

UMPIRAGE. The decision of an umpire. The word "umpirage," in reference to an umpire, is the same as the word "award," in reference to arbitrators; but "award" is commonly applied to the decision of the umpire also.

UMPIRE. When matters in dispute are submitted to two or more arbitrators, and they do not agree in their decision, it is usual for another person to be called in as "umpire," to whose sole judgment it is then referred. Brown.

Un ne doit priser advantage de son tort desmesne. 2 And. 38, 40. One ought not to take advantage of his own wrong.

Una persona vix potest supplicare vices duarum. 7 Coke, 118. One person can scarcely supply the places of two. See 9 H. L. Cas. 274.

UNA VOCE. Lat. With one voice; unanimously; without dissent.

UNALIENABLE. Ineasible of being aliened, that is, sold and transferred.

UNANIMITY. Agreement of all the persons concerned, in holding one and the same opinion or determination of any matter or question; as the concurrence of a jury in deciding upon their verdict.

UNASCERTAINED DUTIES. Payment in gross, on an estimate as to amount, and where the merchant, on a final liquidation, will be entitled by law to allowances or deductions which do not depend on the rate of duty charged, but on the ascertained of the quantity of the article subject to duty. 5 Blatchf. 274.

UNAVOIDABLE ACCIDENT. Not necessarily an accident which it was physically impossible, in the nature of things, for the person to have prevented, but one not occasioned in any degree, either remotely or directly, by the want of such care or skill as the law holds every man bound to exercise. 8 Wend. 473.

UNCEASESATHE. In Saxon law. An oath by relations not to avenge a relation's death. Blount.

UNCERTAINTY. Such vagueness, obscurity, or confusion in any written instrument, e. g., a will, as to render it unintelligible to those who are called upon to execute or interpret it, so that no definite meaning can be extracted from it.

UNCIA. Lat. In Roman law. An ounce; the twelfth of the Roman "as," or pound. The twelfth part of anything; the proportion of one-twelfth. 2 Bl. Comm. 462, note m.

UNCIA AGRI, UNCA TEREÆ. These phrases often occur in the charters of the British kings, and signify some measure or quantity of land. It is said to have been the quantity of twelve modius; each modius being possibly one hundred feet square. Jacob.

UNCIARIUS HÆRES. Lat. In Roman law. An heir to one-twelfth of an estate or inheritance. Calvin.

UNCLE. The brother of one's father or mother.

UNCONSCIONABLE BARGAIN. A contract which no man in his senses, not under delusion, would make, on the one hand, and which no fair and honest man would accept, on the other. 4 Bouv. Inst. no. 3848.

UNCONSTITUTIONAL. That which is contrary to the constitution. The opposite of "constitutional."
A distinction is made between this officer
and a deputy, the latter being appointed for
a special occasion or purpose, while the for-
mer discharges, in general, all the duties re-
quired by the sheriff's office.

UNDER-TENANT. A tenant under
one who is himself a tenant; one who holds
by under-lease.

UNDER-TUTOR. In Louisiana. In
every tutorship there shall be an under-tutor,
whom it shall be the duty of the judge to ap-
point at the time letters of tutorship are cer-
tified for the tutor. It is the duty of the un-
der-tutor to act for the minor whenever the
interest of the minor is in opposition to the
interest of the tutor. Civil Code La. 1838,
arts. 300, 301.

UNDER-TREASURER OF EN-
GLAND. He who transacted the business of
the lord high treasurer.

UNDERLIE THE LAW. In Scotch
criminal procedure, an accused person, in
appearing to take his trial, is said "to com-
pare and underlie the law." Mozley & Whitley.

UNDERSTANDING. In the law of
contracts. This is a loose and ambiguous
term, unless it be accompanied by some ex-
pression to show that it constituted a meet-
ing of the minds of parties upon something
respecting which they intended to be bound.
25 Conn. 529. But it may denote an in-
formal agreement, or a concurrence as to its
terms. See 47 Wis. 507.

UNDERSTOOD. The phrase "it is un-
derstood," when employed as a word of con-
tract in a written agreement, has the same
force as the words "it is agreed." 14 Gray,
165.

UNDEARTAKING. A promise, engage-
ment, or stipulation. Each of the promises
made by the parties to a contract, considered
independently and not as mutual, may, in
this sense, be denominated an "undertak-
ing."

"Undertaking" is frequently used in the
special sense of a promise given in the course
of legal proceedings by a party or his coun-
sel, generally as a condition to obtaining
some concession from the court or the oppo-
site party. Sweet.

UNDEEOK. Agreed; assumed.
This is the technical word to be used in al-
leging the promise which forms the basis of
an action of assumpsit.
UNDERWRITER. The person who insure another in a fire or life policy; the insurer.

A person who joins with others in entering into a marine policy of insurance as insurer.

UNDIVIDED. An undivided right or title, or a title to an undivided portion of an estate, is that owned by one of two or more tenants in common or joint tenants before partition.

UNDRES. Minors or persons under age not capable of bearing arms. Fleta, 1, 1, c. 9; Cowell.

UNDUE INFLUENCE. Undue influence consists (1) in the use, by one in whom a confidence is reposed by another, or who holds a real or apparent authority over him, of such confidence or authority, for the purpose of obtaining an unfair advantage over him; (2) in taking an unfair advantage of another's weakness of mind; or (3) in taking a grossly oppressive and unfair advantage of another's necessities or distress. Civil Code Dak. § 886.

Undue influence at elections is where any one interferes with the free exercise of a voter's franchise, by violence, intimidation, or otherwise. It is a misdemeanor. 1 Russ. Crimes, 321; Steph. Crim. Dig. 79.

UNGELD. In Saxon law. An outlaw; a person whose murder required no composition to be made, or weregeid to be paid, by his slayer.

UNICA TAXATIO. The obsolete language of a special award of centire, where, of several defendants, one pleads, and one lets judgment go by default, whereby the jury, who are to try and assess damages on the issue, are also to assess damages against the defendant suffering judgment by default. Wharton.

UNIFORM. A statute is general and uniform in its operation when it operates equally upon all persons who are brought within the relations and circumstances provided for. 20 Iowa, 338.

UNIFORMITY. In taxation. Uniformity in taxation implies equality in the burden of taxation, which cannot exist without uniformity in the mode of assessment, as well as in the rate of taxation. Further, the uniformity must be co-extensive with the territory to which it applies. And it must be extended to all property subject to taxation, so that all property may be taxed alike and equally. 3 Ohio St. 15.

UNIFORMITY, ACT OF, which regulates the terms of membership in the Church of England and the colleges of Oxford and Cambridge, (St. 13 & 14 Car. II. c. 4.) See St. 9 & 10 Vict. c. 59. The act of uniformity has been amended by the St. 35 & 36 Vict. c. 55, which inter alia provides a shortened form of morning and evening prayer. Wharton.

UNIFORMITY OF PROCESS ACT. The English statute of 2 Wm. IV. c. 39, establishing a uniform process for the commencement of actions in all the courts of law at Westminster. 3 Steph. Comm. 566.

UNIGENITURE. The state of being the only begotten.

UNILATERAL. One-sided.

UNILATERAL CONTRACT. In the civil law. When the party to whom an engagement is made makes no express agreement on his part, the contract is called "unilateral," even in cases where the law attaches certain obligations to his acceptance. Civil Code La. art. 1765.

UNINTELLIGIBLE. That which cannot be understood.

UNIO. Lat. In canon law. A consolidation of two churches into one. Cowell.

UNIO PROLIIUM. Lat. Uniting of offspring. A method of adoption, chiefly used in Germany, by which step-children (on either or both sides of the house) are made equal, in respect to the right of succession, with the children who spring from the marriage of the two contracting parties. See Heinecc. Elem. § 188.

UNION. In English poor-law. A union consists of two or more parishes which have been consolidated for the better administration of the poor-law therein.

In ecclesiastical law. A union consists of two or more benefices which have been united into one benefice. Sweet.

In public law. A popular term in America for the United States; also, in Great Britain, for the consolidated governments of England and Scotland, or for the political tie between Great Britain and Ireland.

In Scotch law. A "clause of union" is a clause in a feuaidment by which two estates, separated or not adjacent, are united as one.
for the purpose of making a single seisin suffice for both.

UNION-JACK. The national flag of Great Britain and Ireland, which combines the banner of St. Patrick with the crosses of St. George and St Andrew. The word "jack" is most probably derived from the surcoat, charged with a red cross, anciently used by the English soldiers. This appears to have been called a "jacque," whence the word "jacket," anciently written "jacquit." Some, however, without a shadow of evidence, derive the word from "Jacques," the first alteration having been made in the reign of King James I. Wharton.

UNION OF CHURCHES. A combining and consolidating of two churches into one. Also it is when one church is made subject to another, and one man is rector of both; and where a conventual church is made a cathedral. Tomlins.

UNITAS PERSONARUM. Lat. The unity of persons, as that between husband and wife, or ancestor and heir.

UNITED STATES BONDS. Obligations for payment of money which have been at various times issued by the government of the United States.

UNITED STATES COMMISSIONERS. Each circuit court of the United States may appoint, in different parts of the district for which it is held, as many discreet persons as it may deem necessary, who shall be called "commissioners of the circuit court," and shall exercise the powers which are or may be conferred upon them. Rev. St. U.S. § 627.

UNITED STATES NOTES. Promissory notes, resembling bank-notes, issued by the government of the United States.

UNITY. In the law of estates. The peculiar characteristic of an estate held by several in joint tenancy, and which is fourfold, viz., unity of interest, unity of title, unity of time, and unity of possession. In other words, joint tenants have one and the same interest, accruing by one and the same conveyance, commencing at one and the same time, and held by one and the same undivided possession. 2 Bl. Comm. 180.

UNITY OF INTEREST. This term is applied to joint tenants, to signify that no one of them may have a larger share than any of the others. Williams, Real Prop. 134, 139.

UNITY OF POSSESSION. Joint possession of two rights by several titles. As if I take a lease of land from a person at a certain rent, and afterwards I buy the fee-simple of such land, by this I acquire unity of possession, by which the lease is extinguished. Cowell; Brown.

It is also one of the essential properties of a joint estate, each of the tenants having the entire possession as well of every parcel as of the whole. 2 Bl. Comm. 182.

UNITY OF SEISIN is where a person seised of land which is subject to an easement, profit à prendre, or similar right, also becomes seised of the land to which the easement or other right is annexed. Sweet.

UNITY OF TIME. One of the essential properties of a joint estate; the estates of the tenants being vested at one and the same period. 2 Bl. Comm. 181.

UNITY OF TITLE is applied to joint tenants, to signify that they hold their property by one and the same title, while tenants in common may take property by several titles. Williams, Real Prop. 134.

Unius omnino testis responsio non audiatur. The answer of one witness shall not be heard at all; the testimony of a single witness shall not be admitted under any circumstances. A maxim of the civil and canon law. Cod. 4, 20, 9; 3 Bl. Comm. 370; Best, Ev. p. 426, § 330, and note.

Uniusquejusque contractus initium spectandum est, et causa. The commencement and cause of every contract are to be regarded. Dig. 17, 1, 8; Story, Bailm. § 56.

UNIVERSAL AGENT. One who is appointed to do all the acts which the principal can personally do, and which he may lawfully delegate the power to another to do. Story, Ag. 18.

UNIVERSAL LEGACY. In the civil law. A testamentary disposition by which the testator gives to one or several persons the whole of the property which he leaves at his decease. Civil Code La. art. 1606.

UNIVERSAL PARTNERSHIP. One in which the partners jointly agree to contribute to the common fund of the partnership the whole of their property, of whatever character, and future, as well as present. Poth. Société, 29.
UNIVERSAL REPRESENTATION. In Scotch law. A term applied to the representation by an heir of his ancestor. Bell.

Universalia sunt notiora singularibus. 2 Rolle, 294. Things universal are better known than things particular.

UNIVERSITAS. Lat. In the civil law. A corporation aggregate. Dig. 3, 4, 7. Literally, a whole formed out of many individuals. 1 Bl. Comm. 469.

UNIVERSITAS FACTI. Lat. In the civil law. A plurality of corporeal things of the same kind, which are regarded as a whole; e.g., a herd of cattle, a stock of goods. Mackeld. Rom. Law, § 162.

UNIVERSITAS JURIS. Lat. In the civil law. A quantity of things of all sorts, corporeal as well as incorporeal, which, taken together, are regarded as a whole; e.g., an inheritance, an estate. Mackeld. Rom. Law, § 162.

UNIVERSITAS RERUM. Lat. In the civil law. Literally, a whole of things. Several single things, which, though not mechanically connected with one another, are, when taken together, regarded as a whole in any legal respect. Mackeld. Rom. Law, § 162.

UNIVERSITY. An institution of higher learning, consisting of an assemblage of colleges united under one corporate organization and government, affording instruction in the arts and sciences and the learned professions, and conferring degrees.

UNIVERSITY COURT. See Chancellor's Courts in the Two Universities.

UNIVERSUS. Lat. The whole; all together. Calvin.

UNJUST. Contrary to right and justice, or to the enjoyment of his rights by another, or to the standards of conduct furnished by the laws.

UNKOUTH. Unknown. The law French form of the Saxon "uncouth." Britt. c. 12.

UNLAGE. Sax. An unjust law.

UNLARICH. In old Scotch law. That which is done without law or against law. Spelman.

UNLAW. In Scotch law. A witness was formerly inadmissible who was not worth the king's unlaw; i.e., the sum of £10 Scots, then the common fine for absence from court and for small delinquencies. Bell.

UNLAWFUL. That which is contrary to law.

"Unlawful" and "illegal" are frequently used as synonymous terms, but, in the proper sense of the word, "unlawful," as applied to promises, agreements, considerations, and the like, denotes that they are ineffectual in law because they involve acts which, although not illegal, i.e., positively forbidden, are disapproved of by the law, and are therefore not recognized as the ground of legal rights, either because they are immoral or because they are against public policy. It is on this ground that contracts in restraint of marriage or of trade are generally void. Sweet.

UNLAWFUL ASSEMBLY. At common law. The meeting together of three or more persons, to the disturbance of the public peace, and with the intention of co-operating in the forcible and violent execution of some unlawful private enterprise. If they take steps towards the performance of their purpose, it becomes a rout; and, if they put their design into actual execution, it is a riot. 4 Bl. Comm. 146.

Any meeting of great numbers of people, with such circumstances of terror as cannot but endanger the public peace, and raise fears and jealousies among the subjects of the realm. 4 Steph. Comm. 254.

UNLAWFULLY. The term is commonly used in indictments for statutory crimes, to show that the act constituting the offense was in violation of a positive law, especially where the statute itself uses the same phrase.

UNLIQUIDATED. Not ascertained in amount; not determined; remaining unassessed or unsettled; as unliquidated damages.

UNNATURAL OFFENSE. The infamous crime against nature; i.e., sodomy or buggery.

Uno absurdo dato, infinita sequuntur. 1 Coke, 102. One absurdity being allowed, an infinity follows.

UNO ACTU. Lat. In a single act; by one and the same act.

UNO FLATU. Lat. In one breath. 3 Man. & G. 45. Uno flatu, et uno intuitu, at one breath, and in one view. 3 Story, 504.
UNQUES. L. Fr. Ever; always. Ne unques, never.


UNSEATED LAND. A phrase used in the Pennsylvania tax laws to describe land which, though owned by a private person, has not been reclaimed, cultivated, improved, occupied, or made a place of residence. See SEATED LAND.

UNSEAWORTHY. See SEAWORTHY.

UNSOLEMN WAR. War denounced without a declaration; war made not upon general but special declaration; imperfect war. 1 Hill, 409.

UNSOUD MIND. A person of unsound mind is an adult who from infirmity of mind is incapable of managing himself or his affairs. The term, therefore, includes insane persons, idiots, and imbeciles. Sweet.

UNTHRIFT. A prodigal; a spendthrift. 1 Bl. Comm. 306.

UNTIL. This term generally excludes the day to which it relates; but it will be construed otherwise, if required by the evident intention of the parties. 120 Mass. 95.

Unumquoque dissolvitur eodem ligamine quo ligatur. Every obligation is dissolved by the same solemnity with which it is created. Broom, Max. 884.

Unumquoque eodem modo quo colligatum est, dissolvitur,—quo constitutur, destruitur. Everything is dissolved by the same means by which it is put together,—destroyed by the same means by which it is established. 2 Rolle, 39; Broom, Max. 891.

Unumquoque est id quod est principalis in ipso. Hob. 123. That which is the principal part of a thing is the thing itself.

Unumquoque principiorum est sibimetipsi fides; et perspicua vera non sunt probanda. Every general principle [or maxim of law] is its own pledge or warrant; and things that are clearly true are not to be proved. Branch; Co. Litt. 11.

UNUS NULLUS RULE, THE. The rule of evidence which obtains in the civil law, that the testimony of one witness is equivalent to the testimony of none. Wharton.

UNWHOLESOME FOOD. Food not fit to be eaten; food which if eaten would be injurious.

UNWRITTEN LAW. See LEX NON SCRIPTA.

UPLIFTED HAND. The hand raised towards the heavens, in one of the forms of taking an oath, instead of being laid upon the Gospels.

UPPER BENCH. The court of king's bench, in England, was so called during the interval between 1649 and 1660, the period of the commonwealth, Rolle being then chief justice. See 3 Bl. Comm. 202.

UPSET PRICE. In sales by auctions, an amount for which property to be sold is put up, so that the first bidder at that price is declared the buyer. Wharton.

UPSURE. In Scotch law. Between the hours of sunrise and sunset. Pouling must be executed with upsun. 1 Forb. Inst. pt. 3, p. 32.

URBAN SERVITUDE. City servitudes, or servitudes of houses, are called "urban." They are the easements appertaining to the building and construction of houses; as, for instance, the right to light and air, or the right to build a house so as to throw the rain-water on a neighbor's house. Mozley & Whitley.

URBS. Lat. In Roman law. A city, or a walled town. Sometimes it is put for civitas, and denotes the inhabitants, or both the city and its inhabitants; i.e., the municipality or commonwealth. By way of special pre-eminence, urbs meant the city of Rome. Ainsworth.

URE. L. Fr. Effect; practice. Mis en ure, put in practice; carried into effect. Kelham.

USAGE. Usage is a reasonable and lawful public custom concerning transactions of the same nature as those which are to be effected thereby, existing at the place where the obligation is to be performed, and either known to the parties, or so well established, general, and uniform that they must be presumed to have acted with reference thereto. Civil Code Dak. § 2119.

This word, as used in English law, differs from "custom" and "prescription," in that no man may claim a rent common or other inheritance by usage, though he may by prescription. Moreover, a usage is local in all cases, and must be proved; whereas, a custom is frequently general, and as such is noticed without proof. "Usage," in French
law, is the "usuage" of Roman law, and corresponds very nearly to the tenancy at will or on sufferance of English law. Brown.

"Usage," in its most extensive meaning, includes both custom and prescription; but, in its narrower signification, the term refers to a general habit, mode, or course of procedure. A usage differs from a custom, in that it does not require that the usage should be inmemorial to establish it; but the usage must be known, certain, uniform, reasonable, and not contrary to law. 3 Brewst. 432.

"Usage" is also called a "custom," though the latter word has also another signification; it is a long and uniform practice, applied to habits, modes, and courses of dealing. It relates to modes of action, and does not comprehend the mere adoption of certain peculiar doctrines or rules of law. 7 Allen, 29.

**USAGE OF TRADE.** A course of dealing; a mode of conducting transactions of a particular kind, proved by witnesses testifying of its existence and uniformity from their knowledge obtained by observation of what is practiced by themselves and others in the trade to which it relates. 115 Mass. 583.

**USANCE.** In mercantile law. The common period fixed by the usage or custom or habit of dealing between the country where a bill is drawn, and that where it is payable, for the payment of bills of exchange. It means, in some countries, a month, in others two or more months, and in others half a month. Story, Bills, §§ 50, 144, 332.

**USE.** A confidence reposed in another, who was made tenant of the land, or tertian, that he would dispose of the land according to the intention of the cestui que use, or him to whose use it was granted, and suffer him to take the profits. 2 Bl. Comm. 328.

A right in one person, called the "cestui que use," to take the profits of land of which another has the legal title and possession, together with the duty of defending the same, and of making estates thereof according to the direction of the cestui que use. Bouvier.

Use is the right given to any one to make a gratuitous use of a thing belonging to another, or to exact such a portion of the fruit it produces as is necessary for his personal wants and those of his family. Civil Code La. art. 626.

Uses and trusts are not so much different things as different aspects of the same subject. A use regards principally the beneficial interest; a trust regards principally the nominal ownership. The usage of the two terms is, however, widely different. The word "use" is employed to denote either an estate vested since the statute of uses, and by force of that statute, or to denote such an estate created before that statute as, had it been created since, would have become a legal estate by force of the statute. The word "trust" is employed since that statute to denote the relation between the party invested with the legal estate (whether by force of that statute or independently of it) and the party beneficially entitled, who has hitherto been said to have the equitable estate. Moody & Whitley.

In conveyancing "use" literally means "benefit;" thus, in an an ordinary assignment of chattels, the assignor transfers the property to the assignee for his "absolute use and benefit." In the expressions "separate use," "superstitious use," and "charitable use," "use" has the same meaning. Sweet.

In the civil law. A right of receiving so much of the natural profits of a thing as is necessary to daily sustenance. It differs from "usufruit," which is a right not only to use, but to enjoy. 1 Browne, Civil & Adm. Law, 184.

As to the various kinds of uses, see Charitable Use; Constructive Use; Contingent Use; Resulting Use; Shifting Use; Springing Use; Superstitious Use.

**USE AND OCCUPATION.** This is the name of an action, being a variety of assumpsit, to be maintained by a landlord against one who has had the occupation and enjoyment of an estate, under a contract to pay therefor, express or implied, but not under such a lease as would support an action specifically for rent.

**USEE.** A person for whose use a suit is brought; otherwise termed the "use-plaintiff."

**USEFUL.** By "useful," in the patent law, is meant not an invention in all cases superior to the modes now in use for the same purposes, but "useful," in contradistinction to frivolous and mischievous, invention. 1 Mass. 182, 185.

By "useful" is meant such an invention as may be applied to some beneficial use in society, in contradistinction to an invention which is injurious to the morals, the health, or the good order of society. 1 Mass. 302.

**USER.** The actual exercise or enjoyment of any right or property. It is particularly used of franchises.

**USER DE ACTION.** L. Fr. In old practice. The pursuing or bringing an action. Cowell.

**USHER.** This word is said to be derived from "huissier," and is the name of a subordinate officer in some English courts of law. Archb. Pr. 25.
USHER OF THE BLACK ROD

The gentleman usher of the black rod is an officer of the house of lords appointed by letters patent from the crown. His duties are, by himself or deputy, to desire the attendance of the commons in the house of peers when the royal assent is given to bills, either by the queen in person or by commission, to execute orders for the commitment of persons guilty of breach of privilege, and also to assist in the introduction of peers when they take the oaths and their seats. Brown.

USO. In Spanish law. Usuo; that which arises from certain things which men say and do and practice uninterrupted for a great length of time, without any hindrance whatever. Las Partidas, pt. 1, tit. 2, l. 1.

USQUE. Lat. Up to; until. This is a word of exclusion, and a release of all demands usque ad a certain day does not cover a bond made on that day. 2 Mod. 280.

USQUE AD FILUM AGUE, OR VILE. Up to the middle of the stream or road.

USUAL COVENANTS. An agreement on the part of a seller of real property to give the usual covenants binds him to insert in the grant covenants of "seisin," "quiet enjoyment," "further assurance," "general warranty," and "against incumbrances." Civil Code Cal. § 1783.

The result of the authorities appears to be that in a case where the agreement is silent as to the particular covenants to be inserted in the lease, and provides merely for the lease containing "usual covenants," or, which is the same thing, in an open agreement without any reference to the covenants, and there are no special circumstances justifying the introduction of other covenants, the following are the only ones which either party can insist upon, namely: Covenants by the lessee (1) to pay rent; (2) to pay taxes, except such as are expressly payable by the landlord; (3) to keep and deliver up the premises in repair; and (4) to allow the lessor to enter and view the state of repair; and the usual qualified covenant by the lessor for quiet enjoyment by the lessee. 7 Ch. Div. 561.

USUAL TERMS. A phrase in the common-law practice, which meant pleading issues, rejoining gruits, and taking short notice of trial. When a defendant obtained further time to plead, these were the terms usually imposed. Wharton.

USUARIUS. Lat. In the civil law. One who had the mere use of a thing belonging to another for the purpose of supplying his daily wants; a usuary. Dig. 7, 8, 10, pr.; Calvin.

USUCAPIO, or USUCAPTIO. A term of Roman law used to denote a mode of acquisition of property. It corresponds very nearly to the term "prescription." But the prescription of Roman law differed from that of the English law, in this, that no malitia possessor (i.e., person in possession knowingly of the property of another) could, by however long a period, acquire title by possession merely. The two essential requisites to usucapio were justa causa (i.e., title) and bona fides, (i.e., ignorance.) The term "usucapio" is sometimes, but erroneously, written "usucaptio," Brown.

Usucapio constituia est ut aliquis litium finis esset. Prescription was instituted that there might be some end to litigation. Dig. 41, 10, 5; Broom, Max. 584, note.

USUFRUCT. In the civil law. The right of enjoying a thing, the property of which is vested in another, and to draw from the same all the profit, utility, and advantage which it may produce, provided it be without altering the substance of the thing. Civil Code La. art. 533.

USUFRUCTUARY. In the civil law. The same as the usfruct of the English and Roman law.

USURA. Lat. In the civil law. Money given for the use of money; interest. Commonly used in the plural, "usura." Dig. 22, 1.

Usura est commodum certum quod propter usum rei mutuatae recipitur. Sed secundario spirare de aliqua retributione, ad voluntatem ejus qui mutuatus est, hoc non est vitiouos. Usury is a certain benefit which is received for the use of a thing lent. But to have an understanding, [literally, to breathe or whisper,] in an incidental way, about some compensation to be made at the pleasure of the borrower, is not lawful. Branch, Princ.: 5 Coke, 70b; Glan. lib. 7, c. 16.

USURA MANIFESTA. Manifest or open usury; as distinguished from usura veleta, veiled or concealed usury, which consists in giving a bond for the loan, in the amount of which is included the stipulated interest.
USURA MARITIMA. Interest taken on bottomry or respondentia bonds, which is proportioned to the risk, and is not affected by the usury laws.


USURIOUS. Pertaining to usury; partaking of the nature of usury; involving usury; tainted with usury; as, a usurious contract.

USURPATIO. Lat. In the civil law. The interruption of a usucaption, by some act on the part of the real owner. Calvin.

USURPATION. Torts. The unlawful assumption of the use of property which belongs to another; an interruption or the disturbing a man in his right and possession. Tomlins.

In public law. The unlawful seizure or assumption of sovereign power; the assumption of government or supreme power by force or illegally, in derogation of the constitution and of the rights of the lawful ruler.

USURPATION OF ADVOWSON. An injury which consists in the absolute ouster or dispossession of the patron from the advowson or right of presentation, and which happens when a stranger who has no right presents a clerk, and the latter is thereupon admitted and instituted. Brown.

USURPATION OF FRANCHISE or OFFICE. The unjustly intruding upon or exercising any office, franchise, or liberty belonging to another.

USURPED POWER. In insurance. An invasion from abroad, or an internal rebellion, where armies are drawn up against each other, when the laws are silent, and when the firing of towns becomes unavoidable. These words cannot mean the power of a common mob. 2 Marsh. Ins. 791.

USURPER. One who assumes the right of government by force, contrary to and in violation of the constitution of the country.

USURY. In old English law. Interest of money; increase for the loan of money; a reward for the use of money. 2 Bl. Comm. 454.

In modern law. Unlawful interest; a premium or compensation paid or stipulated to be paid for the use of money borrowed or returned, beyond the rate of interest established by law. Webster.

An unlawful contract upon the loan of money, to receive the same again with exorbitant increase. 4 Bl. Comm. 156.

Usury is the reserving and taking, or contracting to reserve and take, either directly or by indirection, a greater sum for the use of money than the lawful interest. Code Ga. 1882, § 2051. See 11 Bush, 180; 11 Conn. 487.

USUS. Lat. In Roman law. A precarious enjoyment of land, corresponding with the right of habitation of houses, and being closely analogous to the tenancy at sufferance or at will of English law. The usuarius (i.e., tenant by usus) could only hold on so long as the owner found him convenient, and had to go so soon as ever he was in the owner’s way, (molestus.) The usuarius could not have a friend to share the produce. It was scarcely permitted to him (Justinian says) to have even his wife with him on the land; and he could not let or sell, the right being strictly personal to himself. Brown.

USUS BELLICI. Lat. In international law. Warlike uses or objects. It is the usus belli which determine an article to be contraband. 1 Kent, Comm. 141.

Usus est dominium fiduciarium. Bac. St. Uses. Use is a fiduciary dominion.

Usus et status sive possession potius differunt secundum rationem fori, quam secundum rationem rei. Bac. St. Uses. Use and estate, or possession, differ more in the rule of the court than in the rule of the matter.

USUS FRUCTUS. Lat. In Roman law. Usufruct; usufructuary right or possession. The temporary right of using a thing, without having the ultimate property, or full dominion, of the substance. 2 Bl. Comm. 327.

UT CURRERE SOLEBAT. Lat. As it was wont to run; applied to a water-course.

UT DE FEODO. L. Lat. As of fee.

UT HOSPITAE. Lat. As guests. 1 Salk. 25, pl. 10.

Ut poena ad paucos, metus ad omnes perveniatur. That the punishment may reach a few, but the fear of it affect all. A maxim in criminal law, expressive of one of the principal objects of human punishment. 4 Inst. 6; 4 Bl. Comm. 11.

Ut res magis valeant quam pereat. That the thing may rather have effect than be destroyed. 11 Allen, 445; 100 Mass. 113; 108 Mass. 373.
Ut summæ potestatis regis est posse quantum velit, sic magnitudinis est velle quantum possit. 3 Inst. 236. As the highest power of a king is to be able to do all he wishes, so the highest greatness of him is to wish all he is able to do.

UTAS. In old English practice. Octave; the octave; the eighth day following any term or feast. Cowell.

UTERINE. Born of the same mother. A uterine brother or sister is one born of the same mother, but by a different father.

UTERINE GESTATION. Pregnancy.

UTERQUE. Lat. Both; each. “The justices, being in doubt as to the meaning of this word in an indictment, demanded the opinions of grammarians, who delivered their opinions that this word doth aptly signify one of them.” 1 Leon. 241.

UTFANG THIEF. In Saxon and old English law. The privilege of a lord of a manor to judge and punish a thief dwelling out of his liberty, and committing theft without the same, if he were caught within the lord’s jurisdiction. Cowell.

UTI. Lat. In the civil law. To use. Strictly, to use for necessary purposes; as distinguished from “frui,” to enjoy. Heinecc. Elem. lib. 2, tit. 4, § 415.

UTI FRUI. Lat. In the civil law. To have the full use and enjoyment of a thing, without damage to its substance. Calvin.

UTI POSSIDETIS. Lat. In the civil law. A species of interdict for the purpose of retaining possession of a thing, granted to one who, at the time of contesting suit, was in possession of an immovable thing, in order that he might be declared the legal possessor. Hallifax, Civil Law, b. 3, c. 6, no. 8.

In international law. A phrase used to signify that the parties to a treaty are to retain possession of what they have acquired by force during the war. Wheat. Int. Law, 627.

UTI ROGAS. Lat. In Roman law. The form of words by which a vote in favor of a proposed law was orally expressed. Ut i rogas, volo vel jubeo, as you ask, I will or order; I vote as you propose; I am for the law. The letters “U. R.” on a ballot expressed the same sentiment. Adams, Rom. Ant. 98, 100.

Utile per inutile non vitiatur. The useful is not vitiated by the useless. Surplusage does not spoil the remaining part if that is good in itself. Dyer, 392; Broom, Max. 627.


UTILIS. Lat. In the civil law. Useful; beneficial; equitable; available. Actio utilis, an equitable action. Calvin. Dies utilis, an available day.

UTLAGATUS. In old English law. An outlawed person; an outlaw.

Utagatus est quasi extra legem positus. Caput gerit lupinum. 7 Coke, 14. An outlaw is, as it were, put out of the protection of the law. He bears the head of a wolf.

Utagatus pro contumacia et fuga, non propter hoc convictus est de facto principali. Fleta. One who is outlawed for contumacy and flight is not on that account convicted of the principal fact.


UTLESSE. An escape of a felon out of prison.

UTRUBI. In the civil law. The name of a species of interdict for retaining a thing, granted for the purpose of protecting the possession of a movable thing, as the uti possidetis was granted for an immovable Inst. 4, 15, 4; Mackeld. Rom. Law, § 203.

In Scotch law. An interdict as to moveables, by which the colorable possession of a bona fide holder is continued until the final settlement of a contested right; corresponding to uti possidetis as to heritable property. Bell.

UTRUMQUE NORSTRUM. Both of us. Words used formerly in bonds.

UTTER. To put or send into circulation; to publish or put forth. To utter and publish an instrument is to declare or assert, directly or indirectly, by words or actions, that it is good; uttering it is a declaration that it is good, with an intention or offer to pass it. Whart. Crim. Law, § 703.

To utter, as used in a statute against forgery and counterfeiting, means to offer, whether accepted or not, a forged instrument, with the representation, by words or actions, that the same is genuine. 48 Mo. 620.
UTTER BAR. In English law. The bar at which those barristers, usually junior men, practice who have not yet been raised to the dignity of queen's counsel. These junior barristers are said to plead without the bar; while those of the higher rank are admitted to seats within the bar, and address the court or a jury from a place reserved for them, and divided off by a bar. Brown.

UTTER BARRISTER. In English law. Those barristers who plead without the bar, and are distinguished from benchers, or those who have been readers, and who are allowed to plead within the bar, as the king's counsel are. Cowell.

UXOR. Lat. In the civil law. A wife; a woman lawfully married.

Uxor et filius sunt nomina nature. Wife and son are names of nature. 4 Bac. Works, 350.

Uxor non est sui juris, sed sub po-testate viri. A wife is not her own mistress, but is under the power of her husband. 3 Inst. 108.

Uxor sequitur domicilium viri. A wife follows the domicile of her husband. Tray. Lat. Max. 606.

UXORICIDE. The killing of a wife by her husband; one who murders his wife. Not a technical term of the law.
V. As an abbreviation, this letter may stand for "Victoria," "volume," or "verb;" also "ecd" (see) and "cece" (word.)

It is also a common abbreviation of "versus," in the titles of causes, and reported cases.

V. C. An abbreviation for "vice-chancellor."

V. C. C. An abbreviation for "vice-chancellor's court."

V. E. An abbreviation for "venditioni exponas, (q. e.)

V. G. An abbreviation for "verbi gratia," for the sake of example.

VACANCY. A place which is empty. The term is principally applied to an interruption in the incumbency of an office.

The term "vacancy" applies not only to an interregnum in an existing office, but it aptly and fitly describes the condition of an office when it is first created, and has been filled by no incumbent.

VACANT POSSESSION. An estate which has been abandoned, vacated, or forsaken by the tenant.

VACANT SUCCESSION. A succession is called "vacant" when no one claims it, or when all the heirs are unknown, or when all the known heirs to it have renounced it. Civil Code La. art. 1095

VACANTIA BONA. Lat. In the civil law. Goods without an owner, or in which no one claims a property; escheated goods. Inst. 2, 6, 4; 1 BI. Comm. 298.

VACATE. To annul; to cancel or rescind; to render an act void; as, to vacate an entry of record, or a judgment.

VACATIO. Lat. In the civil law. Exemption; immunity; privilege; dispensation; exemption from the burden of office. Calvin.

VACATION. That period of time between the end of one term of court and the beginning of another.

Vacation also signifies, in ecclesiastical law, that a church or benefice is vacant; e. g., on the death or resignation of the incumbent, until his successor is appointed. 2 Inst. 359; Phillim. Ecc. Law, 493.

VACATUR. In practice. A rule or order by which a proceeding is vacated; a vacating.

VACATURA. An avoidance of an ecclesiastical benefice. Cowell.

VACCARIA. In old English law. A dairy-house. Co. Litt. 5b.

VACCINATION. Inoculation with the cow-pox. The English statute 80 & 31 Vict. c. 84, § 16, requires the vaccination of every child born in England, within three months of its birth.

VACUUM POSSESSIO. The vacant possession, i. e., free and unburdened possession, which (a. g.) a vendor had and has to give to a purchaser of lands.

VACUUS. Lat. In the civil law. Empty; void; vacant; unoccupied. Calvin.

VADES. Lat. In the civil law. Pledges; sureties; bail; security for the appearance of a defendant or accused person in court. Calvin.

VADIARE DUELLUM. L. Lat. In old English law. To wage or gage the duel; to wage battle; to give pledges mutually for engaging in the trial by combat.

VADIMONIUM. Lat. In Roman law. Bail or security; the giving of bail for appearance in court; a recognizance. Calvin.

VADIVM. Lat. A pledge; security by pledge of property.

VADIUM MORTUUM. A mortgage or dead pledge; a security given by the borrower of a sum of money, by which he grants to the lender an estate in fee, on condition that, if the money be not repaid at the time appointed, the estate so put in pledge shall continue to the lender as dead or gone from the mortgagor. 2 BI. Comm. 157.

VADIUM PONERE. To take bail for the appearance of a person in a court of justice. Tomlins.

VADIUM VIVUM. A species of security by which the borrower of a sum of money made over his estate to the lender until he had received that sum out of the issues and profits of the land. It was so called because neither the money nor the lands were lost, and were not left in dead pledge, but
VADLET. In old English law. The king's eldest son; hence the valet or knave follows the king and queen in a pack of cards. Bar. Obs. St. 344.

VADUM. In old records, a ford, or wading place. Cowell.

VAGABOND. One that wanders about, and has no certain dwelling; an idle fellow. Jacob.

Vagabonds are described in old English statutes as “such as wake on the night and sleep on the day, and haunt customizable taverns and ale-houses and routs about; and no man wot from whence they came, nor whither they go.” 4 Bl. Comm. 169.

Vagabundum nuncupamus eum qui nihil domicilium contraxit habitatio­nis. We call him a “vagabond” who has acquired nowhere a domicile of residence. Phil. Dom. 23, note.

VAGRANT. A wandering, idle person; a strolling or sturdy beggar. A general term, including, in English law, the several classes of idle and disorderly persons, rogues, and vagabonds, and incorrigible rogues. 4 Steph. Comm. 308, 309.

VAGRANT ACT. In English law. The statute 5 Geo. IV. c. 83, which is an act for the punishment of idle and disorderly persons. 2 Chit. St. 145.


Valeat quantum valere potest. It shall have effect as far as it can have effect. Cowp. 600; 4 Kent, Comm. 493; Shep. Touch. 87.

VALEC, VALECT, or VADELET. In old English law. A young gentleman; also a servitor or gentleman of the chamber. Cowell.

VALENTIA. The value or price of anything.

VALESHERIA. In old English law. The proving by the kindred of the stain, one on the father's side, and another on that of the mother, that a man was a Welshman. Wharton.

VALET, was anciently a name denoting young gentlemen of rank and family, but afterwards applied to those of lower degree, and is now used for a menial servant, more particularly occupied about the person of his employer. Cab. Lawy. 800.

VALID. Of binding force. A deed, will, or other instrument, which has received all the formalities required by law, is said to be valid.

VALIDITY. This term is used to signify legal sufficiency, in contradistinction to mere regularity. “An official sale, an order, judgment, or decree may be regular,—the whole practice in reference to its entry may be correct,—but still invalid, for reasons going behind the regularity of its forms.” 1 Flip. 487.

VALOR BENEFICIORUM. L. Lat. The value of every ecclesiastical benefice and preferment, according to which the first fruits and tenths are collected and paid. It is commonly called the “king’s books,” by which the clergy are at present rated. 2 Steph. Comm. 533; Wharton.

VALOR MARITAGII. Lat. Value of the marriage. In feudal law, the guardian in chivalry had the right of tendering to his infant ward a suitable match, without “disparagement,” (inequality,) which, if the infants refused, they forfeited the value of the marriage (calor maritagii) to their guardian; that is, so much as a jury would assess, or any one would bona fide give, to the guardian for such an alliance. 2 Bl. Comm. 70; Litt. § 110.

A writ which lay against the ward, on coming of full age, for that he was not married, by his guardian, for the value of the marriage, and this though no convenient marriage had been offered. Terms de la Ley.

VALUABLE CONSIDERATION. The distinction between a good and a valuable consideration is that the former consists of blood, or of natural love and affection; as when a man grants an estate to a near relation from motives of generosity, prudence, and natural duty; and the latter consists of such a consideration as money, marriage which is to follow, or the like, which the law esteems an equivalent given for the grant. 2 Bl. Comm. 297.

A valuable consideration is a thing of value parted with, or a new obligation assumed, at the time of obtaining a thing, which is a substantial compensation for that which is obtained thereby. It is also called simply “value.” Civil Code Dak. § 2121.
VALUATION. The act of ascertaining the worth of a thing. The estimated worth of a thing.

VALUATION LIST. In English law. A list of all the ratable hereditaments in a parish, showing the names of the occupier, the owner, the property, the extent of the property, the gross estimated rental, and the ratable value; prepared by the overseers of each parish in a union under section 14 of the union assessment committee act, 1862, (St. 25 & 26 Vict. c. 103,) for the purposes of the poor rate. Wharton.

VALUE. The utility of an object in satisfying, directly or indirectly, the needs or desires of human beings, called by economists "value in use;" or its worth consisting in the power of purchasing other objects, called "value in exchange." Also the estimated or appraised worth of any object of property, calculated in money.

The term is also often used as an abbreviation for "valuable consideration," especially in the phrases "purchaser for value," "holder for value," etc.

VALUE RECEIVED. A phrase usually employed in a bill of exchange or promissory note, to denote that a consideration has been given for it.

VALUED POLICY. A policy is called "valued," when the parties, having agreed upon the value of the interest insured, in order to save the necessity of further proof have inserted the valuation in the policy, in the nature of liquidated damages. 1 Duer, Ins. 97.

VALUER. A person whose business is to appraise or set a value upon property.

VALVASORS, or VIDAMES. An obsolete title of dignity next to a peer. 2 Inst. 667; 2 Steph. Comm. 612.

Vana est illa potentia quæ nunquam venit in actum. That power is vain [idle or useless] which never comes into action, [which is never exercised.] 2 Coke, 51.

Vani timores sunt æstimandi, qui non cadunt in constantem virum. Those are to be regarded as idle fears which do not affect a steady [firm or resolute] man. 7 Coke, 27.

Vani timoris justa excusacio non est. A frivolous fear is not a legal excuse. Dig. 50, 17, 184; 2 Inst. 483.

VANTARIUS. L. Lat. In old records, a fore-footman. Spelman; Cowell.


VARIANCE. In pleading and practice. A discrepancy or disagreement between two instruments or two steps in the same cause, which ought by law to be entirely consonant. Thus, if the evidence adduced by the plaintiff does not agree with the allegations of his declaration, it is a variance; and so if the statement of the cause of action in the declaration does not coincide with that given in the writ.

WARRANTIZATIO. In old Scotch law. Warranty.

VAS. Lat. In the civil law. A pledge; a surety; bail or surety in a criminal proceeding or civil action. Calvin.

VASSAL. In feudal law. A feudal tenant or grantee; a feodatory; the holder of a fief on a feudal tenure, and by the obligation of performing feudal services. The correlative term was "lord."

VASSALAGE. The state or condition of a vassal.

VASSELERIA. The tenure or holding of a vassal. Cowell.

VASTUM. L. Lat. A waste or common lying open to the cattle of all tenants who have a right of commoning. Cowell.

VASTUM FORESTÆ VEL BOSCI. In old records. Waste of a forest or wood. That part of a forest or wood wherein the trees and underwood were so destroyed that it lay in a manner waste and barren. Paroch. Antiq. 351, 497; Cowell.

VAUDERIE. In old European law. Sorcery; witchcraft; the profession of the Vaudois.

VAVASORY. The lands that a vavasour held. Cowell.

VAVASOUR. One who was in dignity next to a baron. Britt. 109; Bract. lib. 1, c. 8. One who held of a baron. Enc. Brit.

VEAL-MONEY. The tenants of the manor of Bradford, in the county of Wilts, paid a yearly rent by this name to their lord,
VENAL. Something that is bought; capable of being bought; offered for sale; mercenary. Used in an evil sense, such purchase or sale being regarded as corrupt and illegal.

VENARIA. Beasts caught in the woods by hunting.

VENATIO. Hunting. Cowell.

VEND. To sell; to transfer the ownership of an article to another for a price in money. The term is not commonly applied to the sale of real estate, although its derivatives "vendor" and "vendee" are.

VENDEE. A purchaser or buyer; one to whom anything is sold. Generally used of the transferee of real property, one who acquires chattels by sale being called a "buyer."

Vendens eandem rem duobus falsarius est. He is fraudulent who sells the same thing twice. Jenk. Cent. 107.

VENDIBLE. Fit or suitable to be sold; capable of transfer by sale; merchantable.

VENDITÆ. In old European law. A tax upon things sold in markets and public fairs. Spelman.

VENDITIO. Lat. In the civil law. In a strict sense, sale; the act of selling; the contract of sale, otherwise called "emptio venditio." Inst. 3, 24. Calvin.

In a large sense. Any mode or species of alienation; any contract by which the property or ownership of a thing may be transferred. Id.

VENDITION. Sale; the act of selling.

VENDITIONI EXPOSITION. Lat. You expose to sale. This is the name of a writ of execution, requiring a sale to be made, directed to a sheriff when he has levied upon goods under a fieri facias, but returned that they remained unsold for want of buyers; and in some jurisdictions it is issued to cause a sale to be made of lands, seized under a former writ, after they have been condemned or passed upon by an inquisition. Frequently abbreviated to "vend. ex."

VENDITOR. Lat. A seller; a vendor. Inst. 3, 24; Bract. fol. 41.

VENDITOR REGIS. In old English law. The king's seller or salesman; the person who exposed to sale those goods and chattels which were seized or distrained to answer any debt due to the king. Cowell.
VENDITRIX. Lat. A female vendor.
Cod. 4, 51, 8.

VENDOR. The person who transfers property by sale, particularly real estate, "seller" being more commonly used for one who sells personally.

He is the vendor who negotiates the sale, and becomes the recipient of the consideration, though the title comes to the vendee from another source, and not from the vendor. 53 Miss. 685.

VENDOR AND PURCHASER ACT. The act of 37 & 38 Vict. c. 78, which substitutes forty for sixty years as the root of title, and amends in other ways the law of vendor and purchaser. Mozley & Whitley.

VENDOR'S LIEN. A lien for purchase money remaining unpaid, allowed in equity to the vendor of land, when the statement of receipt of the price in the deed is not in accordance with the fact.

Also, a lien existing in the unpaid vendor of chattels, the same remaining in his hands, to the extent of the purchase price, where the sale was for cash, or on a term of credit which has expired, or on an agreement by which the seller is to retain possession.

VENDUE. A sale; generally a sale at public auction; and more particularly a sale so made under authority of law, as by a constable, sheriff, tax collector, administrator, etc.

VENDUE MASTER. An auctioneer.

VENIA. A kneeling or low prostration on the ground by penitents; pardon.

VENIA ETATIS. A privilege granted by a prince or sovereign, in virtue of which a person is entitled to act, sui juris, as if he were of full age. Story, Confl. Laws, § 74.

Veniae facilitas incentivum est delinquendi. 3 Inst. 236. Facility of pardon is an incentive to crime.

VENIRE. Lat. To come; to appear in court. This word is sometimes used as the name of the writ for summoning a jury, more commonly called a "venire facias."

VENIRE FACIAS. Lat. In practice. A judicial writ, directed to the sheriff of the county in which a cause is to be tried, commanding him that he cause to come before the court, on a certain day therein mentioned, twelve good and lawful men of the body of his county, qualified according to law, by whom the truth of the matter may be the better known, and who are in no wise of kin either to the plaintiff or to the defendant, to make a jury of the country between the parties in the action, because as well the plaintiff as the defendant, between whom the matter in variance is, have put themselves upon that jury, and that he return the names of the jurors, etc. 2 Tidd, Pr. 777, 778; 3 Bl. Comm. 352.

VENIRE FACIAS AD RESPONDENDUM. A writ to summon a person, against whom an indictment for a misdemeanor has been found, to appear and be arraigned for the offense. A justice's warrant is now more commonly used. Archib. Crim. PI. 51; Sweet.

VENIRE FACIAS DE NOVO. A fresh or new venire, which the court grants when there has been some impropriety or irregularity in returning the jury, or where the verdict is so imperfect or ambiguous that no judgment can be given upon it, or where a judgment is reversed on error, and a new trial awarded.

VENIRE FACIAS JURATORUM was a judicial writ directed to the sheriff, when issue was joined in an action, commanding him to cause to come to Westminster, on such a day, twelve free and lawful men of his county by whom the truth of the matter at issue might be better known. This writ was abolished by section 104 of the common-law procedure act, 1852, and by section 105 a precept issued by the judges of assize is substituted in its place. The process so substituted is sometimes loosely spoken of as a "venire." Brown.

VENIRE FACIAS TOT MATRONAS. A writ to summon a jury of matrons to execute the writ de ventre inspiciendo.

VENIREMAN. A member of a panel of jurors; a juror summoned by a writ of venire facias.

VENIT ET DEFENDIT. In old pleading. Comes and defends. The proper words of appearance and defense in an action. 1 Ld. Raym. 117.

VENIT ET DICIT. In old pleading. Comes and says. 2 Salk. 544.

VENTE. In French law. Sale; contract of sale.

VENTE À RÉMÈRÉ. In French law. A conditional sale, in which the seller reserves the right to redeem or repurchase at the same price.

VENTER, VENTRE. The belly or womb. The term is used in law as designating the maternal parentage of children. Thus, where in ordinary phraseology we should say that A. was B.'s child by his first
wife, he would be described in law as "by the first venter." Brown.

VENTRE INSPICIENDO. In old English law. A writ that lay for an heir presumptive, to cause an examination to be made of the widow in order to determine whether she was pregnant or not, in cases where she was suspected of a design to bring forward a supposititious heir. 1 Bl. Comm. 456.

VENUE. In pleading and practice. A neighborhood; the neighborhood, place, or county in which an injury is declared to have been done, or fact declared to have happened. 3 Bl. Comm. 294.

Venue also denotes the county in which an action or prosecution is brought for trial, and which is to furnish the panel of jurors. To "change the venue" is to transfer the cause for trial to another county or district.

In the common-law practice, the venue is that part of the declaration in an action which designates the county in which the action is to be tried. Sweet.

VERAY. L. Fr. True. An old form of vrai. Thus, eray, or true, tenant, is one who holds in fee-simple; eray tenant by the manner, is the same as tenant by the manner, (q. v.), with this difference only: that the fee-simple, instead of remaining in the lord, is given by him or by the law to another. Ham. N. P. 383, 394.

Verba accipienda sunt cum effectu, ut sortiantur effectum. Words are to be received with effect, so that they may produce effect. Bac. Max.

Verba accipienda sunt secundum subjectam materiam 6 Coka. 62. Words are to be understood with reference to the subject-matter.

Verba equivoca, ae in dubio sensu posita, intelliguntur digniori et potentiiori sensu. Equivocal words, and such as are put in a doubtful sense, are [to be] understood in the more worthy and effectual sense. 6 Coke, 20a.

Verba aliquid operari debent; debent intelligi ut aliquid operentur. 8 Coke, 94. Words ought to have some operation; they ought to be interpreted in such a way as to have some operation.

Verba artis ex arte. Terms of art should be explained from the art. 2 Kent, Comm. 556, note.

VERBA CANCELLARIIÆ. Words of the chancery. The technical style of writs framed in the office of chancery. Fleta, lib. 4, c. 10, § 3.

Verba chartarum fortius accipiantur contra proferentem. The words of charters are to be received more strongly against the grantor. Co. Litt. 36; Broom, Max. 594.

Verba cum effectu accipienda sunt. Bac. Max. 3. Words ought to be used so as to give them their effect.

Verba currentis monetæ, tempus solutionis designant. Dav. 20. The words "current money" designate current at the time of payment.

Verba debent intelligi cum effectu, ut res magis valent quam pereat. Words ought to be understood with effect, that a thing may rather be preserved than destroyed. 2 Smith, Lead. Cas. 550.

Verba debent intelligi ut aliquid operentur. Words ought to be understood so as to have some operation. 8 Coke, 94a.

Verba dicta de persona intelligi debent de conditione personæ. Words spoken of a person are to be understood of the condition of the person. 2 Rolle, 72.

Verba fortius accipiantur contra proferentem. Words are to be taken most strongly against him who uses them. Bac. Max. 11, reg. 3.

Verba generalia generaliter sunt intelligenda. 3 Inst. 76. General words are to be generally understood.

Verba generalia restringuntur ad habilitatem rei vel aptitudinem personæ. General words must be narrowed either to the nature of the subject-matter or to the aptitude of the person. Broom, Max. 646.

Verba illata (relata) inesse videntur. Words referred to are to be considered as if incorporated. Broom, Max. 674, 677; 11 Mees. & W. 188.

Verba in differenti materia per prius, non per posterius, intelligenda sunt. Words on a different subject are to be understood by what precedes, not by what comes after. A maxim of the civil law. Calvin.

Verba intelligenda sunt in casu possibili. Words are to be understood in [of] a possible case. A maxim of the civil law. Calvin.
Verba intentioni, non e contra, debent inservire. 8 Coke, 94. Words ought to be made subservient to the intent, not the intent to the words.

Verba ita sunt intelligenda, ut res magis valeat quam pereat. The words [of an instrument] are to be so understood, that the subject-matter may rather be of force than perish, [rather be preserved than destroyed; or, in other words, that the instrument may have effect, if possible.] Bac. Max. 17, in reg. 3; Plowd. 156; 2 Bl. Comm. 380; 2 Kent, Comm. 555.

Verba mere equivoca, si per communem usum loquendi in intellectu certo sumuntur, talis intellectus preferendus est. [In the case of] words merely equivocal, if they are taken by the common usage of speech in a certain sense, such sense is to be preferred. A maxim of the civil law. Calvin.

Verba nihil operari melius est quam absurde. It is better that words should have no operation at all than [that they should operate] absurdly. A maxim of the civil law. Calvin.

Verba non tam intuennda, quam causa et natura rei, ut mens contrahentem ex eis potius quam ex verbis apparent. The words [of a contract] are not so much to be looked at as the cause and nature of the thing, [which is the subject of it,] in order that the intention of the contracting parties may appear rather from them than from the words. Calvin.

Verba offendi possunt, imo ab eis recedere licet, ut verba ad sanum intellectum reducantur. Words may be opposed, [taken in a contrary sense,] nay, we may disregard them altogether, in order that the [general] words [of an instrument] may be restored to a sound meaning. A maxim of the civilians. Calvin.

Verba ordinationis quando verificari possunt in sua vera significatione, trahi ad extraneum intellectum non debent. When the words of an ordinance can be carried into effect in their own true meaning, they ought not to be drawn to a foreign intention. A maxim of the civilians. Calvin.

Verba posteriora propter certitudinem addita, ad priora quae certitudine indigent, sunt referenda. Subsequent words, added for the purpose of certainty, are to be referred to the preceding words which require the certainty. Wing. Max. 167, max. 53; Broom, Max. 586.

VERBA PRECARIA. Lat. In the civil law. Precatory words; words of trust, or used to create a trust.

Verba pro re et subjecta materia accipi debent. Words ought to be understood in favor of the thing and subject-matter. A maxim of the civilians. Calvin.

Verba quæ aliquid operari possunt non debent esse superflua. Words which can have any kind of operation ought not to be [considered] superfluous. Calvin.

Verba, quantumvis generalia, ad aptitudinem restringuntur, etiamsi nullam aliam paterentur restrictionem. Words, however general, are restrained to fitness, (i. e., to harmonize with the subject-matter,) though they would bear no other restriction. Spiegelius.

Verba relata hoc maxime operatur per referentiam, ut in eis inesse videntur. Related words [words connected with others by reference] have this particular operation by the reference, that they are considered as being inserted in those [clauses which refer to them.] Co. Litt. 96, 359a. Words to which reference is made in an instrument have the same effect and operation as if they were inserted in the clauses referring to them. Broom, Max. 673.

Verba secundum materiam subjecta nihil nemo est qui nesciat. There is no one who does not know that words are to be understood according to their subject-matter. Calvin.

Verba semper accipienda sunt inmitteri sensu. Words are always to be taken in the milder sense. 4 Coke, 13a.

Verba stricte significationis ad latam extendi possunt, si subset ratio. Words of a strict or narrow signification may be extended to a broad meaning, if there be ground in reason for it. A maxim of the civilians. Calvin.

Verba sunt indices animi. Words are the indices or indicators of the mind or thought. Latch, 106.

VERBAL. Parol; by word of mouth; as, verbal agreement; verbal evidence.

VERBAL NOTE. A memorandum or note, in diplomacy, not signed, sent when an affair has continued a long time without any
reply, in order to avoid the appearance of an
urgency which perhaps is not required; and,
on the other hand, to guard against the sup-
position that it is forgotten, or that there is
an intention of not prosecuting it any fur-
ther. Wharton.

VERBAL PROCESS. In Louisiana. 
Procis verbal, (q. v.)
Verbis standum ubi nulla ambiguities.
One must abide by the words where there is
no ambiguity. Tray. Lat. Max. 612.
Verbun imperfecti temporis rem ad-
duc imperfectam significat. The imper-
flect tense of the verb indicates an incomplete
matter. 6 Wend. 103, 120.

VERDEROR. An officer of the king's
forest, who is sworn to maintain and keep
the assizes of the forest, and to view, receive,
and enroll the attachments and presentments
of all manner of trespasses of vert and veni-
son in the forest. Manw. c. 6, § 5.

VERDICT. In practice. The formal
and unanimous decision or finding of a jury,
impaneled and sworn for the trial of a cause,
upon the matters or questions duly submitted
to them upon the trial.

A verdict is the honest accord of twelve intelli-
gent minds upon the issue submitted to them. 25
Ind. 386.
The word "verdict" has a well-defined signifi-
cation in law. It means the decision of a jury, and
it never means the decision of a court or a referee
or a commissioner. In common language, the
word "verdict," is sometimes used in a more ex-
tended sense, but in law it is always used to mean
the decision of a jury, and we must suppose that
the legislature intended to use the word as it is used
in law. 25 Kan. 696.
The verdict of a jury is either general or
special. A general verdict is that by which they pronounce generally upon all or any of
the issues, either in favor of the plaintiff or
defendant; a special verdict is that by which the
jury finds the facts only, leaving the judg-
ment to the court. The special verdict must
present the conclusions of fact as established
by the evidence, and not the evidence to prove
them; and those conclusions of fact must be
so presented as that nothing shall remain to the
court but to draw from them conclusions of
St. Minn. 1578, c. 66, § 235.
A general verdict is that by which the jury
pronounce generally upon all or any of the
issues, either in favor of the plaintiff or de-
fendant. A special verdict is that by which
the jury find the facts only, leaving the judg-
ment to the court. Code N. Y. § 260. See

28 Conn. 144; 8 Ga. 208; 1 Litt. 376; Co.
Litt. 228; 4 Bl. Comm. 461.
A verdict is also either public or pri
cy. A public verdict is one delivered in open
court. It is called a "prive verdict" when
the judge has left or adjourned the court,
and the jury, being agreed, in order to be de-
ivered from their confinement obtain leave
to give their verdict privily to the judge out
of court, which pry verdict, however, is of
no force unless afterwards affirmed by a pub-
lie verdict given openly in court. Boote, Suit
Law, 273.
A partial verdict, in criminal practice, is
where the jury convict the prisoner on part of
the indictment, and acquit him as to the

VERDICT SUBJECT TO OPINION
OF COURT. A verdict returned by the
jury, the entry of judgment upon which is
subject to the determination of points of law
reserved by the court upon the trial.

VEREBOT. Sax. In old records. A
packet-boat or transport vessel. Cowell.

VEREDICTUM. L. Lat. In old En-
lish law. A verdict; a declaration of the
truth of a matter in issue, submitted to a
jury for trial.

Veredictum, quasi dictum veritatis;
ut judiciwm quasi juris dictum. Co.
Litt. 225. The verdict is, as it were, the
dictum of truth; as the judgment is the dic-
tum of law.

VERGE, or VIRGE. The compass of
the queen's court, which bounds the juris-
diction of the lord steward of the household;
it seems to have been twelve miles about
Britt. 68. A quantity of land from fifteen to
thirty acres. 26 Edw. I. Also a stick, or
rod, whereby one is admitted tenant to a copy-

VERGELT. In Saxon law. A mulct or
fine for a crime. See WEREGILD.

VERGENS AD INOFIAM. L. Lat.
In Scotch law. Verging towards poverty;
in declining circumstances. 2 Kames, Eq. 8.

VERGERS. In English law. Officers
who carry white wands before the justices of
either bench. Cowell. Mentioned in
Fleta, as officers of the king's court, who op-
pressed the people by demanding exorbitant
fees. Fleta. lib. 2, c. 38.

VERIFICATION. In pleading. A cer-
tain formula with which all pleadings con-
taining new affirmative matter must con-
clude, being in itself an averment that the
party pleading is ready to establish the truth
of what he has set forth.

In practice. The examination of a writ-
ing for the purpose of ascertaining its truth;
or a certificate or affidavit that it is true.

Verification is not identical with "authentica-
tion." A notary may verify a mortgagee's writ-
en statement of the actual amount of his claim,
but need not authenticate the act by his seal. 19
Ohio St. 291.

VERIFY. To confirm or substantiate by
oath: to show to be true. Particularly used
of making formal oath to accounts, peti-
tions, pleadings, and other papers.
The word "verify" sometimes means to
confirm and substantiate by oath, and some-
times by argument. When used in legal
proceedings it is generally employed in the
former sense. 3 How. Pr. 284.

Veritas, a quocunque dicitur, a Deo
est. 4 Inst. 153. Truth, by whomsoever
pronounced, is from God.

Veritas demonstrationis tollit errorem
naturalis. The truth of the description re-
moves an error in the name. 1 Ld. Raym.
303.

Veritas habenda est in juratore; jus-
titia et judicium in judice. Truth is the
desideratum in a juror; justice and judg-
ment in a judge. Bract. fol. 1856.

Veritas nihil veretur nisi abscendi.
Truth fears nothing but to be hid. 9 Coke,
207.

Veritas nihil altercando amittitur.
Truth is lost by excessive altercation. Hob.
344.

Veritas, quæ minime defensatur
oprimitur; et qui non improbat, appro-
bat. 3 Inst. 27. Truth which is not suf-
ciently defended is overpowered; and he who
does not disapprove, approves.

Veritatem qui non libere pronunclat
prodictor est veritatis. 4 Inst. Epil. He
who does not freely speak the truth is a be-
trayer of truth.

V E R I T Y . Truth; truthfulness; con-
formity to fact. The records of a court "im-
port uncontrollable verity." 1 Black, Judgm.
§ 276.

VERNA. In the civil law. A slave born
in his master's house.

VERSAI. Lat. In the civil law. To
be employed; to be conversant. Versai
male in tutela, to misconduct one's self in a
 guardianship. Calvin.

VERSUS. Lat. Against. In the title
of a cause, the name of the plaintiff is put
first, followed by the word "versus," then
the defendant's name. Thus, "Fletcher ver-
sus Peck," or "Fletcher against Peck." The
word is commonly abbreviated "vs." or "e."

VERT. Everything bearing green leaves
in a forest.
Also that power which a man has, by royal
grant, to cut green wood in a forest.
Also, in heraldry, green color, called "ve-
nus" in the arms of princes, and "emerald"
in those of peers, and expressed in engravi-
gings by lines in bend. Wharton.

VERUS. Lat. True; truthful; genuine;
actual; real; just.

VERY LORD AND VERY TENANT.
They that are immediate lord and tenant one
to another. Cowell.

VESSEL. A ship, brig, sloop, or other
craft used in navigation. The word is more
comprehensive than "ship."
The word "vessel" includes every descrip-
tion of water-craft or other artificial contriv-
ances used, or capable of being used, as a
means of transportation on water. Rev. St.
U. S. § 3.

"Vessel," in the provision of the code of
Louisiana that commercial partners are those
who are engaged in "carrying personal per-
sonal property for hire in ships or other vessels," means
any structure which is made to float upon
the water, for purposes of commerce or war,
whether impelled by wind, steam, or oars.

VEST. To accrue to; to be fixed: to take
effect; to give a fixed and indefeasible right.
An estate is vested in possession when there
exists a right of present enjoyment; and an
estate is vested in interest when there is a
present fixed right of future enjoyment.
Fearn, Rem. 2.
To clothe with possession; to deliver full
possession of land or of an estate; to give
seisin; to enfeoff. Spelman.

VESTA. The crop on the ground. Cow-
ell.

VESTED ESTATE or INTEREST. Any estate, property, or interest is called
"vested," whether in possession or not, which
is not subject to any condition precedent and
unperformed. The interest may be either a present and immediate interest, or it may be a future but uncontingent, and therefore transmissible, interest. Brown.

VESTED IN INTEREST. A legal term applied to a present fixed right of future enjoyment; as reversions, vested remainders, such executory devises, future uses, conditional limitations, and other future interests as are not referred to, or made to depend on, a period or event that is uncertain. Wharton.

VESTED IN POSSESSION. A legal term applied to a right of present enjoyment actually existing.

VESTED INTEREST. A future interest is vested when there is a person in being who would have a right, defeasible or indefeasible, to the immediate possession of the property, upon the ceasing of the intermediate or precedent interest. Civil Code Cal. § 694.

VESTED LEGACY. A legacy is said to be vested when the words of the testator making the bequest convey a transmissible interest, whether present or future, to the legatee in the legacy. Thus a legacy to one to be paid when he attains the age of twenty-one years is a vested legacy, because it is given unconditionally and absolutely, and therefore vests an immediate interest in the legatee, of which the enjoyment only is deferred or postponed. Brown.

VESTED REMAINDER. An estate by which a present interest passes to the party, though to be enjoyed in futuro, and by which the estate is invariably fixed to remain to a determinate person after the particular estate has been spent. 2 Bl. Comm. 168.

VESTED RIGHTS. In constitutional law. Rights which have so completely and definitively accrued to or settled in a person that they are not subject to be defeated or canceled by the act of any other private person, and which it is right and equitable that the government should recognize and protect, as being lawful in themselves, and settled according to the then current rules of law, and of which the individual could not be deprived arbitrarily without injustice, or of which he could not justly be deprived otherwise than by the established methods of procedure and for the public welfare.

VESTIGIUM. Lat. In the law of evidence, a vestige, mark, or sign; a trace, track, or impression left by a physical object. Fleta, l. 1, c. 25, § 6.

VESTING ORDER. In English law. An order which may be granted by the chancery division of the high court of justice, (and formerly by chancery,) passing the legal estate in lieu of a conveyance. Commissioners also, under modern statutes, have similar powers. St. 15 & 16 Vict. c. 55; Wharton.

VESTRY. The place in a church where the priest's vestures are deposited. Also an assembly of the minister, church-wardens, and parishioners, usually held in the vestry of the church, or in a building called a "vestry-hall," to act upon business of the church. Mozley & Whitley.

VESTRY CESS. A rate levied in Ireland for parochial purposes, abolished by St. 27 Vict. c. 17.

VESTRY-CLERK. An officer appointed to attend vestries, and take an account of their proceedings, etc.

VESTRY-MEN. A select number of parishioners elected in large and populous parishes to take care of the concerns of the parish; so called because they used ordinarily to meet in the vestry of the church. Cowell.

VESTURA. A crop of grass or corn. Also a garment; metaphorically applied to a possession or seisin.

VESTURA TERRÆ. In old English law. The vesture of the land; that is, the corn, grass, underwood, sweepage, and the like. Co. Litt. 4b.


VESTURE OF LAND. A phrase including all things, trees excepted, which grow upon the surface of the land, and clothe it externally. Ham. N. P. 151.

VETERA STATUTA. Lat. Ancient statutes. The English statutes from Magna Chart to the end of the reign of Edward II. are so called; those from the beginning of the reign of Edward III. being contradistinguished by the appellation of "Nova Statuta." 2 Reeve, Eng. Law, 85.

VETITUM NAMIIUM. Where the bailiff of a lord distains beasts or goods of another, and the lord forbids the bailiff to deliver them when the sheriff comes to make replevin, the owner of the cattle may de-

**VETO.** Lat. I forbid. The veto-power is a power vested in the executive officer of some governments to declare his refusal to assent to any bill or measure which has been passed by the legislature. It is either absolute or qualified, according as the effect of its exercise is either to destroy the bill finally, or to prevent its becoming law unless again passed by a stated proportion of votes or with other formalities. Or the veto may be merely suspensive.

**VETUS JUS.** Lat. The old law. A term used in the civil law, sometimes to designate the law of the Twelve Tables, and sometimes merely a law which was in force previous to the passage of a subsequent law. Calvin.

**VEX.** To harass, disquiet, annoy; as by repeated litigation upon the same facts.

**VEXARI.** Lat. To be harassed, vexed, or annoyed; to be prosecuted; as in the maxim, *Nemo debet bis vexari pro una et eadem causa*, no one should be twice prosecuted for one and the same cause.

**VEXATA QUESTIO.** Lat. A vexed question; a question often agitated or discussed, but not determined or settled; a question or point which has been differently determined, and so left doubtful. 7 Coke, 45b; 3 Burrows, 1547.

**VEXATION.** The injury or damage which is suffered in consequence of the tricks of another.

**VEXATIOUS.** A proceeding is said to be vexatious when the party bringing it is not acting *bona fide*, and merely wishes to annoy or embarrass his opponent, or when it is not calculated to lead to any practical result. Such a proceeding is often described as "trivulous and vexatious," and the court may stay it on that ground. Sweet.

**VEXED QUESTION.** A question or point of law often discussed or agitated, but not determined or settled.

**VI AUT CLAM.** Lat. In the civil law. By force or covertly. Dig. 43, 24.

**VI BONORUM RAPTORUM.** Lat. In the civil law. Of goods taken away by force. The name of an action given by the prætor as a remedy for the violent taking of another's property. Inst. 4, 2; Dig. 47, 8.

**VI ET ARMIS.** Lat. With force and arms. See TRESPASS.

**VIA.** Lat. In the civil law. Way; a road; a right of way. The right of walking, riding, and driving over another's land. Inst. 2, 3, pr. A species of rural servitude, which included *iter* (a footpath) and *actus*, (a driftway.)

In old English law. A way; a public road; a foot, horse, and cart way. Co. Litt. 56a.

Via antiqua via est tuta. The old way is the safe way. 1 Johns. Ch. 527, 530.

**VIA PUBLICA.** Lat. In the civil law. A public way or road, the land itself belonging to the public. Dig. 43, 8, 2, 21.

**VIA REGIA.** Lat. In English law. The king's highway for all men. Co. Litt. 56a. The highway or common road, called "the king's" highway, because authorized by him and under his protection. Cowell.

Via trita est tuttiessa. The trodden path is the safest. 10 Coke, 142; Broom, Max. 134.

**VIABILITY.** Capability of living. A term used to denote the power a new-born child possesses of continuing its independent existence.

**VIA SERVITUS.** Lat. A right of way over another's land.

**VIAGÈRE RENTE.** In French law. A rent-charge or annuity payable for the life of the annuitant.

**VIANDER.** In old English law. A returning officer. 7 Mod. 13.

**VIATOR.** Lat. In Roman law. A summoner or appraitor; an officer who attended on the tribunes and soldies.

**VICAR.** One who performs the functions of another; a substitute. Also the incumbent of an appropriated or impropriated ecclesiastical benefice, as distinguished from the incumbent of a non-appropriated benefice, who is called a "rector." Wharton.

**VICAR GENERAL.** An ecclesiastical officer who assists the archbishop in the discharge of his office.
VICARAGE. In English ecclesiastical law. The living or benefice of a vicar, as a personage is of a parson. 1 Bl. Comm. 387, 388.

VICARIAL TITHES. Petty or small tithes payable to the vicar. 2 Steph. Comm. 681.

VICARIO, etc. An ancient writ for a spiritual person imprisoned, upon forfeiture of a recognizance, etc. Reg. Orig. 147.

Vicarius non habet vicarium. A deputy has not [cannot have] a deputy. A delegated power cannot be again delegated. Broom, Max. 839.

VICE. A fault, defect, or imperfection. In the civil law, redhibitory vices are such faults or imperfections in the subject-matter of a sale as will give the purchaser the right to return the article and demand back the price.

VICE. Lat. In the place or stead. Vice mea, in my place.

VICE-ADMARIAL. An officer in the (English) navy next in rank after the admiral.

VICE-ADMARALTY COURTS. In English law. Courts established in the queen’s possessions beyond the seas, with jurisdiction over maritime causes, including those relating to prize. 3 Steph. Comm. 435; 3 Bl. Comm. 69.

VICE-CHAMBERLAIN. A great officer under the lord chamberlain, who, in the absence of the lord chamberlain, has the control and command of the officers appertaining to that part of the royal household which is called the “chamber.” Cowell.

VICE-CHANCELLOR. In English law. A judge of the court of chancery, acting as assistant to the lord chancellor, and holding a separate court, from whose judgment an appeal lay to the chancellor. 3 Steph. Comm. 418.

VICE-CHANCELLOR OF THE UNIVERSITIES. See CHANCELLOR OF THE UNIVERSITIES.

VICE-COMES. A title formerly bestowed on the sheriff of a county, when he was regarded as the deputy of the count or earl.

Vice-comes dicitur quod vicem comititis suppleat. Co. Litt. 168. “Vic-

VICE-COMES NON MISIT BREVE. The sheriff hath not sent the writ. The form of continuance on the record after issue and before trial. 7 Mod. 349; 11 Mod. 231.


VICE-CONSTABLE OF ENGLAND. An ancient officer in the time of Edward IV.

VICE-CONSUL. In international law. A commercial agent who acts in the place or stead of a consul, or has charge of a portion of his territory.

VICE-DOMINUS. A sheriff.

VICE-DOMINUS EPISCOPI. The vicar general or commissary of a bishop. Blount.

VICE-GERENT. A deputy or lieutenant.

VICE-JUDEX. In old Lombardic law. A deputy judge.

VICE-MARSHAL. An officer who was appointed to assist the earl marshal.

VICE-PRESIDENT OF THE UNITED STATES. The title of the second officer, in point of rank, in the executive branch of the government of the United States.

VICE VERSA. Lat. Conversely; in inverted order; in reverse manner.

VICEROY. A person clothed with authority to act in place of the king; hence, the usual title of the governor of a dependency.

VICINAGE. Neighborhood; near dwelling; vicinity. 2 Bl. Comm. 33; Cowell.

VICINETUM. The neighborhood; vicinage; the venue. Co. Litt. 153b.

Vicini viciniors praesumuntur seire. 4 Inst. 173. Persons living in the neighborhood are presumed to know the neighborhood.

VIOLENT INTROMISSION. In Scotch law. A meddling with the movables of a deceased, without confirmation or probate of his will or other title. Wharton.

VICIS ET VENELLIS MUNDANIS. An ancient writ against the mayor or
bailiff of a town, etc., for the clean keeping of their streets and lanes. Reg. Orig. 267.

VICOUNTIEL, or VICONTIEL. Anything that belongs to the sheriffs, as vicontiel writes; i.e., such as are triable in the sheriff's court. As to vicontiel rents, see St. 3 & 4 Wm. IV. c. 99, §§ 12, 13, which places them under the management of the commissioners of the woods and forests. Cowell.

VICOUNTIEL JURISDICTION. That jurisdiction which belongs to the officers of a county; as sheriffs, coroners, etc.

VICTUALLER. In English law. A person authorized by law to keep a house of entertainment for the public; a publican. 9 Adol. & E. 423.

VICTUS. Lat. In the civil law. Sustenance; support; the means of living.

VIDAME. In French feudal law. Originally, an officer who represented the bishop, as the viscount did the count. In process of time, these dignitaries erected their offices into fiefs, and became feudal nobles, such as the vidame of Chartres, Rheims, etc., continuing to take their titles from the seat of the bishop whom they represented, although the lands held by virtue of their fiefs might be situated elsewhere. Brande; Burrill.

VIDE. Lat. A word of reference. Vide ante, or vide supra, refers to a previous passage, vide post, or vide infra, to a subsequent passage, in a book.

Videbis ea sepe committi quae sepe vindicantur. 3 Inst. Epil. You will see these things frequently committed which are frequently punished.

VIDELICET. Lat. The words "to wit," or "that is to say," so frequently used in pleading, are technically called the "videlicet" or "seelicet;" and when any fact alleged in pleading is preceded by, or accompanied with, these words, such fact is, in the language of the law, said to be "laid under a videlicet." The use of the videlicet is to point out, particularize, or render more specific that which has been previously stated in general language only; also to explain that which is doubtful or obscure. Brown.

Videtur qui surdus et mutus no poet faire alienation. It seems that a deaf and dumb man cannot alienate. 4 Johns. Ch. 444; Brooke, Abr. "Eschete," pl. 4.

VIDIMUS. An insequinus, (q. v.) Barring, Ob. St. 5.

VIDUA REGIS. In old English law. A king's widow. The widow of a tenant in capite. So called, because she was not allowed to marry a second time without the king's permission; obtaining her dower also from the assignment of the king, and having the king for her patron and defender. Spelman.

VIDUITATIS PROFESSIO. The making a solemn profession to live a sole and chaste woman.

VIDUIETY. Widowhood.

VIE. Fr. Life; occurring in the phrases custui que vie, pur autre vie, etc.

VIEW. The right of prospect; the outlook or prospect from the windows of one's house. A species of urban servitude which prohibits the obstruction of such prospect. 3 Kent. Comm. 448.

We understand by view every opening which may more or less facilitate the means of looking out of a building. Lights are those openings which are made rather for the admission of light than to look out of. Civil Code La. art. 715.

Also an inspection of property in controversy, or of a place where a crime has been committed, by the jury previously to the trial.

VIEW AND DELIVERY. When a right of common is exercisable not over the whole waste, but only in convenient places indicated from time to time by the lord of the manor or his bailiff, it is said to be exercisable after "view and delivery." Elton, Commons, 233.

VIEW, DEMAND OF. In real actions, the defendant was entitled to demand a view, that is, a sight of the thing, in order to ascertain its identity and other circumstances. As, if a real action were brought against a tenant, and such tenant did not exactly know what land it was that the demandant asked, then he might pray the view, which was that he might see the land which the demandant claimed. Brown.

VIEW OF AN INQUEST. A view or inspection taken by a jury, summoned upon an inquisition or inquest, of the place or property to which the inquisition or inquiry refers. Brown.

VIEW OF FRANKPLEDGE. In English law. An examination to see if every freeman above twelve years of age within the district had taken the oath of allegiance,
and found nine freemen pledges for his peaceable demeanor. 1 Reeve, Eng. Law, 7.

VIEWERS. Persons who are appointed by a court to make an investigation of certain matters, or to examine a particular locality, (as, the proposed site of a new road,) and to report to the court the result of their inspection, with their opinion on the same.

In old practice. Persons appointed under writs of view to testify the view. Rose. Real Act. 255.

VIF-GAGE. In old English law. A *vicum vulgium* or living pledge, as distinguished from a *mortgage* or dead pledge. Properly, an estate given as security for a debt, the debt to be satisfied out of the rents, issues, and profits.

VIGIL. The eve or next day before any solemn feast.

VIGILANCE. Watchfulness; precaution; a proper degree of activity and promptness in pursuing one's rights or guarding them from infliction, or in making or discovering opportunities for the enforcement of one's lawful claims and demands. It is the opposite of *laches*.

Vigilantibus et non dormantibus jura subveniunt. The laws aid those who are vigilant, not those who sleep upon their rights. 2 Inst, 690; 7 Allen, 493; Broom, Max. 892.

VIGOR. Lat. Strength; virtue; force; efficiency. *Proprio vigore*, by its own force.

VIIS ET MODIS. Lat. In the ecclesiastical courts, service of a decree or citation *viis et modis*, i.e., by all "ways and means" likely to affect the party with knowledge of its contents, is equivalent to substituted service in the temporal courts, and is opposed to personal service. Phillim. Ecc. Law, 1258, 1253.

VILL. In old English law, this word was used to signify the parts into which a hundred or wapentake was divided. It also signifies a town or city.

Villa est ex pluribus mansionibus vicinata, et collata ex pluribus vicinis, et sub appellazione villarum continentur burgi et civitates. Co. Litt. 115. Vill is a neighborhood of many mansions, a collection of many neighbors, and under the term of "vills" boroughs and cities are contained.


VILLAGE. Any small assemblage of houses for dwellings or business, or both, in the country, whether they are situated upon regularly laid out streets and alleys or not, constitutes a village. 27 Ill. 48.

VILLAG. An opprobrious epithet, implying great moral delinquency, and equivalent to knave, rascal, or scoundrel. The word is libelous. 1 Bos. & P. 331.

VILLANIS REGIS SUBTRACTIS REDUCENDIS. A writ that lay for the bringing back of the king's bondmen, that had been carried away by others out of his manors whereto they belonged. Reg. Orig. 87.


VILLEIN. A person attached to a manor, who was substantially in the condition of a slave, who performed the base and servile work upon the manor for the lord, and was, in most respects, a subject of property and belonging to him. 1 Washb. Real Prop. 26.

VILLEIN IN GROSS. In old English law. A villein who was annexed to the person of the lord, and transferable by deed from one owner to another. 2 Bl. Comm. 93.

VILLEIN REGARDANT. A villein annexed to the manor of land; a serf.

VILLEIN SERVICES. In old English law. Base services, such as villeins performed. 2 Bl. Comm. 93. They were not, however, exclusively confined to villeins, since they might be performed by freemen, without impairing their free condition. Bract. fol. 24b.

VILLEIN SOCAGE. In feudal and old English law. A species of tenure in which the services to be rendered were certain and determinate, but were of a base or servile nature; i.e., not suitable to a man of free and honorable rank. This was also called "privileged villeinage," to distinguish it from "pure villeinage," in which the services were not certain, but the tenant was obliged to do whatever he was commanded. 2 Bl. Comm. 61.

VILLENAGE. A servile kind of tenure belonging to lands or tenements, whereby the tenant was bound to do all such services as the lord commanded, or were fit for a villein to do. Cowell. See VILLEIN.

VILLENOS JUDGMENT. A judgment which deprived one of his *libera lex*,
whereby he was discredited and disabled as a juror or witness; forfeited his goods and chattels and lands for life; wasted the lands, razed the houses, rooted up the trees, and committed his body to prison. It has become obsolete. 4 Bl. Comm. 136; 4 Steph. Comm. 230; 4 Broom & H. Comm. 153. Wharton.

**Vim vi repellere licet, modo flat moderne** inculpatae tutele, non ad sumendum vindictam, sed ad propulsandam injuriam. It is lawful to repel force by force, provided it be done with the moderation of blameless defense, not for the purpose of taking revenge, but to ward off injury. Co. Litt. 162a.

**Vingrium.** A payment of a certain quantity of wine instead of rent for a vineyard. 2 Mon. Ang. p. 980.

**Vinculacion.** In Spanish law. An entail. Schm. Civil Law, 308.

**Vinculo.** In Spanish law. The bond, chain, or tie of marriage. White, New Recop. b. 1, tit. 6, c. 1, § 2.

**Vinculo Matrimonii.** See A Vinculo Matrimonii: Divorce.

**Vinculum Juris.** Lat. In the Roman law, an obligation is defined as a vinculum juris, i. e., "a bond of law," whereby one party becomes or is bound to another to do something according to law.

**Vindex.** Lat. In the civil law. A defender.

**Vindicare.** Lat. In the civil law. To claim, or challenge: to demand one's own; to assert a right in or to a thing; to assert or claim a property in a thing; to claim a thing as one's own. Calvin.

**Vindicatio.** Lat. In the civil law. The claiming a thing as one's own; the asserting of a right or title in or to a thing.

**Vindicatory Parts of Laws.** The sanction of the laws, whereby it is signified what evil or penalty shall be incurred by such as commit any public wrongs, and transgress or neglect their duty. 1 Steph. Comm. 37.

**Vindicta.** In Roman law. A rod or wand; and, from the use of that instrument in their course, various legal acts came to be distinguished by the term; e. g., one of the three ancient modes of manumission was by the vindicta; also the rod or wand intervened in the progress of the old action of vindicatio, whence the name of that action. Brown.

**Vindictive Damages.** Exemplary or punitive damages; damages given on the principle of punishing the defendant, over and above compensating the plaintiff.


**Violacion.** Injury; infringement; breach of right, duty, or law. Ravishment; seduction. The statute 25 Edw. III. St. 5, c. 2, enacts that any person who shall violate the king's companion shall be guilty of high treason.

**Violation of Safe Conducts.** An offense against the laws of nations. 4 Steph. Comm. 217.

**Violence.** The term "violence" is synonymous with "physical force," and the two are used interchangeably, in relation to assaults, by elementary writers on criminal law. 31 Conn. 212.

**Violent Death.** Death caused by violent external means, as distinguished from natural death, caused by disease or the wasting of the vital forces.

**Violent Presumption.** In the law of evidence. Proof of a fact by the proof of circumstances which necessarily attend it. 3 Bl. Comm. 371. Violent presumption is many times equal to full proof. Id.

**Violent Profits.** Mesne profits in Scotland. "They are so called because due on the tenant's forcible or unwarrantable detaining the possession after he ought to have removed." Ersk. Inst. 2, 6, 54; Bell.

Violenta presumptio aliquando est plena probatio. Co. Litt. 6b. Violent presumption is sometimes full proof.

**Violently.** By the use of force; forcibly; with violence. The term is used in indictments for certain offenses.

Viperina est expositio quae corrodit viscera textus. 11 Coke, 34. It is a poisonous exposition which destroys the vitals of the text.

Vir et uxor censeuntur in lege una persona. Jenk. Cent. 27. Husband and wife are considered one person in law.

Vir et uxor sunt quasi unica persona, quia caro et sanguis unus; res licet sit propria uxoris, vir tamen ejus custos, cum sit caput mulieris. Co. Litt. 112.
Man and wife are, as it were, one person, because only one flesh and blood; although the property may be the wife’s, the husband is keeper of it, since he is the head of the wife.

VIRGATERRAE. (The plural of “eis.”) Powers; forces; capabilities; natural powers; powers granted or limited. See ULTRA Vires.

Vires acquirit eundo. It gains strength by continuance. 1 Johns. Ch. 231, 237.

VIRGA. In old English law. A rod or staff; a rod or ensign of office. Cowell.

VIRGA TERRAE, (or VIRGATA TERRAE.) In old English law. A yard-land; a measure of land of variable quantity, containing in some places twenty, in others twenty-four, in others thirty, and in others forty, acres. Cowell; Co. Litt. 5a.

VIRGATA REGIA. In old English law. The verge; the bounds of the king’s household, within which the court of the steward had jurisdiction. Crabb, Eng. Law, 185.

VIRGATE. A yard-land.

VIRGE, TENANT BY. A species of copyholder, who holds by the virge or rod.

VIRGO INTACTA. A pure virgin.

VIRIDARIO ELIGENDO. A writ for choice of a verderer in the forest. Reg. Orig. 177.

VIRILIA. The privy members of a man, to cut off which was felony by the common law, though the party consented to it. Bract. l. 3, 144; Cowell.

VIRTUE. The phrase “by virtue” differs in meaning from “under color.” For instance, the proper fees are received by virtue of the office; extortion is under color of the office. Any rightful act in office is by virtue of the office. A wrongful act in office may be under color of the office. Phil. Law, 380.

VIRTUTE OFFICI. Lat. By virtue of his office. By the authority vested in him as the incumbent of the particular office.

VIS. Lat. Any kind of force, violence, or disturbance relating to a map’s person or his property.

VIS ABLATIVA. In the civil law. Ablative force; force which is exerted in taking away a thing from another. Calvin.

VIS ARMATA. In the civil and old English law. Armed force; force exerted by means of arms or weapons.

VIS CLANDESTINA. In old English law. Clandestine force; such as is used by night. Bract. fol. 162.

VIS COMPULSIVA. In the civil and old English law. Compulsive force; that which is exerted to compel another to do an act against his will; force exerted by menace or terror.

VIS DIVINA. In the civil law. Divina or superhuman force; the act of God.

VIS ET METUS. In Scotch law. Force and fear. Bell.

VIS EXPULSIVA. In old English law. Expulsive force; force used to expel another, or put him out of his possession. Bracton contrasts it with “eis simplicia,” and divides it into expulsive force with arms, and expulsive force without arms. Bract. fol. 162.

VIS EXTURBATIVA. In the civil law. Exturbative force; force used to thrust out another. Force used between two contending claimants of possession, the one endeavoring to thrust out the other. Calvin.

VIS FLUMINIS. In the civil law. The force of a river; the force exerted by a stream or current; water-power.

VIS IMPRESSA. The original act of force out of which an injury arises, as distinguished from “vis proxima,” the proximate force, or immediate cause of the injury. 2 Greenl. Ev. § 224.

VIS INERMIS. In old English law. Unarmed force; the opposite of “eis armata.” Bract. fol. 162.

VIS INJURIOSA. In old English law. Wrongful force; otherwise called “illicita,” (unlawful.) Bract. fol. 162.

VIS INQUIETATIVA. In the civil law. Disquieting force. Calvin. Bracton defines it to be where one does not permit
another to use his possession quietly and in peace. Bract. fol. 162.

VIS LAICA. In old English law. Lay force; an armed force used to hold possession of a church. Reg. Orig. 59, 60.

Vis legibus est inimica. 3 Inst. 176. Violence is inimical to the laws.


VIS MAJOR. A greater or superior force; an irresistible force. This term is much used in the law of bailments to denote the interposition of violence or coercion proceeding from human agency, (wherein it differs from the "act of God,") but of such a character and strength as to be beyond the powers of resistance or control of those against whom it is directed; for example, the attack of the public enemy or a band of pirates.

In the civil law, this term is sometimes used as synonymous with "vis divina," or the act of God. Calvin.

VIS PERTUBATIVA. In old English law. Force used between parties contending for a possession.

VIS PROXIMA. Immediate force. See Vis Impressa.

VIS SIMPLEX. In old English law. Simple or mere force. Distinguished by Bracton from "vis armata," and also from "vis expulsiva." Bract. fol. 162.

VISA. An official indorsement upon a document, passport, commercial book, etc., to certify that it has been examined and found correct or in due form.

VISCOUNT. A degree of English nobility, next below that of earl. An old title of the sheriff.

VISÈ. An indorsement made on a passport by the proper authorities, denoting that it has been examined, and that the person who bears it is permitted to proceed on his journey. Webster.

VISIT. In international law. The right of visit or visitation is the right of a cruiser or war-ship to stop a vessel sailing under another flag on the high seas, and send an officer to such vessel to ascertain whether her nationality is what it purports to be. It is exercisable only when suspicious circumstances attend the vessel to be visited; as when she is suspected of a piratical character.

VISITATION. Inspection; superintendence; direction; regulation. A power given by law to the founders of all ecclesiastical corporations. 2 Kent, Comm. 390–393; 1 Bl. Comm. 480, 481. In England, the visitation of ecclesiastical corporations belongs to the ordinary. Id.

VISITATION BOOKS. In English law. Books compiled by the heralds, when progresses were solemnly and regularly made into every part of the kingdom, to inquire into the state of families, and to register such marriages and descents as were verified to them upon oath; they were allowed to be good evidence of pedigree. 3 Bl. Comm. 105; 3 Steph. Comm. 724.

VISITOR. An inspector of the government of corporations, or bodies politic. 1 Bl. Comm. 482.

Visitor is an inspector of the government of a corporation, etc. The ordinary is visitor of spiritual corporations. But corporations instituted for private charity, if they are lay, are visitable by the founder, or whom he shall appoint; and from the sentence of such visitor there lies no appeal. By implication of law, the founder and his heirs are visitors of lay foundations; if no particular person is appointed by him to see that the charity is not perverted. Jacob.

The term "visitor" is also applied to an official appointed to see and report upon persons found lunatics by inquisition, and to a person appointed by a school board to visit houses and see that parents are complying with the provisions in reference to the education of their children. Mozley & Whitley.

VISITOR OF MANNERS. The regarder’s office in the forest. Manw. i. 195.

VISNE. L. Fr. The neighborhood; vicinage; venue.

VISUS. Lat. In old English practice. View; inspection, either of a place or person.

VITIAN. To impair; to make void or voidable; to cause to fail of force or effect; to destroy or annul, either entirely or in part, the legal efficacy and binding force of an act or instrument; as when it is said that fraud vitiates a contract.

VITILLITIGATE. To litigate cavilously.

VITIOUS INTROMISSION. In Scotch law. An unwarrantable meddling with the movable estate of a person deceased, without the order of law. Ersk. Prin. b. 3,
tit. 9, § 25. The irregular intermeddil
with the effects of a deceased person, which
subjects the party to the whole debts of the
deceased. 2 Kames, Eq. 327.

VITIUM CLERICI. In old English law.
The mistake of a clerk; a clerical error.

Vitium est quod fugi debet, nisi, ra-
tionem non invenias, max legem sine
ratione esse clames. Ellesm. Post. N. 86. It
is a fault which ought to be avoided, that
if you cannot discover the reason you should
presently exclaim that the law is without rea-
son.

VITIUM SCRIPTORIS. In old En-
lish law. The fault or mistake of a writer
or copyist; a clerical error. Gilb. Forum
Rom. 185.

VITRICUS. Lat. In the civil law. A
step-father; a mother’s second husband.
Calvin.

VIVA AQUA. Lat. In the civil law.
Living water; running water; that which is-
sues from a spring or fountain. Calvin.

VIVA PECUNIA. Lat. Cattle, which
obtained this name from being received dur-
ing the Saxon period as money upon most oc-
casions, at certain regulated prices. Cowell.

VIVA VOCE. Lat. With the living voice;
by word of mouth. As applied to the exa-
nination of witnesses, this phrase is equiva-
 lent to “orally.” It is used in contradistinc-
tion to evidence on affidavits or depositions.
As descriptive of a species of voting, it sig-
nifies voting by speech or outcry, as distin-
guished from voting by a written or printed
ballot.

VIVARIUM. Lat. In the civil law.
An inclosed place, where live wild animals
are kept. Calvin; Spelman.

VIVARY. In English law. A place for
keeping wild animals alive, including fishes;
a fish pond, park, or warren.

VIVUM VADIUM. See Vadium Vi-

Vix ulla lex fieri potest quaec omnibus
commoda sit, sed si majori parti prosperi-
ciat, utilis est. Sarcely any law can be
made which is adapted to all, but, if it pro-
vide for the greater part, it is useful. Plowd.

VIZ. A contraction for "videlicet," to-wit,
namely, that is to say.

VOCABULA ARTIS. Lat. Words of
art; technical terms.

Vocabula artium explicanda sunt se-
cundum definitiones prudentium. Terms
of arts are to be explained according to the
definitions of the learned or skilled [in such
arts.]. Bl. Law Tracts, 6.

VOCARE AD CURIAM. In feudal law.
To summon to court. Feud. Lib. 2, tit. 22.

VOCATIO IN JUS. Lat. A summon-
ing to court. In the earlier practice of the
Roman law, (under the legis actiones,) the
creditor orally called upon his debtor to go
with him before the preator for the purpose
of determining their controversy, saying, "In
jus eamus; in jus te voco." This was called
"vocatio in jus."

VOCIFERATIO. Lat. In old English law.
Outcry; hue and cry. Cowell.

VOCO. Lat. In the civil and old En-
lish law. I call; I summon; I vouch. In
jus voco te, I summon you to court; I sum-
mon you before the preator. The formula
by which a Roman action was anciently com-

VOID. Null; ineffectual; nugatory;
having no legal force or binding effect; un-
able, in law, to support the purpose for
which it was intended.

"Void." does not always imply entire nullity; but
it is, in a legal sense, subject to large qualifica-
tions in view of all the circumstances calling
for its application, and the rights and interests to
be affected in a given case. 50 N. H. 533, 563.

"Void," as used in statutes and by the courts,
does not usually mean that the act or proceeding
is an absolute nullity. 50 Mo. 284.

There is this difference between the two
words "void" and "voidable." void means
that an instrument or transaction is so nuga-
tory and ineffectual that nothing can cure it;
voidable, when an imperfection or defect
can be cured by the act or confirmation of
him who could take advantage of it. Thus,
while acceptance of rent will make good a
voidable lease, it will not affirm a void lease.

Wharton.

The true distinction between void and voidable
acts, orders, and judgments is that the former can
always be assailed in any proceeding, and the lat-
ter only in a direct proceeding. 42 Ala. 462.

The term "void," as applicable to conveyances or
other agreements, has not at all times been used
with technical precision, nor restricted to its pe-
culiar and limited sense, as contrasted from "voidable;" it being frequently introduced,
even by legal writers and jurists, when the purpose is nothing further than to indicate that a contract was invalid, and not binding in law. But the distinction between the terms "void" and "voidable," in their application to contracts, is often one of great practical importance; and, whenever entire technical accuracy is required, the term "void" can only be properly applied to those contracts that are of no effect whatsoever, such as are a mere nullity, and incapable of confirmation or ratification. 6 Metc. (Mass.) 415.

Void in part, void in toto. 15 N. Y. 9, 96.

Void things are as no things. 9 Cow. 778, 784.

VOIDABLE. That may be avoided, or declared void; not absolutely void, or void in itself. Most of the acts of infants are voidable only, and not absolutely void. 2 Kent. Comm. 234. See Void.

VOIDANCE. The act of emptying; ejection from a benefice.

VOIR DIRE. L. Fr. To speak the truth. This phrase denotes the preliminary examination which the court may make of one presented as a witness, where his competency, interest, etc., is objected to.

VOITURE. Fr. Carriage; transportation by carriage.

VOLENS. Lat. Willing. He is said to be willing who either expressly consents or tacitly makes no opposition. Calvin.


Voluit, sed non dixit. He willed, but he did not say. He may have intended so, but he did not say so. A maxim frequently used in the construction of wills, in answer to arguments based upon the supposed intention of a testator. 2 Pow. Dev. 625; 4 Kent, Comm. 538.

VOLUMEN. Lat. In the civil law. A volume; so called from its form, being rolled up.

VOLUMUS. Lat. We will; it is our will. The first word of a clause in the royal writs of protection and letters patent. Cowell.


VOLUNTARY. Free; without compulsion or solicitation.

Without consideration; without valuable consideration; gratuitous.

VOLUNTARY ANSWER, in the practice of the court of chancery, was an answer put in by a defendant, when the plaintiff had filed no interrogatories which required to be answered. Hunt, Eq.

VOLUNTARY ASSIGNMENT. An assignment for the benefit of his creditors made by a debtor voluntarily; as distinguished from a compulsory assignment which takes place by operation of law in proceedings in bankruptcy or insolvency.

Presumably it means an assignment of a debtor's property in trust to pay his debts generally, in distinction from a transfer of property to a particular creditor in payment of his demand, or to a conveyance by way of collateral security or mortgage. 10 Paige, Ch. 445.

VOLUNTARY CONFESSION. A confession of guilt made spontaneously by an accused person, and not induced by either promises or threats.

VOLUNTARY CONVEYANCE. A conveyance without valuable consideration; such as a deed or settlement in favor of a wife or children.

VOLUNTARY COURTESY. A voluntary act of kindness; an act of kindness performed by one man towards another, of the free will and inclination of the doer, without any previous request or promise of reward made by him who is the object of the courtesy; from which the law will not imply a promise of remuneration. Holthouse.

VOLUNTARY DEPOSIT. In the civil law of bailment. A deposit arising from the mere consent and agreement of parties, as distinguished from a necessary deposit, which was made upon some sudden emergency, or from some pressing necessity. Dig. 16, 3, 2; Story, Bailm. § 44.

VOLUNTARY ESCAPE. In practice. An escape of a person from custody by the express consent of his keeper. 3 Bl. Comm. 415. An escape in consequence of the sheriff, or his officer, permitting a party to go at large. 1 Archb. Fr. K. B. 85.

VOLUNTARY IGNORANCE. This exists where a party might, by taking reasonable pains, have acquired the necessary knowledge, but has neglected to do so.
VOLUNTARY JURISDICTION. In English law. A jurisdiction exercised by certain ecclesiastical courts, in matters where there is no opposition. 3 Bl. Comm. 66. The opposite of contentious jurisdiction, (g. σ.)

In Scotch law. One exercised in matters admitting of no opposition or question, and therefore cognizable by any judge, and in any place, and on any lawful day. Bell.

VOLUNTARY MANSLAUGHTER. In criminal law. Manslaughter committed voluntarily upon a sudden heat of the passions; as if, upon a sudden quarrel, two persons fight, and one of them kills the other. 4 Bl. Comm. 190, 191.

VOLUNTARY NONSUIT. In practice. The abandonment of his cause by a plaintiff, and an agreement that a judgment for costs be entered against him. 3 Bouv. Inst. no. 3306.

VOLUNTARY OATH. Such as a person may take in extrajudicial matters, and not regularly in a court of justice, or before an officer invested with authority to administer the same. Brown.

VOLUNTARY PAYMENT. A payment made by a debtor of his own will and choice, as distinguished from one exacted from him by process of execution or other compulsion.

VOLUNTARY REDEMPTION, in Scotch law, is when a mortgagee receives the sum due into his own hands, and discharges the mortgage, without any consigna tion. Bell.

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

VOLUNTARY SETTLEMENT. A settlement of property upon a wife or other beneficiary, made gratuitously or without valuable consideration.

VOLUNTARY TRUST. See Trust.

VOLUNTARY WASTE. Active or positive waste; waste done or committed, in contradistinction to that which results from mere negligence, which is called "permissive" waste. 2 Bouv. Inst. no. 2394.

Voluntas donatoris in charta doni sui manifeste expressa observetur. Co. Litt. 21. The will of the donor manifestly expressed in his deed of gift is to be observed.

Voluntas est justa sententia de eo quod quis post mortem suam fleri velit. A will is an exact opinion or determination concerning that which each one wishes to be done after his death.

Voluntas et propositum distinguunt maleficia. The will and the proposed end distinguish crimes. Bract. fols. 28, 1365.

Voluntas facit quod in testamento scriptum valeat. Dig. 30, 1, 12, 3. It is intention which gives effect to the wording of a will.

Voluntas in delictis, non exitus spectatur. 2 Inst. 57. In crimes, the will, and not the consequence, is looked to.

Voluntas reputatur pro facto. The intention is to be taken for the deed. 3 Inst. 69; Broom, Max. 311.

Voluntas testatoris est ambulatoria usque ad extremum vitae exitum. 4 Coke, 61. The will of a testator is ambulatory until the latest moment of life.


Voluntas ultima testatoris est perimplenda secundum veram intentionem suam. Co. Litt. 322. The last will of the testator is to be fulfilled according to his true intention.

VOLUNTEER. In conveyancing, one who holds a title under a voluntary conveyance, i. e., one made without consideration, good or valuable, to support it. A person who gives his services without any express or implied promise of remuneration in return is called a "volunteer," and is entitled to no remuneration for his services, nor to any compensation for injuries sustained by him in performing what he has undertaken. Sweet.

In military law, the term designates one who freely and voluntarily offers himself for service in the army or navy; as distinguished from one who is compelled to serve by draft or conscription, and also from one entered by enlistment in the standing army.

VOTE. Suffrage; the expression of his will, preference, or choice, formally manifested by a member of a legislative or deliberative body, or of a constituency or a body of qualified electors, in regard to the decision to be made by the body as a whole upon
any proposed measure or proceeding, or the selection of an officer or representative. And the aggregate of the expressions of will or choice, thus manifested by individuals, is called the "vote of the body."

VOTER. One who has the right of giving his voice or suffrage.

VOTES AND PROCEEDINGS. In the houses of parliament the clerks at the tables make brief entries of all that is actually done; and these minutes, which are printed from day to day for the use of members, are called the "votes and proceedings of parliament." From these votes and proceedings the journals of the house are subsequently prepared, by making the entries at greater length. Brown.

VOTUM. Lat. A vow or promise. Dies votorum, the wedding day. Fleta l. 1, c. 4.

VOUCH. To call upon; to call in to warranty; to call upon the grantor or warrantor to defend the title to an estate.

To vouch is to call upon, rely on, or quote as an authority. Thus, in the old writers, to vouch a case or report is to quote it as an authority. Co. Litt. 70a.

VOUCHEE. In common recoveries, the person who is called to warrant or defend the title is called the "vouchee." 2 Bouv. Inst. no. 2093.

VOUCHER. A receipt, acquittance, or release, which may serve as evidence of payment or discharge of a debt, or to certify the correctness of accounts. An account-book containing the acquittances or receipts showing the accountant's discharge of his obligations. 1 Metc. (Mass.) 218.

The term "voucher," when used in connection with the disbursements of moneys, implies some written or printed instrument in the nature of a receipt, note, account, bill of particulars, or something of that character which shows on what account or by what authority a particular payment has been made, and which may be kept or filed away by the party receiving it, for his own convenience or protection, or that of the public. 107 Ill. 504.

In old conveyancing. The person on whom the tenant calls to defend the title to the land; because he warranted the title to him at the time of the original purchase.

VOUCHER TO WARRANTY. The calling one who has warranted lands, by the party warranted, to come and defend the suit for him. Co. Litt. 101b.

Vox emissa volat; litera scripta manet. The spoken word flies; the written letter remains. Broom, Max. 666.

VOX SIGNATA. In Scotch practice. An emphatic or essential word. 2 Alis. Crim. Pr. 280.

VOYAGE. In maritime law. The passing of a vessel by sea from one place, port, or country to another. The term is held to include the enterprise entered upon, and not merely the route. 113 Mass. 326.

VOYAGE INSURED. In insurance law. A transit at sea from the terminus a quo to the terminus ad quem, in a prescribed course of navigation, which is never set out in any policy, but virtually forms parts of all policies, and is as binding on the parties thereto as though it were minutely detailed. 1 Arn. Ins. 333.

VRAIC. Seaweed. It is used in great quantities by the inhabitants of Jersey and Guernsey for manure, and also for fuel by the poorer classes.

VS. An abbreviation for versus, (against,) constantly used in legal proceedings, and especially in entitling cases.

Vulgaris opinio est duplex, viz., orta inter graves et discretos, que multum veritatis habet, et opinia orta inter levos et vulgares homines absque specie veritatis. 4 Coke, 107. Common opinion is of two kinds, viz., that which arises among grave and discreet men, which has much truth in it, and that which arises among light and common men, without any appearance of truth.

VULGARIS PURGATIO. In old English law. Common purgation; a name given to the trial by ordeal, to distinguish it from the canonical purgation, which was by the oath of the party. 4 Bl. Comm. 342.

VULGO CONCEPTI. Lat. In the civil law. Spurious children; bastards.

VULGO QUÆSITI. Lat. In the civil law. Spurious children; literally, gotten from the people; the offspring of promiscuous cohabitation, who are considered as having no father. Inst. 3, 4, 8; Id. 3, 5, 4.
W. As an abbreviation, this letter frequently stands for "William," (king of England,) "Westminster," "west," or "western."

W.D. An abbreviation for "Western District."

WACREOUR. L. Fr. A vagabond, or vagrant. Brit. c. 29.

WADSET. In Scotch law. The old term for a mortgage. A right by which lands or other heritable subjects are impignorated by the proprietor to his creditor in security of his debt. Wadsets are usually drawn in the form of mutual contracts, in which one party sells the land, and the other grants the right of reversion. Ersk. Inst. 2, 8, 3.

WADSETTER. In Scotch law. A creditor to whom a wadset is made, corresponding to a mortgagee.

WAFTORS. Conductors of vessels at sea. Cowell.

WAGA. In old English law. A weigh; a measure of cheese, salt, wool, etc., containing two hundred and fifty-six pounds avoirdupois. Cowell; Spelman.

WAGE. In old English practice. To give security for the performance of a thing. Cowell.

WAGER. A wager is a contract by which two or more parties agree that a certain sum of money or other thing shall be paid or delivered to one of them on the happening of an uncertain event. 75 Ill. 554; 44 How. Pr. 207; 18 Ind. 18.

WAGER OF BATTEL. The trial by wager of battel was a species of trial introduced into England, among other Norman customs, by William the Conqueror, in which the person accused fought with his accuser, under the apprehension that Heaven would give the victory to him who was in the right. 3 Bl. Comm. 337. It was abolished by St. 59 Geo. III. c. 46.

WAGER OF LAW. In old practice. The giving of gage or sureties by a defendant in an action of debt that at a certain day assigned he would make his law; that is, would take an oath in open court that he did not owe the debt, and at the same time bring with him eleven neighbors, (called "com-
flight, for fear of being apprehended. Wharton.

Walis are to be distinguished from bona furtiva, which are the goods of the felon himself, which he abandons in his flight from justice. Brown.

WAIN-BOTE. Timber for wagons or carts.

WAIVABLE. In old records. That may be plowed or manured; tillable. Cowell; Blount.

WAINAGE. In old English law. The team and instruments of husbandry belonging to a countryman, and especially to a villain who was required to perform agricultural services.


WAITING CLERKS. Officers whose duty it formerly was to wait in attendance upon the court of chancery. The office was abolished in 1842 by St. 5 & 6 Vict. c. 103. Mozley & Whitley.

WAIVE, v. To abandon or throw away; as when a thief, in his flight, throws aside the stolen goods, in order to facilitate his escape, he is technically said to waive them.

In modern law, to renounce, repudiate, or surrender a claim, a privilege, a right, or the opportunity to take advantage of some defect, irregularity, or wrong.

A person is said to waive a benefit when he renounces or disclaims it, and he is said to waive a tort or injury when he abandons the remedy which the law gives him for it. Sweet.

WAIVE, n. A woman outlawed. The term is, as it were, the feminine of "outlaw," the latter being always applied to a man; "waive," to a woman. Cowell.

WAIVER. The renunciation, repudiation, abandonment, or surrender of some claim, right, privilege, or of the opportunity to take advantage of some defect, irregularity, or wrong.

The passing by of an occasion to enforce a legal right, whereby the right to enforce the same is lost; a common instance of this is where a landlord waives a forfeiture of a lease by receiving rent, or distraining for rent, which has accrued due after the breach of covenant causing the forfeiture became known to him. Wharton.

This word is commonly used to denote the declining to take advantage of an irregularity in legal proceedings, or of a forfeiture incurred through breach of covenants in a lease. A gift of goods may be waived by a disagreement to accept; so a plaintiff may commonly sue in contract waiving the tort. Brown.

WAIVER OF TORT. The election, by an injured party, for purposes of redress, to treat the facts as establishing an implied contract, which he may enforce, instead of an injury by fraud or wrong, for the committing of which he may demand damages, compensatory or exemplary. 1 Hun, 630.

WAKE MAN. The chief magistrate of Ripon, in Yorkshire.

WAKENING. In Scotch law. The revival of an action. A process by which an action that has lain over and not been insisted in for a year and a day, and thus technically said to have "fallen asleep," is wakened, or put in motion again. 1 Forb. Inst. pt. 4, p. 170; Ersk. Frin. 4, 1, 33.

WALAPAUS. In old Lombardic law. The disguising the head or face, with the intent of committing a theft.

WALES. In old English law. A Welshman.

WALESCHERY. The being a Welshman. Spelman.

WALLISCUS. In Saxon law. A servant, or any ministerial officer. Cowell.

WALKERS. Foresters who have the care of a certain space of ground assigned to them. Cowell.

WALL. An erection of stone, brick, or other material, raised to some height, and intended for purposes of security or inclosure. In law, this term occurs in such compounds as "ancient wall," "party-wall," "division-wall," etc.

WALLIA. In old English law. A wall; a sea-wall; a mound, bank, or wall erected in marshy districts as a protection against the sea. Spelman.

WAMPUM. Beads made of shells, used as money by the North American Indians, and which continued current in New York as late as 1693.

WAND OF PEACE. In Scotch law. A wand or staff carried by the messenger of a court, and which, when deforecd, (that is, hindered from executing process,) he breaks,
WAR. A state of forcible contention; an armed contest between nations; a state of hostility between two or more nations or states. Gro. de Jur. B. lib. 1, c. 1.

Every connection by force between two nations, in external matters, under the authority of their respective governments, is a public war. If war is declared in form, it is called "solemni," and is of the perfect kind; because the whole nation is at war with another whole nation. When the hostilities are limited as respects persons, places, and things, the war is properly termed "imperfect war." 4 Dall. 37, 40.

A civil war is one which takes place between a state, as such, and a party, class, or section of its own citizens. It is public on the part of the established government, and private on the part of the people resisting its authority, but both the parties are entitled to all the rights of war as against each other, and even as respects neutral nations. Dana's Wheat. Int. Law, § 296.

WAR, ARTICLES OF. See ARTICLES OF WAR.

WAR-OFFICE. In England. A department of state from which the sovereign issues orders to his forces. Wharton.

WARD. 1. Guarding; care; charge; as, the ward of a castle; so in the phrase "watch and ward."

2. A division in the city of London committed to the special ward (guardianship) of an alderman.

3. A territorial division is adopted in most American cities, by which the municipality is separated into a number of precincts or districts called "wards" for purposes of police, sanitary regulations, prevention of fires, elections, etc.

4. A corridor, room, or other division of a prison, hospital, or asylum.

5. An infant placed by authority of law under the care of a guardian.

The person over whom or over whose property a guardian is appointed is called his "ward." Civil Code Cal. § 237.

WARD-CORN. In old English law. The duty of keeping watch and ward, with a horn to blow upon any occasion of surprise. 1 Mon. Ang. 976.

WARD-FEGH. Sax. In old records. Ward-fee; the value of a ward, or the money paid to the lord for his redemption from wardship. Blount.

WARD-HOLDING. In old Scotch law. Tenure by military service; the proper feudal tenure of Scotland. Abolished by St. 20 Geo. II. c. 50. Ersk. Prin. 2, 4, 1.

WARD IN CHANCERY. An infant who is under the superintendence of the chancellor.

WARD-MOTE. In English law. A court kept in every ward in London, commonly called the "ward-mote court," or "inquest." Cowell.

WARD-PENNY. In old English law. Money paid to the sheriff or castellains, for the duty of watching and warding a castle. Spelman.

WARD-STAFF. In old records. A constable's or watchman's staff. Cowell.

WARD-WIT. In old English law. Immunity or exemption from the duty or service of ward, or from contributing to such service. Spelman. Exemption from amercement for not finding a man to do ward. Fleta, lib. 1, c. 47, § 16.
WARDA. L. Lat. In old English law. Ward; guard; protection; keeping; custody. Spelman. A ward; an infant under wardship. Id. In old Scotch law. An award; the judgment of a court.

WARDAGE. Money paid and contributed to watch and ward. Domesday.

WARDEN. A guardian; a keeper. This is the name given to various officers.

WARDEN OF THE CINQUE PORTS. In English law. The title of the governor or presiding officer of the Cinque Ports, (q. v.)

WARDS AND LIVERIES. In English law. The title of a court of record, established in the reign of Henry VIII. See COURT OF WARDS AND LIVERIES.

WARDS OF ADMIRALTY. Seamen are sometimes thus designated, because, in view of their general improvidence and rashness, the admiralty courts are accustomed to scrutinize with great care their bargains and engagements, when brought before them, with a view to protecting them against imposition and overreaching.

WARDSHIP. In military tenures, the right of the lord to have custody, as guardian, of the body and lands of the infant heir, without any account of profits, until he was twenty-one, or she sixteen. In socage the guardian was accountable for profits; and he was not the lord, but the nearest relative to whom the inheritance could not descend, and the wardship ceased at fourteen. In copyholds, the lord was the guardian, but was perhaps accountable for profits. Stim. Gloss. See 2 Bl. Comm. 67.

WARDSHIP IN CHIVALRY. An incident to the tenure of knight-service.

WARDSHIP IN COPYHOLDS. The lord is guardian of his infant tenant by special custom.

WARECTARE. L. Lat. In old English law. To fallow ground; or plow up land (designed for wheat) in the spring, in order to let it lie fallow for the better improvement. Fleta, lib. 2, c. 33; Cowell.

WAREHOUSE. A place adapted to the reception and storage of goods and merchandise. 23 Me. 47.

WAREHOUSE BOOK. A book used by merchants to contain an account of the quantities of goods received, shipped, and remaining in stock.

WAREHOUSE RECEIPT. A receipt given by a warehouseman for goods received by him on storage in his warehouse.

WAREHOUSE SYSTEM. A system of public stores or warehouses, established or authorized by law, in which an importer may deposit goods imported, in the custody of the revenue officers, paying storage, but not being required to pay the customs duties until the goods are finally removed for consumption in the home market, and with the privilege of withdrawing the goods from store for the purpose of re-exportation without paying any duties.

WAREHOUSEMAN. The owner of a warehouse; one who, as a business, and for hire, keeps and stores the goods of others.

WARNING. under the old practice of the English court of probate, was a notice given by a registrar of the principal registry to a person who had entered a caveat, warning him, within six days after service, to enter an appearance to the caveat in the principal registry, and to set forth his interest, concluding with a notice that in default of his doing so the court would proceed to do all such acts, matters, and things as should be necessary. By the rules under the judiciary acts, a writ of summons has been substituted for a warning. Sweet.

WARNISTURA. In old records. Garniture; furniture; provision. Cowell.

WARNOTH. In old English law. An ancient custom, whereby, if any tenant holding of the Castle of Dover failed in paying his rent at the day, he should forfeit double, and, for the second failure, treble, etc. Cowell.


WARRANT. In Scotch law. Warranty; a clause in a charter or deed by which the grantor obliges himself that the right conveyed shall be effectual to the receiver. Ersk. Prin. 2, 3, 11. A clause whereby the grantor of a charter obliges himself to warrant or make good the thing granted to the receiver. 1 Forb. Inst. pt. 2, p. 113.

WARRANT, a. In conveyancing. To assure the title to property sold, by an express covenant to that effect in the deed of conveyance. To stipulate by an express covenant...
that the title of a grantee shall be good, and his possession undisturbed.

In contracts. To engage or promise that a certain fact or state of facts, in relation to the subject-matter, is, or shall be, as it is represented to be.

WARRANT, n. 1. A writ or precept from a competent authority in pursuance of law, directing the doing of an act, and addressed to an officer or person competent to do the act, and affording him protection from damage, if he does it. 71 N. Y. 376.

2. Particularly, a writ or precept issued by a magistrate, justice, or other competent authority, addressed to a sheriff, constable, or other officer, requiring him to arrest the body of a person therein named, and bring him before the magistrate or court, to answer, or to be examined, touching some offense which he is charged with having committed. See, also, BENCH-WARRANT; SEARCH-WARRANT.

3. A warrant is an order by which the drawer authorizes one person to pay a particular sum of money. 2 Kan. 130.

4. An authority issued to a collector of taxes, empowering him to collect the taxes extended on the assessment roll, and to make distress and sale of goods or land in default of payment.

5. An order issued by the proper authorities of a municipal corporation, authorizing the payee or holder to receive a certain sum out of the municipal treasury.

6. A land-warrant is a warrant issued at the local land-offices of the United States to purchasers of public lands, on the surrender of which, at the general land-office at Washington, they receive a conveyance from the general government.

WARRANT IN BANKRUPTCY. A warrant issued, upon an adjudication in bankruptcy, directing the marshal to take possession of the bankrupt's property, notify creditors, etc.

WARRANT OF ATTORNEY. In practice. A written authority, directed to any attorney or attorneys of any court of record, to appear for the party executing it, and receive a declaration for him in an action at the suit of a person named, and thereupon to confess the same, or to suffer judgment to pass by default; and it also usually contains a release of errors. 2 Burrill, Pr. 239.

WARRANT OF COMMITMENT. A warrant of commitment is a written authority committing a person to custody.

WARRANT OFFICERS. In the United States navy, these are a class of inferior officers who hold their rank by virtue of a written warrant instead of a commission, including boatswains, gunners, carpenters, etc.

WARRANT TO SUE AND DEFEND. In old practice. A special warrant from the crown, authorizing a party to appoint an attorney to sue or defend for him. 3 Bl. Comm. 25.

A special authority given by a party to his attorney, to commence a suit, or to appear and defend a suit, in his behalf. These warrants are now disused, though formal entries of them upon the record were long retained in practice. 1 Burrill, Pr. 39.

WARRANTEE. A person to whom a warranty is made.

WARRANTIA CHARTÆ. In old practice. Warranty of charter. A writ which lay for one who, being enfeoffed of lands or tenements, with a clause of warranty, was afterwards impleaded in an assize or other action in which he could not vouch to warranty. In such case, it might be brought against the warrantor, to compel him to assist the tenant with a good plea or defense, or else to render damages and the value of the land, if recovered against the tenant. Cowell; 3 Bl. Comm. 300.

WARRANTIA CUSTODÆ. An old English writ, which lay for him who was challenged to be a ward to another, in respect to lands said to be holden by knight-service; which land, when it was bought by the ancestors of the ward, was warranted free from such thraldom. The writ lay against the warrantor and his heirs. Cowell.

WARRANTIA DIEI. A writ which lay for a man who, having had a day assigned him personally to appear in court in any action in which he was sued, was in the mean time, by commandment, employed in the king's service, so that he could not come at the day assigned. It was directed to the justices that they might not record him in default for that day. Cowell.

WARRANTIZARE. In old conveyancing. To warrant; to bind one's self, by covenant in a deed of conveyance, to defend the grantee in his title and possession.

Warrantizare est defendere et acqui- etare tenentem, qui warrantum vocavit, in seisina sua; et tenens de re warranti
WARRANTOR

excamblium habebit ad valentiam. Co. Litt. 365. To warrant is to defend and insure in peace the tenant, who calls for warranty, in his seisin; and the tenant in warranty will have an exchange in proportion to its value.

WARRANTOR. One who makes a warranty. Shep. Touch. 181.

Warrantor potest excipere quod querens non tenet terram de qua petit warrantiam, et quod donum fuit insuficiens. Hob. 21. A warrantor may object that the complainant does not hold the land of which he seeks the warranty, and that the gift was insufficient.

WARRANTY. In real property law. A real covenant by the grantor of lands, for himself and his heirs, to warrant and defend the title and possession of the estate granted, to the grantee and his heirs, where-by, either upon voucher, or judgment in the writ of warranty charta, and the eviction of the grantee by paramount title, the grantor was bound to recompense him with other lands of equal value. Co. Litt. 365a.

Lienal warranty existed when the heir derived title to the land warranted either from or through the ancestor who made the warranty.

Collateral warranty existed when the heir's title was not derived from the warranting ancestor, and yet it barred the heir from claiming the land by any collateral title, upon the presumption that he might thereafter have assets by descent from or through the ancestor; and it imposed upon him the obligation of giving the warrantee other lands in case of eviction, provided he had assets. 2 Bl. Comm. 301, 302.

In sales of personal property. A warranty is a statement or representation made by the seller of goods, contemporaneously with and as a part of the contract of sale, though collateral to the express object of it, having reference to the character, quality, or title of the goods, and by which he promises or undertakes to insure that certain facts are or shall be as he then represents them. The warranty may be either express or implied. It is the former when created by the apt and explicit statements of the seller; the latter, when the law derives it by implication or inference from the nature of the transaction, or the relative situation or circumstances of the parties.

A warranty is an engagement by which a seller assures to a buyer the existence of some fact affecting the transaction, whether past, present, or future. Civil Code Cal. § 1763.

In contracts. An undertaking or stipulation, in writing, or verbally, that a certain fact in relation to the subject of a contract is or shall be as it is stated or promised to be.

A warranty differs from a representation in that a warranty must always be given contemporaneously with, and as part of, the contract; whereas a representation precedes and induces to the contract. And, while that is their difference in nature, their difference in consequence or effect is this: that, upon breach of warranty, (or false warranty,) the contract remains binding, and damages only are recoverable for the breach; whereas, upon a false representation, the defrauded party may elect to avoid the contract, and recover the entire price paid. Brown.

The same transaction cannot be characterized as a warranty and a fraud at the same time. A warranty rests upon contract, while fraud or fraudulent representations have no element of contract in them, but are essentially a tort. When judges or law-writers speak of a fraudulent warranty, the language is neither accurate nor perspicuous. If there is a breach of warranty, it cannot be said that the warranty was fraudulent, with any more propriety than any other contract can be said to have been fraudulent, because there has been a breach of it. On the other hand, to speak of a false representation as a contract or warranty, or as tending to prove a contract or warranty, is a perversion of language and of correct ideas. 39 Ind. 81.

A continuing warranty is one which applies to the whole period during which the contract is in force. Thus, an undertaking in a charter-party that a vessel shall continue to be of the same class that she was at the time the charter-party was made is a continuing warranty. Sweet.

In insurance. In the law of insurance, “warranty” means any assertion or undertaking on the part of the assured, whether expressed in the contract or capable of being annexed to it, on the strict and literal truth or performance of which the liability of the underwriter is made to depend. Maude & P. Shipp. 377; Sweet.

WARRANTY DEED. One which contains a covenant of warranty.

WARRANTY, VOUCHER TO. In old practice. The calling a warrantor into court by the party warranted, (when tenant in a real action brought for recovery of such lands,) to defend the suit for him. Co. Litt. 1016.

WARREN. A term in English law for a place in which birds, fishes, or wild beasts are kept.

A franchise or privilege, either by prescription or grant from the king, to keep
beasts and fowls of warren, which are hares, coneys, partridges, pheasants, etc. Also any place to which such privilege extends. Mozley & Whitley.

WARSLOT. In Saxon law. A customary or usual tribute or contribution towards armor, or the arming of the forces.

WARTH. In old English law. A customary payment, supposed to be the same with ward-penny. Spelman; Blount.

WASH. A shallow part of a river or arm of the sea.

WASHING-HORN. The sounding of a horn for washing before dinner. The custom was formerly observed in the Temple.

WASHINGTON, TREATY OF. A treaty signed on May 6, 1871, between Great Britain and the United States of America, with reference to certain differences arising out of the war between the northern and southern states of the Union, the Canadian fisheries, and other matters. Wharton.

WASTE. Spoil or destruction, done or permitted, to lands, houses, gardens, trees, or other corporeal hereditaments, by the tenant thereof, to the prejudice of the heir, or of him in reversion or remainder. 2 Bl. Comm. 281.
Waste is a spoil and destruction of an estate, either in houses, woods, or lands, by demolishing, not the temporary profits only, but the very substance of the thing, thereby rendering it wild and desolate, which the common law expresses very significantly by the word “wastum.” 3 Bl. Comm. 293.
Waste is a lasting damage to the reversion caused by the destruction, by the tenant for life or years, of such things on the land as are not included in its temporary profits. 29 Mo. 325.
Voluntary waste is active or positive waste, waste done or committed, consisting in some act of destruction or devastation.
Permissive waste is such as is merely suffered or permitted by the tenant, and consists in the neglect or omission to do what will prevent injury; as, to suffer a house to go to decay for the want of repair.
Equitable waste (which is voluntary only) is an unconscientious abuse of the privilege of non-impeachability for waste at common law, whereby a tenant for life, without impeachment of waste, will be restrained from committing willful, destructive, malicious, or extravagant waste, such as pulling down houses, cutting timber of too young a growth, or trees planted for ornament, or for shelter of premises. Wharton.

In old English criminal law. A prerogative or liberty, on the part of the crown, of committing waste on the lands of felons, by pulling down their houses, extirpating their gardens, plowing their meadows, and cutting down their woods. 4 Bl. Comm. 385.

WASTE-BOOK. A book used by merchants, to receive rough entries or memoranda of all transactions in the order of their occurrence, previous to their being posted in the journal. Otherwise called a “blotter.”

WASTE, WRIT OF. See WRIT of WASTE.

WASTORS. In old statutes. A kind of thieves.

WATCH, v. To keep guard; to stand as sentinel; to be on guard at night, for the preservation of the peace and good order.

WATCH, n. A body of constables on duty on any particular night.

WATCH AND WARD. “Watch” denotes keeping guard during the night; “ward,” by day.

WATCHMAN. An officer in many cities and towns, whose duty it is to watch during the night and take care of the property of the inhabitants.

WATER-BAILIFF. The title of an officer, in port towns in England, appointed for the searching of ships. Also of an officer belonging to the city of London, who had the supervising and search of the fish brought thither. Cowell.

WATER-BAYLEY. In American law. An officer mentioned in the colony laws of New Plymouth, (A. D. 1671,) whose duty was to collect dues to the colony for fish taken in their waters. Probably another form of water-bailiff. Burrill.

WATER-COURSE. A running stream of water; a body of running water; a natural stream, including rivers, creeks, runs, and rivulets.
There must be a stream usually flowing in a particular direction, though it need not flow continually. It may sometimes be dry. It must flow in a definite channel, having a bed, sides, or banks, and usually discharge itself into some other stream or body of water. It must be something more than a mere surface drainage over the entire face of a tract of land, occasioned by unusual freshets or other extraordinary causes. It does not include the water flowing in the hollows or ravines in land, which is the mere surface-water from rain or melting snow, and is discharged through them from a higher to a lower level, but which at other times
are destitute of water. Such hollows or ravines are not, in legal contemplation, water-courses. 27 Wis. 661.

WATER-GAGE. A sea-wall or bank to restrain the current and overflowing of the water; also an instrument to measure water. Cowell.

WATER-GAVEL. In old records. A gavel or rent paid for fishing in or other benefit received from some river or water. Cowell; Blount.

WATER-MARK. A mark indicating the highest point to which water rises, or the lowest point to which it sinks.

WATER-MEASURE. In old statutes. A measure greater than Winchester measure by about three gallons in the bushel. Cowell.

WATER-ORDEAL. In Saxon and old English law. The ordeal or trial by water. The hot-water ordeal was performed by plunging the bare arm up to the elbow in boiling water, and escaping unhurt thereby. 4 Bl. Comm. 343. The cold-water ordeal was performed by casting the person suspected into a river or pond of cold water, when, if he floated therein, without any action of swimming, it was deemed an evidence of his guilt; but, if he sunk, he was acquitted. Id.

WATER-POWER. The water-power to which a riparian owner is entitled consists of the fall in the stream, when in its natural state, as it passes through his land, or along the boundary of it; or, in other words, it consists of the difference of level between the surface where the stream first touches his land, and the surface where it leaves it. 3 Rawle, 90.

WATERGANG. A Saxon word for a trench or course to carry a stream of water, such as are commonly made to drain water out of marshes. Cowell.

WATERSCAPE. An aqueduct or passage for water.

WATERING STOCK. In the language of brokers, adding to the capital stock of a corporation by the issue of new stock, without increasing the real value represented by the capital.

WAVESON. In old records. Such goods as, after a wreck, swim or float on the waves. Jacob.

WAX SCOT. A duty anciently paid twice a year towards the charge of wax candles in churches. Spelman.

WAY. A passage, path, road, or street. In a technical sense, a right of passage over land.

A right of way is the privilege which an individual, or a particular description of persons, as the inhabitants of a village, or the owners or occupiers of certain farms, have of going over another's ground. It is an incorporeal hereditament of a real nature, entirely different from a public highway. Cruise, Dig. Ht. 24, § 1.

The term "way" is derived from the Saxon, and means a right of use for passengers. It may be private or public. By the term "right of way" is generally meant a private way, which is an incorporeal hereditament of that class of easements in which a particular person, or particular description of persons, have an interest and a right, though another person is the owner of the fee of the land in which it is claimed. 43 Ind. 455.

WAY-BILL. A writing in which is set down the names of passengers who are carried in a public conveyance, or the description of goods sent with a common carrier by land. Wharton.

WAY-GOING CROP. A crop of grain sown by a tenant for a term certain, during his tenancy, but which will not ripen until after the expiration of his lease; to this, by custom in some places, the tenant is entitled.

WAYLEAVE is a right of way over or through land for the carriage of minerals from a mine or quarry. It is an easement, being a species of the class called "rights of way," and is generally created by express grant or reservation. Sweet.

WAYNAGIUM. Implements of husbandry. 1 Reeve, Eng. Law, c. 5, p. 208.

WAYS AND MEANS. In a legislative body, the "committee on ways and means" is a committee appointed to inquire into and consider the methods and sources for raising revenue, and to propose means for providing the funds needed by the government.

WAYWARDENS. The English highway acts provide that in every parish forming part of a highway district there shall annually be elected one or more waywardens. The waywardens so elected, and the justices for the county residing within the district, form the highway board for the district. Each waywarden also represents his parish in regard to the levying of the highway rates, and in questions arising concerning the liability of his parish to repairs, etc. Sweet.
WEALD. Sax. A wood; the woody part of a country.

WEALREAF. In old English law. The robbing of a dead man in his grave.

WEALTH. All material objects, capable of satisfying human wants, desires, or tastes, having a value in exchange, and upon which human labor has been expended; i.e., which have, by such labor, been either reclaimed from nature, extracted or gathered from the earth or sea, manufactured from raw materials, improved, adapted, or cultivated.

"The aggregate of all the things, whether material or immaterial, which contribute to comfort and enjoyment, which cannot be obtained without more or less labor, and which are objects of frequent barter and sale, is what we usually call 'wealth.'" Bowen, Pol. Econ.

WEAPON. An instrument used in fighting; an instrument of offensive or defensive combat. The term is chiefly used, in law, in the statutes prohibiting the carrying of "concealed" or "deadly" weapons.

WEAR, or WEIR. A great dam or fence made across a river, or against water, formed of stakes interlaced by twigs of osier, and accommodated for the taking of fish, or to convey a stream to a mill. Cowell; Jacob.

WEAR AND TEAR. "Natural wear and tear" means deterioration or depreciation in value by ordinary and reasonable use of the subject-matter. 20 N. J. Law, 548.

WED. Sax. A covenant or agreement. Cowell.

WEDBEDRIP. Sax. In old English law. A customary service which tenants paid to their lords, in cutting down their corn, or doing other harvest duties; as if a covenant to reap for the lord at the time of his bidding or commanding. Cowell.

WEEK. Seven days of time.

WEHADINC. In old European law. The judicial combat, or duel; the trial by battel.

WEIGHAGE. In English law. A duty or toll paid for weighing merchandise. It is called "tronage" for weighing wool at the king's beam, or "pesage" for weighing other avoidupois goods. 2 Chit. Com. Law, 16.

WEIGHT OF EVIDENCE. The balance or preponderance of evidence; the inclination of the greater amount of credible evi-

dence, offered in a trial, to support one side of the issue rather than the other.

The "weight" or "preponderance of proof" is a phrase constantly used, the meaning of which is well understood and easily defined. It indicates clearly to the jury that the party having the burden of proof will be entitled to their verdict, if, on weighing the evidence in their minds, they shall find the greater amount of credible evidence sustains the issue which is to be established before them. 9 Gray, 393.

WEIGHTS OF AUNCCEL. See AUNCCEL Weight.


WELL, adj. In marine insurance. A term used as descriptive of the safety and soundness of a vessel, in a warranty of her condition at a particular time and place; as, "warranted well at — on —.

In the old reports. Good, sufficient, unobjectionable in law; the opposite of "ill."

WELL, n. A well, as the term is used in a conveyance, is an artificial excavation and erection in and upon land, which necessarily, from its nature and the mode of its use, includes and comprehends the substantial occupation and beneficial enjoyment of the whole premises on which it is situated. 6 Gray, 107, 110.

WELL KNOWING. A phrase used in pleading as the technical expression in laying a scienter, (q. v.)

WELSH MORTGAGE. In English law. A species of security which partakes of the nature of a mortgage, as there is a debt due, and an estate is given as security for the repayment, but differs from it in the circumstances that the rents and profits are to be received without account till the principal money is paid off, and there is no remedy to enforce payment, while the mortgagor has a perpetual power of redemption. It is now rarely used. 1 Pow. Mortg. 373a.

WEND. In old records. A large extent of ground, comprising several juga; a perambulation; a circuit. Spelman; Cowell.

WERA, or WERE. The estimation or price of a man, especially of one slain. In the criminal law of the Anglo-Saxons, every man's life had its value, called a "were," or "capitis estimatio."

Weregild, or Wergild. This was the price of homicide, or other atrocious personal offense, paid partly to the king for the loss of a subject, partly to the lord for the loss of a vassal, and partly to the next of kin of the injured person. In the Anglo-Saxon laws, the amount of compensation varied with the degree or rank of the party slain. Brown.

Weregilda. A purging from a crime by the oaths of several persons, according to the degree and quality of the accused. Cowell.

Wergelt. In old Scotch law. Assum paid by an offender as a compensation or satisfaction for the offense; a weregild, or wergild.


Westminster. A city immediately adjoining London, and forming a part of the metropolis; formerly the seat of the superior courts of the kingdom.

Westminster Confession. A document containing a statement of religious doctrine, concocted at a conference of British and continental Protestant divines at Westminster, in the year 1643, which subsequently became the basis of the Scotch Presbyterian Church. Wharton.

Westminster the First. The statute 3 Edw. I., A.D. 1275. This statute, which deserves the name of a code rather than an act, is divided into fifty-one chapters. Without extending the exemption of churchmen from civil jurisdiction, it protects the property of the church from the violence and spoliations of the king and the nobles, provides for freedom of popular elections, because sheriffs, coroners, and conservators of the peace were still chosen by the freeholders in the county court, and attempts had been made to influence the election of knights of the shire, from the time when they were instituted. It contains a declaration to enforce the enactment of Magna Charta against excessive fines, which might operate as perpetual imprisonment; enumerates and corrects the abuses of tenures, particularly as to marriage of wards; regulates the levying of tolls, which were imposed arbitrarily by the barons and by cities and boroughs; corrects and restrains the powers of the king's escheator and other officers; amends the criminal law, putting the crime of rape on the footing to which it has been lately restored, as a most grievous, but not capital, offense; and embraces the subject of procedure in civil and criminal matters, introducing many regulations to render it cheap, simple, and expeditious. 1 Camp. Lives Ed. Ch. p. 167; 2 Reeve, Eng. Law, c. 9, p. 107. Certain parts of this act are repealed by St. 26 & 27 Vict. c. 125. Wharton.

Westminster the Second. The statute 13 Edw. 1. St. 1, A. D. 1285, otherwise called the "Statute de Donis Conditionalibus." See 2 Reeve, Eng. Law. c. 10, p. 163. Certain parts of this act are repealed by St. 19 & 20 Vict. c. 64, and St. 26 & 27 Vict. c. 125. Wharton.


West Saxon Lade. The laws of the West Saxons, which obtained in the counties to the south and west of England, from Kent to Devonshire. Blackstone supposes these to have been much the same with the laws of Alfred, being the municipal law of the far most considerable part of his dominions, and particularly including Berkshire, the seat of his peculiar residence. 1 Bl. Comm. 65.

Wether. A castrated ram, at least one year old. In an indictment it may be called a "sheep." 4 Car. P. 216.

Whale. A royal fish, the head being the king's property, and the tail the queen's. 2 Steph. Comm. 19, 443, 540.

Whaler. A vessel employed in the whale fishery.

Wharf. A perpendicular bank or mound of timber, or stone and earth, raised on the shore of a harbor, river, canal, etc., or extending some distance into the water, for the convenience of lading and unlading ships and other vessels. Webster.

A broad, plain space near a river, canal, or other water, to lay wares on that are brought to or from the water. Cowell.

A wharf is a structure erected on a shore below high-water mark, and sometimes extending into the channel, for the laying vessels alongside to load or unload, and on which stores are often erected for the reception of cargoes. 6 Mass. 333.

Wharfage. Money paid for landing wares at a wharf, or for shipping or taking
goods into a boat or barge from thence.

Strictly speaking, "wharfage" is money due, or money actually paid, for the privilege of landing goods upon, or loading a vessel while moored from, a wharf. 1 Brown, Adm. 37.

WHARFINGER. One who owns or keeps a wharf for the purpose of receiving and shipping merchandise to or from it for hire.

WHEEL. An engine of torture used in medieval Europe, on which a criminal was bound while his limbs were broken one by one till he died:

WHEELAGE. Duty or toll paid for carts, etc., passing over certain ground. Cowell.

WHEN AND WHERE. Technical words in pleading, formerly necessary in making full defense to certain actions.

WHENEVER. This word, though often used as equivalent to "as soon as," is also often used where the time intended by it, and will be until its arrival, or for some uncertain period, at least, indeterminate. 14 R. 1. 188.

WHEREAS. A word which implies a recital of a past fact. The word "whereas," when it renders the deed senseless or repugnant, may be struck out as impertinent, and shall not vitiate a deed in other respects sensible.

WHIG. This name was applied in Scotland, A. D. 1648, to those violent Covenanters who opposed the Duke of Hamilton's invasion of England in order to restore Charles I. The appellation of "Whig" and "Tory" to political factions was first heard of in A. D. 1679, and, though as senseless as any cant terms that could be devised, they became instantly as familiar in use as they have since continued. 2 Hall. Const. Hist. c. 12; Wharton.

WHIPPING. A mode of punishment, by the infliction of stripes, occasionally used in England and in a few of the American states.

WHIPPING-POST. A post or stake to which a criminal is tied to undergo the punishment of whipping. This penalty is now abolished, except in a few states.

WHITE. A Mongolian is not a "white person," within the meaning of the term as used in the naturalization laws of the United States; the term applies only to persons of the Caucasian race. 5 Sawyer, 155.

WHITE ACRE. A fictitious name given to a piece of land, in the English books, for purposes of illustration.

WHITE BONNET. In Scotch law. A fictitious offerer or bidder at a roup or auction sale. Bell.

WHITE MEATS. In old English law. Milk, butter, cheese, eggs, and any composition of them. Cowell.

WHITE RENTS. In English law. Rents paid in silver, and called "white rents," or "redditus albi," to distinguish them from rents payable in corn, labor, provisions, etc., called "black-rent" or "black-mail."

WHITE SPURS. A kind of esquires. Cowell.

WHITEFRIARS. A place in London between the Temple and Blackfriars, which was formerly a sanctuary, and therefore privileged from arrest. Wharton.

WHITEHART SILVER. A mulct on certain lands in or near to the forest of Whitehart, paid into the exchequer, imposed by Henry III. upon Thomas de la Linde, for killing a beautiful white hart which that king before had spared in hunting. CamdenBrit. 150.

WHITSUN FARTHINGS. Pentecostals. (q. v.)

WHITSUNTIDE. The feast of Pentecost, being the fiftieth day after Easter, and the first of the four cross-quarter days of the year. Wharton.

WHITTANWARII. In old English law. A class of offenders who whitened stolen ox-hides and horse-hides so that they could not be known and identified.

WHOLE BLOOD. Kinship by descent from the same father and mother; as distinguished from half blood, which is the relationship of those who have one parent in common, but not both.

WHOLESALE. To sell by wholesale is to sell by large parcels, generally in original packages, and not by retail.

WHORE. A whore is a woman who practices unlawful commerce with men, particularly one who does so for hire; a harlot; a concubine; a prostitute. 43 Iowa, 183.
WIC. A place on the sea-shore or the bank of a river.

WICA. A country house or farm. Cowell.

WICK. Sax. A village, town, or district. Hence, in composition, the territory over which a given jurisdiction extends. Thus, "bailiwick" is the territorial jurisdiction of a bailiff or sheriff or constable. "Sheriffwick" was also used in the old books.

WIDOW. A woman whose husband is dead, and who has not married again. The "king's widow" was one whose deceased husband had been the king's tenant "in capite;" she could not marry again without the royal permission.

WIDOW-BENCH. The share of her husband's estate which a widow is allowed besides her jointure.

WIDOW'S CHAMBER. In London, the apparel of a widow and the furniture of her chamber, left by her deceased husband, is so called, and the widow is entitled to it. 2 Bl. Comm. 518.

WIDOW'S QUARANTINE. In old English law. The space of forty days after the death of a man who died seised of lands, during which his widow might remain in her husband's capital mansion-house, without rent, and during which time her dower should be assigned. 2 Bl. Comm. 135.

WIDOW'S TERCE. In Scotch law. The right which a wife has after her husband's death to a third of the rents of lands in which her husband died intestate; dower. Bell.

WIDOWER. A man whose wife is dead, and who has not remarried.

WIDOWHOOD. The state or condition of being a widow. An estate is sometimes settled upon a woman "during widowhood," which is expressed in Latin, "durante viduitate."

WIFA. L. Lat. In old European law. A mark or sign; a mark set up on land, to denote an exclusive occupation, or to prohibit entry. Spelman.

WIFE. A woman who has a husband living and undivorced. The correlative term is "husband."

WIFE'S EQUITY. When a husband is compelled to seek the aid of a court of equity for the purpose of obtaining the possession or control of his wife's estate, that court will recognize the right of the wife to have a suitable and reasonable provision made, by settlement or otherwise, for herself and her children, out of the property thus brought within its jurisdiction. This right is called the "wife's equity," or "equity to a settlement." See 2 Kent, Comm. 199.

WIGREVE. In old English law. The overseer of a wood. Cowell.

WILD ANIMALS, (or anima fera natura.) Animals of an untamable disposition.

WILD LAND. Land in a state of nature, as distinguished from improved or cultivated land. 4 Cow. 203.

WILD'S CASE, RULE IN. A devise to B. and his children or issue, B. having no issue at the time of the devise, gives him an estate tail; but, if he have issue at the time, B. and his children take joint estates for life. 6 Coke, 16b; Tudor, Lead. Cas. Real Prop. 542, 581.

WILL. A will is the legal expression of a man's wishes as to the disposition of his property after his death. Code Ga. 1882, § 2394; Swinb. Wills, § 2.

An instrument in writing, executed in form of law, by which a person makes a disposition of his property, to take effect after his death.

Except where it would be inconsistent with the manifest intent of the legislature, the word "will" shall extend to a testament, and to a codicil, and to an appointment by will, or by writing in the nature of a will, in exercise of a power; and also to any other testamentary disposition. Code Va. 1887, § 3511.

A will is an instrument by which a person makes a disposition of his property, to take effect after his decease, and which is, in its own nature, ambulatory and revocable during his life. It is this ambulatory quality which forms the characteristic of wills; for though a disposition by deed may postpone the possession or enjoyment, or even the vesting, until the death of the disposing party, yet the postponement is in such case produced by the express terms, and does not result from the nature of the instrument. 45 Miss. 641.

A will, when it operates upon personal property, is sometimes called a "testament," and when upon real estate, a "devise;" but the more general and the more popular denomination of the instrument embracing equally real and personal estate is that of "last will and testament." 4 Kent, Comm. 501.

In criminal law. The power of the mind which directs the action of a man.

In Scotch practice. That part or clause of a process which contains the mandate or command to the officer. Bell
WILL, ESTATE AT. This estate entitles the grantee or lessee to the possession of land during the pleasure of both the grantor and himself, yet it creates no sure or durable right, and is bounded by no definite limits as to duration. It must be at the reciprocal will of both parties, (for, if it be at the will of the lessor only, it is a lease for life,) and the dissent of either determines it. Wharton.

WILLA. In Hindu law. The relation between a master or patron and his freedman, and the relation between two persons who had made a reciprocal testamentary contract. Wharton.

WILLFUL. Proceeding from a conscious motion of the will; intending the result which actually comes to pass; designed; intentional; malicious.

A willful differs essentially from a negligent act. The one is positive and the other negative. Intention is always separated from negligence by a precise line of demarcation. 38 N. Y. Super. Ct. 317.

In common parlance, "willful" is used in the sense of "intentional," as distinguished from "accidental" or "involuntary." But language of a statute affixing a punishment to acts done willfully may be restricted to such acts done with an unlawful intent. 20 N. J. Law, 96.

WILLFUL NEGLECT. Willful neglect is the neglect of the husband to provide for his wife the common necessities of life, he having the ability to do so; or it is the failure to do so by reason of idleness, profligacy, or dissipation. Civil Code Cal. § 105.

WILLFULLY. Intentionally. In charging certain offenses, it is required that they should be stated to be willfully done. Archb. Crim. Pl. 51, 55; Leach, 556.

WILLS ACT. In England. 1. The statute 32 Hen. VIII. c. 1, passed in 1540, by which persons seized in fee-simple of lands holden in socage tenure were enabled to devise the same at their will and pleasure, except to bodies corporate; and those who held estates by the tenure of chivalry were enabled to devise two thirds thereof.

2. The statute 7 Wm. IV. & 1 Vict. c. 26, passed in 1837, and also called "Lord Langdale's Act." This act permits of the disposition by will of every kind of interest in real and personal estate, and provides that all wills, whether of real or of personal estate, shall be attested by two witnesses, and that such attestation shall be sufficient. Other important alterations are effected by this statute in the law of wills. Mozley & Whitney.

WINCHESTER M EASURE. The standard measure of England, originally kept at Winchester. 1 Bl. Comm. 274.

WINCHESTER, STATUTE OF. A statute passed in the thirteenth year of the reign of Edward I., by which the old Saxon law of police was enforced, with many additional provisions. 2 Reeve, Eng. Law, 163; Crabb, Hist. Eng. Law, 189.

WINDING UP. The name applied in England to the process of settling the accounts and liquidating the assets of a partnership or company, for the purpose of making distribution and dissolving the concern.

WINDING-UP ACTS. In English law. General acts of parliament, regulating settlement of corporate affairs on dissolution.

WINDOW. An opening made in the wall of a house to admit light and air, and to furnish a view or prospect. The use of this word in law is chiefly in connection with the doctrine of ancient lights and other rights of adjacent owners.

WINDOW TAX. A tax on windows, levied on houses which contained more than six windows, and were worth more than £5 per annum; established by St. 7 Wm. III. c. 18. The St. 14 & 15 Vict. c. 38, substituted for this tax a tax on inhabited houses. Wharton.

WINDSOR FOREST. A royal forest founded by Henry VIII.

WINTER CIRCUIT. An occasional circuit appointed for the trial of prisoners, in England, and in some cases of civil causes, between Michaelmas and Hilary terms.

WINTER HEYNING. The season between 11th November and 23d April, which is excepted from the liberty of commoning in certain forests. St. 23 Car. II. c. 3.

WISBY, LAWS OF. The name given to a code of maritime laws promulgated at Wisby, then the capital of Gothland, in Sweden, in the latter part of the thirteenth century. This compilation resembled the laws of Oleron in many respects, and was early adopted, as a system of sea laws, by the commercial nations of Northern Europe. It formed the foundation for the subsequent code of the Hanseatic League. A translation of the Laws of Wisby may be seen in the appendix to 1 Pet. Adm. And see 3 Kent, Comm. 13.
WISTA. In Saxon law. Half a hide of land, or sixty acres.

WIT. To know; to learn; to be informed. Used only in the infinitive, to-wit, which term is equivalent to "that is to say," "namely," or "videlicet."

WITAM. The purgation from an offense by the oath of the requisite number of witnesses.

WITAN. In Saxon law. Wise men; persons of information, especially in the laws; the king's advisers; members of the king's council; the optimates, or principal men of the kingdom. 1 Spence, Eq. Jur. 11, note.

WITCHCRAFT. Under Sts. 33 Hen. VIII. c. 8, and 1 Jac. I. c. 12, the offense of witchcraft, or supposed intercourse with evil spirits, was punishable with death. These acts were not repealed till 1736. 4 Bl. Comm. 60, 61.

WITE. Sax. A punishment, pain, penalty, mulet, or criminal fine. Cowell.

WITEKDEN. A taxation of the West Saxons, imposed by the public council of the kingdom.

WITENA DOM. In Saxon law. The judgment of the county court, or other court of competent jurisdiction, on the title to property, real or personal. 1 Spence, Eq. Jur. 22.

WITENAGEMOTE. "The assembly of wise men." This was the great national council or parliament of the Saxons in England, comprising the noblemen, high ecclesiastics, and other great thanes of the kingdom, advising and aiding the king in the general administration of government.

WITENS. The chiefs of the Saxon lords or thanes, their nobles, and wise men.

WITH ALL FAULTS. This phrase, used in a contract of sale, implies that the purchaser assumes the risk of all defects and imperfections, provided they do not destroy the identity of the thing sold.

WITH STRONG HAND. In pleading. A technical phrase indispensable in describing a forcible entry in an indictment. No other word or circumlocution will answer the same purpose 8 Term. R 367.

WITHDRAWING A JUROR. In practice. The withdrawing of one of the twelve jurors from the box, with the result that, the jury being now found to be incomplete, no further proceedings can be had in the cause.

The withdrawing of a juror is always by the agreement of the parties, and is frequently done at the recommendation of the judge, where it is doubtful whether the action will lie; and in such case the consequence is that each party pays his own costs. It is, however, no bar to a future action for the same cause. 2 Tidd, Pr. 861, 862; 1 Archb. Pr. K. B. 196.

WITHDRAWING RECORD. In practice. The withdrawing by a plaintiff of the nisi prius or trial record filed in a cause, just before the trial is entered upon, for the purpose of preventing the cause from being tried. This may be done before the jury are sworn, and afterwards, by consent of the defendant's counsel. 2 Tidd, Pr. 851; 1 Archb. Pr. K. B. 189; 3 Chit. Pr. 870.

WITHERNAM. In practice. A taking by way of reprisal; a taking or a reprisal of other goods, in lieu of those that were formerly taken and elained or withheld. 2 Inst. 141. A reciprocal distress, in lieu of a previous one which has been elained. 3 Bl. Comm. 148.

WITHERSAKE. An apostate, or perfidious renegade. Cowell.

WITHOUT DAY. A term used to signify that an adjournment or continuance is indefinite or final, or that no subsequent time is fixed for another meeting, or for further proceedings. See SINE DIE.

WITHOUT IMPEACHMENT OF WASTE. The effect of the insertion of this clause in a lease for life is to give the tenant the right to cut timber on the estate, without making himself thereby liable to an action for waste.

WITHOUT PREJUDICE. Where an offer or admission is made "without prejudice," or a motion is denied "without prejudice," it is meant as a declaration that no rights or privileges of the party concerned are to be considered as thereby waived or lost, except in so far as may be expressly conceded or decided.

WITHOUT RECURS. This phrase, used in making a qualified indorsement of a negotiable instrument, signifies that the indorser means to save himself from liability to subsequent holders, and is a notification that, if payment is refused by the parties primarily liable, recourse cannot be had to him.
WITHOUT RESERVE. A term applied to a sale by auction, indicating that no price is reserved.

WITHOUT STINT. Without limit; without any specified number.

WITHOUT THIS, THAT. In pleading. Formal words used in pleadings by way of traverse, particularly by way of special traverse, (q. v.), importing an express denial of some matter of fact alleged in a previous pleading. Steph. Pl. 168, 169, 179, 180.

WITNESS, v. To subscribe one's name to a deed, will, or other document, for the purpose of attesting its authenticity, and proving its execution, if required, by bearing witness thereto.

WITNESS, n. In the primary sense of the word, a witness is a person who has knowledge of an event. As the most direct mode of acquiring knowledge of an event is by seeing it, "witness" has acquired the sense of a person who is present at and observes a transaction. Sweet.

A witness is a person whose declaration under oath (or affirmation) is received as evidence for any purpose, whether such declaration be made on oral examination or by deposition or affidavit. Code Civil Proc. Cal. § 1878; Gen. St. Minn. 1878, c. 73, § 6.

One who is called upon to be present at a transaction, as a wedding, or the making of a will, that he may thereafter, if necessary, testify to the transaction.

In conveyancing. One who sees the execution of an instrument, and subscribes it, for the purpose of confirming its authenticity by his testimony.

WITNESSING PART, in a deed or other formal instrument, is that part which comes after the recitals, or, where there are no recitals, after the parties. It usually commences with a reference to the agreement or intention to be effectuated, then states or refers to the consideration, and concludes with the operative words and parcels, if any. Where a deed effectuates two distinct objects, there are two witnessing parts. 1 Dav. Prec. Conv. 63, et seq.; Sweet.

WITTINGLY means with knowledge and by design, excluding only cases which are the result of accident or forgetfulness, and including cases where one does an unlawful act through an erroneous belief of his right. 44 Conn. 357.

WOLD. Sax. In England. A down or champaign ground, hilly and void of wood. Cowell; Blount.

WOLF'S HEAD. In old English law. This term was used as descriptive of the condition of an outlaw. Such persons were said to carry a wolf's head, (caput lupinum;) for if caught alive they were to be brought to the king, and if they defended themselves they might be slain and their heads carried to the king, for they were no more to be accounted of than wolves. Termes de la Ley, "Woolferthford."

WOMEN. All the females of the human species. All such females who have arrived at the age of puberty. Dig. 50, 16, 13.

WONG. Sax. In old records. A field. Spelman; Cowell.

WOOD-CORN. In old records. A certain quantity of oats or other grain, paid by customary tenants to the lord, for liberty to pick up dead or broken wood. Cowell.

WOOD-GELD. In old English law. Money paid for the liberty of taking wood in a forest. Cowell.

Immiuity from such payment. Spelman.

WOOD-MOTE. In forest law. The old name of the court of attachments; otherwise called the "Forty-Days Court." Cowell; 3 Bl. Comm. 71.

WOOD PLEA COURT. A court held twice in the year in the forest of Clun, in Shropshire, for determining all matters of wood and adjustments. Cowell.

WOOD-STREET COMPTER. The name of an old prison in London.

WOODS. A forest; land covered with a large and thick collection of natural forest trees. The old books say that a grant of "all his woods" (omnes boscos suos) will pass the land, as well as the trees growing upon it. Co. Litt. 46.

WOODWARDS. Officers of the forest, whose duty consists in looking after the wood and vert and venison, and preventing offenses relating to the same. Manw. 189.

WOOL-SACK. The seat of the lord chancellor of England in the house of lords, being a large square bag of wool, without back or arms, covered with red cloth. Webster; Brande.
WORDS OF LIMITATION. In a conveyance or will, words which have the effect of marking the duration of an estate are termed "words of limitation." Thus, in a grant to A. and his heirs, the words "and his heirs" are words of limitation, because they show that A. is to take an estate in fee-simple, and do not give his heirs anything. Fearne, Rem. 78.

WORDS OF PROCREATION. To create an estate tuit by deed, it is necessary that words of procreation should be used in order to confine the estate to the descendants of the first grantee, as in the usual form of limitation,—"to A. and his heirs of his body." Sweet.

WORDS OF PURCHASE. Words of purchase are words which denote the person who is to take the estate. Thus, if I grant land to A. for twenty-one years, and after the determination of that term to A.'s heirs, the word "heirs" does not denote the duration of A.'s estate, but the person who is to take the remainder on the expiration of the term, and is therefore called a "word of purchase." Williams, Real Prop.; Fearne, Rem. 76, et seq.

WORK AND LABOR. The name of one of the common counts in actions of assumpsit, being for work and labor done and materials furnished by the plaintiff for the defendant.

WORK-BEAST, or WORK-HORSE. These terms mean an animal of the horse kind, which can be rendered fit for service, as well as one of maturer age and in actual use. 8 Bush, 587.

WORK-HOUSE. A place where convicts (or paupers) are confined and kept at labor.

WORKING DAYS. In settling lay-days, or days of demurrage, sometimes the contract specifies "working days;" in the computation, Sundays and custom-house holidays are excluded. 1 Bell, Comm. 577.

WORKMAN. One who labors; one who is employed to do business for another.

WORLD. This term sometimes denotes all persons whatsoever who may have, claim, or acquire an interest in the subject-matter; as in saying that a judgment in rem binds "all the world."

WORSHIP. The act of offering honor and adoration to the Divine Being. Religious exercises participated in by a number of persons assembled for that purpose, the disturbance of which is a statutory offense in many states.

In English law. A title of honor or dignity used in addresses to certain magistrates and other persons of rank or office.

WORT, or WORTH. A curtilage or country farm.

WORTHIEST OF BLOOD. In the English law of descent. A term applied to males, expressive of the preference given to them over females. See 2 Bl. Comm. 234-240.

WORTHING OF LAND. A certain quantity of land so called in the manor of Kingsland, in Hereford. The tenants are called "worthies." Wharton.

WOUND. In criminal cases, the definition of a "wound" is an injury to the person by which the skin is broken. 22 Mo. 451; 6 Car. & P. 684.

"In legal medicine, the term 'wound' is used in a much more comprehensive sense than in surgery. In the latter, it means strictly a solution of continuity; in the former, injuries of every description that affect either the hard or the soft parts; and accordingly under it are comprehended bruises, contusions, fractures, luxations," etc. 2 Beck, Med. Jur. 106.

WOUNDING. An aggravated species of assault and battery, consisting in one person giving another some dangerous hurt. 3 Bl. Comm. 121.

Wreccum maris significat illa bona quae naufragio ad terram pelluntur. A wreck of the sea signifies those goods which are driven to shore from a shipwreck.

WRECK. At common law. Such goods as after a shipwreck are cast upon the land by the sea, and, as lying within the territory of some county, do not belong to the jurisdiction of the admiralty, but to the common law. 2 Inst. 167; 1 Bl. Comm. 290.

Goods cast ashore from a wrecked vessel, where no living creature has escaped from the wreck alive; and which are forfeited to the crown, or to persons having the franchise of wreck. Cowell.

In American law. Goods cast ashore by the sea, and not claimed by the owner within a year, or other specified period; and which, in such case, become the property of the state. 2 Kent, Comm. 322.
In maritime law. A ship becomes a wreck when, in consequence of injuries received, she is rendered absolutely unnavigable, or unable to pursue her voyage, without repairs exceeding the half of her value. 6 Mass. 479.

WRECK COMMISSIONERS are persons appointed by the English lord chancellor under the merchant shipping act, 1876, (section 23), to hold investigations at the request of the board of trade into losses, abandonments, damages, and casualties of or to ships on or near the coast of the United Kingdom, whereby loss of life is caused. Sweet.

WRECKFREE. Exempt from the forfeiture of shipwrecked goods and vessels to the king. Cowell.

WRIT. A precept in writing, couched in the form of a letter, running in the name of the king, president, or state, issuing from a court of justice, and sealed with its seal, addressed to a sheriff or other officer of the law, or directly to the person whose action the court desires to command, either as the commencement of a suit or other proceeding or as incidental to its progress, and requiring the performance of a specified act, or giving authority and commission to have it done.

In regard to the division and classification of writs, see CLOSE WRITS; JUDICIAL WRITS; ORIGINAL WRITS; PATENT WRITS; PREROGATIVE WRITS.

In old English law. An instrument in the form of a letter; a letter or letters of attorney. This is a very ancient sense of the word.

In the old books, "writ" is used as equivalent to "action;" hence writs are sometimes divided into real, personal, and mixed.

In Scotch law. A writing; an instrument in writing, as a deed, bond, contract, etc. 2 Forb. Inst. pt. 2, pp. 175-179.

WRIT DE BONO ET MALO. See De Bono et Malo; ASSIZE.

WRIT DE HERETICO COMBURENDO. In English law. The name of a writ formerly issued by the secular courts, for the execution, by burning, of a man who had been convicted in the ecclesiastical courts of heresy.

WRIT DE RATIONABILI PARTE BONORUM. A writ which lay for a widow, against the executor of her deceased husband, to compel the executor to set off to her a third part of the decedent's personality, after payment of his debts. Fitzh. Nat. Brev. 122, L.

WRIT OF ASSISTANCE. A writ issuing out of chancery in pursuance of an order, commanding the sheriff to eject the defendant from certain lands and to put the plaintiff in possession; also an ancient writ issuing out of the exchequer. Mozley & Whitley.

WRIT OF ASSOCIATION. In English practice. A writ whereby certain persons (usually the clerk of assize and his subordinate officers) are directed to associate themselves with the justices and serjeants; and they are required to admit the said persons into their society in order to take the assizes. 3 Bl. Comm. 59.

WRIT OF ATTACHMENT. A writ employed to enforce obedience to an order or judgment of the court. It commands the sheriff to attach the disobedient party and to have him before the court to answer his contempt. Smith, Act. 176.

WRIT OF CONSPIRACY. A writ which ancietly lay against persons who had conspired to injure the plaintiff, under the same circumstances which would now give him an action on the case.

WRIT OF COVENANT. A writ which lies where a party claims damages for breach of covenant; i. e., of a promise under seal.

WRIT OF DEBT. A writ which lies where the party claims the recovery of a debt; i. e., a liquidated or certain sum of money alleged to be due to him.

WRIT OF DECEIT. The name of a writ which lies where one man has done anything in the name of another, by which the latter is damned and deceived. Fitzh. Nat. Brev. 95, E.

WRIT OF DELIVERY. A writ of execution employed to enforce a judgment for the delivery of chattels. It commands the sheriff to cause the chattels mentioned in the writ to be returned to the person who has obtained the judgment; and, if the chattels cannot be found, to disdain the person against whom the judgment was given until he returns them. Smith, Act. 175; Sweet.

WRIT OF DETINUE. A writ which lies where a party claims the specific recovery of goods and chattels, or deeds and writings, detained from him. This is seldom used; trover is the more frequent remedy, in cases where it may be brought. Bouvier.
WRIT OF DOWER. This is either a writ of dower unde nilit habeit, which lies for a widow, commanding the tenant to assign her dower, no part of which has yet been set off to her; or a writ of right of dower, whereby she seeks to recover the remainder of the dower to which she is entitled, part having been already received from the tenant.

WRIT OF EJECTMENT. The writ in an action of ejectment, for the recovery of lands. See EJECTMENT.

WRIT OF ENTRY. A real action to recover the possession of land where the tenant (or owner) has been dispossessed or wrongfully dispossessed. If the disseisor has alienated the land, or if it has descended to his heir, the writ of entry is said to be in the per, because it alleges that the defendant (the alienee or heir) obtained possession through the original disseisor. If two alienations (or descents) have taken place, the writ is in the per and cut, because it alleges that the defendant (the second alienee) obtained possession through the first alienee, to whom the original disseisor had alienated it. If more than two alienations (or descents) have taken place, the writ is in the post, because it simply alleges that the defendant acquired possession after the original disseisin. Co. Litt. 23b; 3 Bl. Comm. 150. The writ of entry was abolished, with other real actions, in England, by St. 3 & 4 Wm. IV. c. 27, § 36, but is still in use in a few of the states of the Union. Sweet.

WRIT OF ERROR. A writ issued from a court of appellate jurisdiction, directed to the judge or judges of a court of record, requiring them to remit to the appellate court the record of an action before them, in which a final judgment has been entered, in order that examination may be made of certain errors alleged to have been committed, and that the judgment may be reversed, corrected, or affirmed, as the case may require.

A writ of error is defined to be a commission by which the judges of one court are authorized to examine a record upon which a judgment was given in another court, and, on such examination, to affirm or reverse the same, according to law. 6 Wheat. 409.

WRIT OF EXECUTION. A writ to put in force the judgment or decree of a court.

WRIT OF FALSE JUDGMENT. A writ which appears to be still in use to bring appeals to the English high court from inferior courts not of record proceeding according to the course of the common law. Archb. Pr. 1427.

WRIT OF FORMEDON. A writ which lies for the recovery of an estate by a person claiming as issue in tail, or by the remainder-man or remainderer after the termination of the entail. See FORMEDON.

WRIT OF INQUIRY. In common-law practice. A writ which issues after the plaintiff in an action has obtained a judgment by default, on an unliquidated claim, directing the sheriff, with the aid of a jury, to inquire into the amount of the plaintiff's demand and assess his damages.

WRIT OF MAINPRIZE. In English law. A writ directed to the sheriff, (either generally, when any man is imprisoned for a bailable offense and bail has been refused, or specially, when the offense or cause of commitment is not properly bailable below,) commanding him to take sureties for the prisoner's appearance, commonly called "mainprors," and to set him at large. 3 Bl. Comm. 128.

WRIT OF MESNE. In old English law. A writ which was so called by reason of the words used in the writ, namely, "Unde idem A. qui mediast inter C. et prafatum B.;" that is, A., who is mesne between C., the lord paramount, and B., the tenant paramount. Co. Litt. 100a.

WRIT OF POSSESSION. This is the writ of execution employed to enforce a judgment to recover the possession of land. It commands the sheriff to enter the land and give possession of it to the person entitled under the judgment. Smith, Act. 175.

WRIT OF PRECIFE. This writ is also called a "writ of covenant," and is sued out by the party to whom lands are to be conveyed by fine, the foundation of which is a supposed agreement or covenant that the one shall convey the land to the other. 2 Bl. Comm. 349.

WRIT OF PREVENTION. This name is given to certain writs which may be issued in anticipation of suits which may arise. Co. Litt. 100.

WRIT OF PROCLAMATION. In English law. By the statute 31 Eliz. c. 3, when an exigent is sued out, a writ of proclamation shall issue at the same time, commanding the sheriff of the county where the
defendant dwells to make three proclama-
tions thereof, in places the most notorious,
and most likely to come to his knowledge, a
month before the outlawry shall take place.
3 Bl. Comm. 234.

WRIT OF PROTECTION. In Eng-
land, the queen may, by her writ of pro-
tection, privilege any person in her service
from arrest in civil proceedings during a year
and a day; but this prerogative is seldom, if ever,
130b.

WRIT OF QUARE IMPEDIT. See
Quare Impedit.

WRIT OF RECAPTION. If, pend-
ing an action of replevin for a distress, the
defendant distrains again for the same rent or
service, the owner of the goods is not driven
to another action of replevin, but is allowed
a writ of recaption, by which he recovers the
goods and damages for the defendant’s con-
tempt of the process of the law in making a
second distress while the matter is sub judice.
Woodf. Landl. & Ten. 484.

WRIT OF RESTITUTION. A writ
which is issued on the reversal of a judgment
commanding the sheriff to restore to the
defendant below the thing levied upon, if it has
not been sold, and, if it has been sold, the

WRIT OF RIGHT. This was a writ
which lay for one who had the right of prop-
erty, against another who had the right of
possession and the actual occupation. The
writ properly lay only to recover corporeal
hereditaments for an estate in fee-simple;
but there were other writs, said to be “in
the nature of a writ of right,” available for
the recovery of incorporeal hereditaments or
of lands for a less estate than a fee-simple.
Brown.

In another sense of the term, a “writ of
right” is one which is grantable as a matter of
right, as opposed to a “prerogative writ,”
which is issued only as a matter of grace or
discretion.

WRIT OF SUMMONS. The writ by
which, under the English judicature acts, all
actions are commenced.

WRIT OF TOLT. In English law,
The name of a writ to remove proceedings
on a writ of right patent from the court-
baron into the county court.

WRIT OF TRIAL. In English law. A
writ directing an action brought in a supe-
rior court to be tried in an inferior court or
before the under-sheriff, under St. 3 & 4
Wm. IV. c. 42. It is now superseded by the
county courts act of 1857, c. 142, § 6, by
which a defendant, in certain cases, is enabled
to obtain an order that the action be tried in
a county court. 3 Steph. Comm. 515, n.;
Mozley & Whitley.

WRIT OF WASTE. The name of a
writ to be issued against a tenant who has
committed waste of the premises. There are
several forms of this writ. Fitzh. Nat.
Brev. 125.

WRIT PRO RETORNO HABENDO.
A writ commanding the return of the goods
to the defendant, upon a judgment in his
favor in replevin, upon the plaintiff’s de-
fault.

WRITER OF THE TALLIES. In
England. An officer of the exchequer whose
duty it was to write upon the tallies the let-
ters of tellers’ bills.

WRITER TO THE SIGNET. In
Scotch law. An officer nearly corresponding
to an attorney at law, in English and Ameri-
can practice. “Writers to the signet,” called
also “clerks to the signet,” derive their name
from the circumstance that they were an-
ciently clerks in the office of the secretary of
state, by whom writs were prepared and is-
sued under the royal signet or seal; and,
when the signet became employed in judicial
proceedings, they obtained a monopoly of the
privileges of acting as agents or attor-
neys before the court of session. Brande,
voc. “Signet.”

WRITING. The expression of ideas by
letters visible to the eye. 14 Johns. 491.
The giving an outward and objective form to
a contract, will, etc., by means of letters or
marks placed upon paper, parchment, or
other material substance.

In the most general sense of the word,
“writing” denotes a document, whether manu-
script or printed, as opposed to mere spoken
words. Writing is essential to the validity of
certain contracts and other transactions.
Sweet.

WRITING OBLIGATORY. The tech-
nical name by which a bond is described in
pleading.

WRITTEN LAW. One of the two lead-
ing divisions of the Roman law, comprising
the leges, plebisuits, senatus-consulta, prin-
cipum placita, magistratuum edicta, and
responsa prudentum. Inst. 1, 2, 3.
Statute law; law deriving its force from express legislative enactment. 1 Bl. Comm. 62, 85.

**WRONG.** An injury; a tort; a violation of right or of law.

The idea of rights naturally suggests the correlative one of wrongs; for every right is capable of being violated. A right to receive payment for goods sold (for example) implies a wrong on the part of him who owes, but withholds the price; a right to live in personal security, a wrong on the part of him who commits personal violence. And therefore, while, in a general point of view, the law is intended for the establishment and maintenance of rights, we find it, on closer examination, to be dealing both with rights and wrongs. It first fixes the character and definition of rights, and then, with a view to their effectual security, proceeds to define wrongs, and to devise the means by which the latter shall be prevented or redressed. 1 Steph. Comm. 130.

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X.

**XENODOCHIUM.** In the civil and old English law. An inn allowed by public license, for the entertainment of strangers, and other guests. Calvin.; Cowell.

A hospital; a place where sick and infirm persons are taken care of. Cowell.

**XENODOCHY.** Reception of strangers; hospitality. Enc. Lond.

**XYLON.** A punishment among the Greeks answering to our stocks. Wharton.
Y.

YA ET NAY. In old records. Mere assertion and denial, without oath.

YACHT. A light sea-going vessel, used only for pleasure-trips, racing, etc. Webster. See 22 St. at Large, 566; Rev. St. U. S. §§ 4215–4218.

YARD. A measure of length, containing three feet, or thirty-six inches.

A piece of land inclosed for the use and accommodation of the inhabitants of a house.

YARDLAND, or virgata terra, is a quantity of land, said by some to be twenty acres, but by Coke to be of uncertain extent.

YE A ND NAY. Yes and no. According to a charter of Athelstan, the people of Ripon were to be believed in all actions or suits upon their yea and may, without the necessity of taking any oath. Brown.

YEAR. The period in which the revolution of the earth round the sun, and the accompanying changes in the order of nature, are completed. Generally, when a statute speaks of a year, twelve calendar, and not lunar, months are intended. Cro. Jac. 106. The year is either astronomical, ecclesiastical, or regnal, beginning on the 1st of January, or 25th of March, or the day of the sovereign’s accession. Wharton.

YEAR AND DAY. This period was fixed for many purposes in law. Thus, in the case of an estray, if the owner did not claim it within that time, it became the property of the lord. So the owners of wreck must claim it within a year and a day. Death must follow upon wounding within a year and a day if the wounding is to be indicted as murder. Also, a year and a day were given for prosecuting or avoiding certain legal acts; e. g., for bringing actions after entry, for making claim for avoiding a fine, etc. Brown.

YEAR BOOKS. Books of reports of cases in a regular series from the reign of the English King Edward I., inclusive, to the time of Henry VIII., which were taken by the prothonotaries or chief scribes of the courts, at the expense of the crown, and published annually; whence their name, “Year Books.” Brown.

YEAR, DAY, AND WASTE. In English law. An ancient prerogative of the king, whereby he was entitled to the profits for a year and a day, of the lands of persons attainted of petty treason or felony, together with the right of wasting the tenements, afterwards restoring the property to the lord of the fee. Abrogated by St. 54 Geo. III., c. 145. Wharton.

YEAR TO YEAR, TENANCY FROM. This estate arises either expressly, as when land is let from year to year; or by a general parol demise, without any determinate interest, but reserving the payment of an annual rent; or impliedly, as when property is occupied generally under a rent payable yearly, half-yearly, or quarterly; or when a tenant holds over, after the expiration of his term, without having entered into any new contract, and pays rent, (before which he is tenant on sufferance,) Wharton.

YEARS, ESTATE FOR. See Estate for Years.

YEAS AND NAYS. The affirmative and negative votes on a bill or measure before a legislative assembly. “Calling the yeas and nays” is calling for the individual and oral vote of each member, usually upon a call of the roll.

YEME. In old records. Winter; a corruption of the Latin “hieme.”

YEOMAN. In English law. A commoner; a freeholder under the rank of gentleman. Cowell. A man who has free land of forty shillings by the year; who was anciently thereby qualified to serve on juries, vote for knights of the shire, and do any other act, where the law requires one that is probus et legalis homo. 1 Bl. Comm. 406, 407.

This term is occasionally used in American law, but without any definite meaning.

YEOMANRY. The collected body of yeomen.

YEOMEN OF THE GUARD. Properly called “yeomen of the guard of the royal household;” a body of men of the best rank under the gentry, and of a larger stature than ordinary, every one being required to be six feet high. Enc. Lond.

YEVEN, or YEVEN. Given; dated. Cowell.
**YIELD**, in the law of real property, is to perform a service due by a tenant to his lord. Hence the usual form of reservation of a rent in a lease begins with the words “yielding and paying.” Sweet.

**YIELDING AND PAYING.** In conveyancing. The initial words of that clause in leases in which the rent to be paid by the lessee is mentioned and reserved.

**YOKELET.** A little farm, requiring but a yoke of oxen to till it.

**YORK, CUSTOM OF.** A custom of the province of York in England, by which the effects of an intestate, after payment of his debts, are in general divided according to the ancient universal doctrine of the *pars rationabilis*; that is, one-third each to the widow, children, and administrator. 2 Bl. Comm. 518.

**YORK, STATUTE OF.** An important English statute passed at the city of York, in the twelfth year of Edward II., containing provisions on the subject of attorneys, witnesses, the taking of inquests by * nisi prius*, etc. 2 Reeve, Eng. Law, 299-302.

**YORKSHIRE REGISTRIES.** The registries of titles to land provided by acts of parliament for the ridings of the county of York in England. These resemble the offices for the registration or recording of deeds commonly established in the several counties of the states.

**YOUNGER CHILDREN.** This phrase, when used in English conveyancing with reference to settlements of land, signifies all such children as are not entitled to the rights of an eldest son. It therefore includes daughters, even those who are older than the eldest son. Mozley & Whitley.

**YOUTH.** This word may include children and youth of both sexes. 2 Cush. 519, 523.

**YULE.** The times of Christmas and Lammass.

**YVERNAIL BLE.** L. Fr. Winter grain. Kelham.
ZEALOT. This word is commonly taken in a bad sense, as denoting a separatist from the Church of England, or a fanatic. Brown.

ZEALOUS WITNESS. An untechnical term denoting a witness, on the trial of a cause, who manifests a partiality for the side calling him, and an eager readiness to tell anything which he thinks may be of advantage to that side.

ZEIR. O. Sc. Year. "Zeir and day" Bell.

ZEMINDAR. In Hindu law. Landkeeper. An officer who under the Mohammedan government was charged with the financial superintendence of the lands of a district, the protection of the cultivators, and the realization of the government's share of its produce, either in money or kind. Wharton.

ZETETICK. Proceeding by inquiry. Enc. Loud.

ZIGARI, or ZINGARI. Rogues and vagabonds in the middle ages; from Zigi, now Circassia.

ZOLL-VEREIN. A union of German states for uniformity of customs, established in 1819. It continued until the unification of the German empire, including Prussia, Saxony, Bavaria, Wurttemberg, Baden, Hesse-Cassel, Brunswick, and Mecklenburg-Strelitz, and all intermediate principalities. It has now been superseded by the German empire; and the federal council of the empire has taken the place of that of the Zoll-Verein. Wharton.

ZYGOCHEPHALUM. In the civil law. A measure or quantity of land. Nov. 17, c. 8. As much land as a yoke of oxen could plow in a day. Calvin.

ZYGOSTATES. In the civil law. A weigher; an officer who held or looked to the balance in weighing money between buyer and seller; an officer appointed to determine controversies about the weight of money. Spelman.

ZYTHUM. Lat. A liquor or beverage made of wheat or barley. Dig. 33, 6, 9, pr.