

## L

- L.** This letter, as a Roman numeral, stands for the number "fifty." It is also used as an abbreviation for "law," "*liber*," (a book), "lord," and some other words of which it is the initial.
- L. 5.** An abbreviation of "*Long Quinto*," one of the parts of the Year Books.
- L. C.** An abbreviation which may stand either for "Lord Chancellor," "Lower Canada," or "Leading Cases."
- L. J.** An abbreviation for "Law Judge;" also for "Law Journal."
- L. L.** (also L. Lat.) and **L. F.** (also L. Fr.) are used as abbreviations of the terms "Law Latin" and "Law French."
- L. R.** An abbreviation for "Law Reports."
- L. S.** An abbreviation for "*Locus sigilli*," the place of the seal, *i. e.*, the place where a seal is to be affixed, or a scroll which stands instead of a seal. See *Smith v. Butler*, 25 N. H. 524; *Barnes v. Walker*, 115 Ga. 108, 41 S. E. 243; *McLaughlin v. Braddy*, 63 S. C. 433, 41 S. E. 523, 90 Am. St. Rep. 681.
- LL.** The reduplicated form of the abbreviation "L." for "law," used as a plural. It is generally used in citing old collections of statute law; as "LL. Hen. I."
- LL.B., LL.M., and LL.D.** Abbreviations used to denote, respectively, the three academic degrees in law,—bachelor, master, and doctor of laws.
- LA.** Fr. The. The definite article in the feminine gender. Occurs in some legal terms and phrases; as "*Termes de la Ley*," terms of the law.
- LA.** Fr. There. An adverb of time and place; whereas.
- LA CHAMBRE DES ESTEILLES.** The star-chamber.
- La conscience est la plus changeante des règles.** Conscience is the most changeable of rules.
- La ley favour la vie d'un home.** The law favors the life of a man. Yearb. M. 10 Hen. VI. 51.
- La ley favour l'enheritance d'un home.** The law favors the inheritance of a man. Yearb. M. 10 Hen. VI. 51.
- La ley voct plus tost suffer un mischeife que un inconvenience.** The law will sooner suffer a mischief than an inconvenience. Litt. § 231. It is holden for an inconvenience that any of the maxims of the law should be broken, though a private man suffer loss. Co. Litt. 152b.
- L'obligation sans cause, ou sur une fausse cause, ou sur cause illicite, ne peut avoir aucun effet.** An obligation without consideration, or upon a false consideration (which fails), or upon unlawful consideration, cannot have any effect. Code 3. 3. 4; Chitty, Contr. 11th Am. ed. 25, note.
- L'ou le ley done chose, la ceo done remedie a venter a ceo.** Where the law gives a right, it gives a remedy to recover. 2 Rolle 17.
- LAAS.** In old records. A net, gin, or snare.
- LABEL.** Anything appended to a larger writing, as a codicil; a narrow slip of paper or parchment affixed to a deed or writ, in order to hold the appending seal.
- In the vernacular, the word denotes a printed or written slip of paper affixed to a manufactured article, giving information as to its nature or quality, or the contents of a package, name of the maker, etc. See *Perkins v. Heert*, 5 App. Div. 335, 39 N. Y. S. 223; *Higgins v. Keuffel*, 140 U. S. 428, 11 S. Ct. 731, 35 L. Ed. 470; *Burke v. Cassin*, 45 Cal. 481, 13 Am. Rep. 204; *U. S. v. Skilken* (D. C.) 293 F. 916, 919.
- A copy of a writ in the exchequer. 1 Tidd, Pr. 156.
- LABINA.** In old records. Watery land.
- LABOR.** Work; toil; service. Continued exertion, of the more onerous and inferior kind, usually and chiefly consisting in the protracted expenditure of muscular force, adapted to the accomplishment of specific useful ends. It is used in this sense in several legal phrases, such as "a count for work and labor," "wages of labor," etc., and is commonly construed as having such meaning when used in statutes giving liens to laborers, *Road Supply & Metal Co. v. Bechtelheimer*, 119 Kan. 560, 240 P. 846, 847; *Cavanaugh v. Art Hardware & Mfg. Co.*, 124 Wash. 243, 214 P. 152, 154; *Stuart v. Camp Carson Mining & Power Co.*, 84 Or. 702, 165 P. 359, 362; *Bell Oil & Refining Co. v. Price* (Tex. Civ. App.) 251 S. W. 559, 562; and in the Immigration Act excluding aliens coming to the United States under contract, "to perform labor." *Ex parte Aird* (D. C.) 276 F. 954, 957; *U. S. v. Union Bank of Canada* (C. C. A.) 262 F. 91, 93.
- The term "labor" is sometimes given a broader meaning as including all bodily or intellectual exertion done for purpose other than pleasure. *Massachusetts Bonding & Insurance Co. v. Steele* (Tex. Civ. App.) 293 S. W. 647, 648; *Johnson v. Citizens' Trust Co.*, 78 Ind. App. 487, 136 N. E. 49, 51; *Crook v. Commonwealth*, 147 Va. 593, 136 S. E. 565,

567, 50 A. L. R. 1043. This broad construction has been adopted in construing statutes limiting hours of labor. *Commonwealth v. John T. Connor Co.*, 222 Mass. 299, 110 N. E. 301, 302, L. R. A. 1916B, 1236, Ann. Cas. 1918C, 337; *Ex parte Steiner*, 68 Or. 218, 137 P. 204, 206.

"Labor," "business," and "work" are not synonyms. Labor may be business, but it is not necessarily so; and business is not always labor. Labor implies toil; exertion producing weariness; manual exertion of a toilsome nature.

#### *Common labor*

Common labor, within the meaning of Sunday laws, is not to be restricted to manual or physical labor, but includes the transaction of ordinary business, trading, and the execution of notes and other instruments. *Bryan v. Watson*, 127 Ind. 42, 26 N. E. 666, 11 L. R. A. 63; *Link v. Clemmens*, 7 Blackf. (Ind.) 480; *Cincinnati v. Rice*, 15 Ohio, 225; *Eitel v. State*, 33 Ind. 201. But compare *Bloom v. Richards*, 2 Ohio St. 387; *Horacek v. Keebler*, 5 Neb. 355; *State v. Somberg*, 113 Neb. 761, 204 N. W. 788, 790. It does not include the transaction of judicial business or the acts of public officers. *State v. Thomas*, 61 Ohio St. 444, 56 N. E. 276, 48 L. R. A. 459; *Hastings v. Columbus*, 42 Ohio St. 535.

"Common labor" is unskilled manual labor, and is an "employment" within Workmen's Compensation Law. *Leitz v. Labadie Ice Co.*, 211 Mich. 565, 179 N. W. 291, 293.

A Spanish land measure, in use in Mexico and formerly in Texas, equivalent to 177½ acres.

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

**LABOR CONDITIONS.** The term "labor conditions" in a contract authorizing temporary suspension by the contractor for "strikes, labor conditions, and lockouts," refers to scarcity of labor alone, and bears no relation to the cost of labor. *Robinson v. Solomon*, 222 Mich. 618, 193 N. W. 209, 212.

**LABOR UNION.** A combination or association of laborers for the purpose of fixing the rate of their wages and hours of work, for their mutual benefit and protection, and for the purpose of righting grievances against their employers.

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

**LABORER.** One who, as a means of livelihood, performs work and labor for another. *Oliver v. Macon Hardware Co.*, 98 Ga. 249, 25 S. E. 403, 58 Am. St. Rep. 300; *Blanchard v. Railway Co.*, 87 Me. 241, 32 A. 890; *In re Ho King (D. C.)* 14 F. 725; *Coffin v. Reynolds*, 37 N. Y. 646; *Weymouth v. Sanborn*, 43 N. H. 171, 80 Am. Dec. 144; *Epps v. Epps*, 17

Ill. App. 201; *Missouri State Highway Commission, to Use of Onstad, v. Coopers' Const. Service Co. (Mo. App.)* 268 S. W. 701, 702. In English statutes, this term is generally understood to designate a servant employed in husbandry or manufactures, and not dwelling in the home of his employer. *Wharton; Mozley & Whitley.* A person without particular training, employed at manual labor under a contract terminable at will. *Devney v. City of Boston*, 223 Mass. 270, 111 N. E. 788, 789; *City of Atlanta v. Hatcher*, 31 Ga. App. 633, 121 S. E. 864; *Cole v. Grant*, 144 La. 916, 81 So. 398, 399; *Shepard v. Findley*, 204 Iowa, 107, 214 N. W. 676, 678; *Cavanaugh v. Art Hardware & Mfg. Co.*, 124 Wash. 243, 214 P. 152, 154.

As used in mechanics' lien statute "laborer" is said to include all who work with their hands, crude implements, or teams in work demanding that character of service, *Kansas City Southern Ry. Co. v. Wallace*, 38 Okl. 233, 132 P. 908, 911, 46 L. R. A. (N. S.) 112, and laborer under garnishment statute is unskilled laborer, *Groves & Rosenblath v. Atkins*, 160 La. 489, 107 So. 316, 317, but see *Lames v. Armstrong*, 162 Iowa, 327, 144 N. W. 1, 2, 49 L. R. A. (N. S.) 691, Ann. Cas. 1916B, 511.

A laborer, as the word is used in the Pennsylvania act of 1872, giving a certain preference of lien, is one who performs, with his own hands, the contract which he makes with his employer. *Appeal of Wentroth*, 82 Pa. 469.

See, also, Labor.

**LABORERS, STATUTES OF.** In English law. These are the statutes 23 Edw. III., 12 Rich. II., 5 Eliz. c. 4, and 26 & 27 Vict. c. 125, making various regulations as to laborers, servants, apprentices, etc.

**LAC, LAK.** In Indian computation, 100,000. The value of a lac of rupees is about £10,000 sterling. *Wharton.*

**LACE.** A measure of land equal to one pole. This term is widely used in Cornwall.

**LACERTA.** In old English law. A fathom. Co. Litt. 4b.

**LACEY ACT.** An act of congress, May 25, 1900, under which the states may enforce game laws against animals, birds, etc., imported from other states or countries. See Game Laws.

**LACHES.** Omission to assert a right for an unreasonable and unexplained length of time, under circumstances prejudicial to adverse party. *Stewart v. Grant*, 126 Me. 195, 137 A. 63, 66; *State v. Plummer*, 130 Wash. 135, 226 P. 273, 275; *Pickens v. Merriam (C. C. A.)* 242 F. 363, 370; *Massie v. Asbestos Brake Co.*, 95 N. J. Eq. 298, 123 A. 155, 160; *Sanders v. Campbell*, 231 Mich. 592, 204 N. W. 767, 768.

The omission of something which a party might do, and might reasonably be expected to do, towards the vindication or enforcement of his rights, under circumstances mak-

ing the present enforcement of such rights inequitable. A want of activity and diligence in making a claim or moving for the enforcement of a right (particularly in equity) which will afford ground for presuming against it, or for refusing relief, where that is discretionary with the court. See *Ring v. Lawless*, 190 Ill. 520, 60 N. E. 881; *Wissler v. Craig*, 80 Va. 30; *Morse v. Seibold*, 147 Ill. 318, 35 N. E. 369; *Babb v. Sullivan*, 43 S. C. 436, 21 S. E. 277; *Graff v. Portland, etc., Co.*, 12 Colo. App. 106, 54 P. 854; *Coosaw Min. Co. v. Carolina Min. Co. (C. C.)* 75 F. 868; *Parker v. Bethel Hotel Co.*, 96 Tenn. 252, 34 S. W. 209, 31 L. R. A. 706; *Chase v. Chase*, 20 R. I. 202, 37 A. 804; *Hellams v. Prior*, 64 S. C. 296, 42 S. E. 106; *First Nat. Bank v. Nelson*, 106 Ala. 535, 18 So. 154; *Cole v. Ballard*, 78 Va. 147; *Selbag v. Abitbol*, 4 Maule & S. 462.

"Limitations" and "laches" are not synonymous; but "limitations" signifies the fixed statutory period within which an action may be brought for some act done to preserve a right, while "laches" signifies delay independent of statute. In *re Van Tassel's Will*, 196 N. Y. S. 491, 494, 119 Misc. 478.

**LACTA.** L. Lat. In old English law. Defect in the weight of money; *lack* of weight. This word and the verb "*lactare*" are used in an assise or statute of the sixth year of King John. Spelman.

**LACUNA.** In old records. A ditch or dyke; a furrow for a drain; a gap or blank in writing.

#### LACUS.

##### In the Civil Law

A lake; a receptacle of water which is never dry. Dig. 43, 14, 1, 3.

##### In Old English Law

Allay or alloy of silver with base metal. *Fleta*, lib. 1, c. 22, § 6.

#### LADA.

##### In Saxon Law

A purgation, or mode of trial by which one purged himself of an accusation; as by oath or ordeal. Spelman.

A water-course; a trench or canal for draining marshy grounds. In old English, a *lade* or *load*. Spelman.

##### In Old English Law

A court of justice; a lade or lath. Cowell.

**LADÉ, or LODE.** The mouth of a river.

**LADEN IN BULK.** A term of maritime law, applied to a vessel which is freighted with a cargo which is neither in casks, boxes, bales, nor cases, but lies loose in the hold, being defended from wet or moisture by a number of mats and a quantity of dunnage. Cargoes of corn, salt, etc., are usually so shipped.

**LADING, BILL OF.** See *Bill*.

**LADY.** In English law. The title belonging to the wife of a peer, and (by courtesy) the wife of a baronet or knight, and also to any woman, married or sole, whose father was a nobleman of a rank not lower than that of earl.

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

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

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

**LÆN (Anglo-Saxon).** A loan. See *Beneficium*.

**LÆNLAND.** Land held of a superior whether much or little. 1 *Poll. & Maitl.* 38.

Land given to the lessee and to two or three successive heirs of his; synonymous with loan land. This species of tenure seems to have been replaced by that of holding by book or boeland. See *Maitl. Domesday Book and Beyond* 318. See *Folcland*.

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

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

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

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

**LÆT.** In old English law. One of a class between servile and free. *Palgrave*, i. 354.

**LÆTARE JERUSALEM.** Easter offerings, so called from these words in the hymn of the day. They are also denominated "*quadragesimalia*." Wharton.

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

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

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

**LAGAN.** See Ligan.

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

**LAGE-MAN.** A lawful man; a good and lawful man. A juror. Cowell.

**LAGENA.** L. Lat. In old English law. A measure of ale. Fleta, lib. 2, c. 11. Said to consist of six sextaries. Cowell.

**LAGHDAY or LAHDY.** A day of open court; a day of the county court. Cowell; Toml.

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

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

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

**LAIA.** A roadway in a wood. Mon. Angl. t. 1, p. 483.

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

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

**LAI S GENTS.** L. Fr. Lay people; a jury.

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

**LAIZ, LEEZ (O. Fr.).** A legate. Kelh.

**LAKE.** A large body of water, contained in a depression of the earth's surface, and supplied from the drainage of a more or less extended area. Webster. See *Jones v. Lee*, 77 Mich. 35, 43 N. W. 855; *Ne-pee-nauk Club v. Wilson*, 96 Wis. 290, 71 N. W. 661.

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

**LAMANEUR.** Fr. In French marine law. A pilot. Ord. Mar. liv. 4, tit. 3.

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

**LAMBARD'S ARCHAION.** A discourse upon the high court of justice in England, by William Lambard, published in 1635. Marv. Leg. Bibl.

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

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

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

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

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

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

**LANA.** Lat. In the civil law. Wool. See Dig. 32, 60, 70, 88.

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

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

**LAND,** in the most general sense, comprehends any ground, soil, or earth whatsoever; as meadows, pastures, woods, moors, waters, marshes, furzes, and heath. Co. Litt. 4a. In its more limited sense, land denotes the quantity and character of the interest or estate which the tenant may hold in land. The land is one thing, and the estate in land is another thing, for an estate in land is a time in land or land for a time. Plowd. 555.

"Land" includes not only the soil, but everything attached to it, whether attached by the course of nature, as trees, herbage, and water, or by the hand of man, as buildings and fences. *Mott v. Palmer*, 1 N. Y. 572; *Nessler v. Neher*, 18 Neb. 649, 26 N. W. 471; *Higgins Fuel Co. v. Snow*, 113 Fed. 433, 51 C. C. A. 267; *Lightfoot v. Grove*, 5 Heisk. (Tenn.) 477;



*Johnson v. Richardson*, 33 Miss. 464; *Mitchell v. Warner*, 5 Conn. 517; *Myers v. League*, 62 Fed. 659, 10 C. C. A. 571; 2 Bl. Comm. 16, 17; *Walters v. Sheffield*, 75 Fla. 505, 78 So. 539, 541; *Sox v. Miracle*, 35 N. D. 458, 160 N. W. 716, 719; *North Side Canal Co. v. Twin Falls Canal Co.* (D. C.) 12 F.(2d) 311, 314; *Walpole v. State Board of Land Com'rs*, 62 Colo. 554, 163 P. 848, 850. It embraces not only the surface of the earth, but everything under or over it. *Gas Products Co. v. Rankin*, 63 Mont. 372, 207 P. 993, 997, 24 A. L. R. 294; *Garnsey Coal Co. v. Mudd* (C. C. A.) 281 F. 183, 184.

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

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

See, also, Lands.

#### Accommodation Lands

In English law. Lands bought by a builder or speculator, who erects houses thereon, and then leases portions of them upon an improved ground rent.

#### Bounty Lands

Portions of the public domain given or donated to private persons as a bounty for services rendered, chiefly for military service.

#### Certificate Lands

In Pennsylvania, in the period succeeding the revolution, lands set apart in the western portion of the state, which might be bought with the certificates which the soldiers of that state in the revolutionary army had received in lieu of pay. Cent. Dict.

#### Crown Lands

In England and Canada, lands belonging to the sovereign personally or to the government or nation, as distinguished from such as have passed into private ownership.

#### Demesne Lands

See Demesne.

#### Donation Lands

Lands granted from the public domain to an individual as a bounty, gift, or donation; particularly, in early Pennsylvania history,

lands thus granted to soldiers of the revolutionary war.

#### Fabric Lands

In English law, lands given towards the maintenance, rebuilding, or repairing of cathedral and other churches.

#### General Land Office

An office of the United States government, being a division of the department of the interior, having charge of all executive action relating to the public lands, including their survey, sale or other disposition, and patenting; constituted by act of congress in 1812 (Rev. St. § 446 [43 USCA § 1]), and presided over by an officer styled "commissioner of the general land office."

#### Land Certificate

Upon the registration of freehold land under the English land transfer act, 1875, a certificate is given to the registered proprietor, and similarly upon every transfer of registered land. This registration supersedes the necessity of any further registration in the register counties. Sweet. It contains a description of the land as it appears on the register and the name and address of the proprietor, and is *prima facie* evidence of the truth of the matters therein set forth.

#### Land Cop

The sale of land which was evidenced in early English law by the transfer of a rod or festuca (*q. v.*) as a symbol of possession which was handed by the seller to the reeve and by the reeve to the purchaser. The conveyance was made in court, it is supposed, for securing better evidence of it, and barring the claims of expectant heirs; *Maitl. Domesd. B.* 323.

#### Land Court

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

#### Land Damages

See Damages.

#### Land Department

That office of the United States government which has jurisdiction and charge of the public lands, including the secretary of the interior and the commissioner of the general land office and their subordinate officers, and being in effect the department of the interior considered with reference to its powers and duties concerning the public lands. See *U. S. v. Winona & St. P. R. Co.*, 67 Fed. 956, 15 C. C. A. 96; *Northern Pac. R. Co. v. Barden* (C. C.) 46 Fed. 617.

#### Land District

A division of a state or territory, created by federal authority, in which is located a

United States land office, with a "register of the land office" and a "receiver of public money," for the disposition of the public lands within the district. See U. S. v. Smith (C. C.) 11 Fed. 491.

#### Land-Gabel

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

#### Land Grant

A donation of public lands to a subordinate government, a corporation, or an individual; as, from the United States to a state, or to a railroad company to aid in the construction of its road.

#### Land Offices

Government offices, subordinate to the general land office, established in various parts of the United States, for the transaction of local business relating to the survey, location, settlement, pre-emption, and sale of the public lands. See General Land Office, *supra*.

#### Land Patent

A land patent is a muniment of title issued by a government or state for the conveyance of some portion of the public domain.

#### Land-Poor

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

#### Land-Reeve

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

#### Land Revenues

This term denotes income derived from crown lands in Great Britain. These lands have been so largely granted away to subjects that they are now contracted within very narrow limits. The crown was so much impoverished in this manner by William III, that the stat. 1 Anne, c. 7, § 5, was passed, which, with stat. 34 George III, c. 75, which amends and continues it, makes void all grants or leases from the ground of royal manors or other possessions connected with land for a period

exceeding thirty-one years, or three lives. Long prior to this a Scottish stat. 1455, c. 41, had made necessary the consent of parliament in case of the alienation of crown property. It is said that none of these statutes have succeeded in checking the practice. Early at the beginning of the reign of George III. the hereditary crown revenues derived from escheats, manors held *in capite*, estrays, fines, etc., were surrendered by the king to the general funds, and in the place of them he received a specified sum annually for the civil list.

#### Land Steward

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

#### Land Tax

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

#### Land Tenant

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

#### Land Titles and Transfer Act

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

#### Land Waiter

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

#### Land-Warrant

The evidence which the state, on good consideration, gives that the person therein named is entitled to the quantity of land therein specified, the bounds and description of which the owner of the warrant may fix by entry and survey, in the section of country set apart for its location and satisfaction. *Neal v. President, etc., of East Tennessee College*, 6 Yerg. (Tenn.) 205.

#### Mineral Lands

In the land laws of the United States. Lands containing deposits of valuable, useful, or precious minerals in such quantities as to justify expenditures in the effort to extract

them, and which are more valuable for the minerals they contain than for agricultural or other uses. *Northern Pac. R. Co. v. Soderberg*, 188 U. S. 526, 23 S. Ct. 365, 47 L. Ed. 575; *Deffebach v. Hawke*, 115 U. S. 392, 6 S. Ct. 95, 29 L. Ed. 423; *Davis v. Wiebbold*, 139 U. S. 507, 11 S. Ct. 628, 35 L. Ed. 238; *Smith v. Hill*, 89 Cal. 122, 26 P. 644; *Merrill v. Dixon*, 15 Nev. 406; *U. S. v. Northern Pac. Ry. Co.* (D. C.) 1 F.(2d) 53, 57. Lands on which metals or minerals have been discovered in rock in place. *State v. Field*, 31 N. M. 120, 241 P. 1027, 1042. "Mineral lands" include not merely metaliferous lands, but all such as are chiefly valuable for their deposits of mineral character, which are useful in arts or valuable for purposes of manufacture. *Dunbar Lime Co. v. Utah-Idaho Sugar Co.* (C. C. A.) 17 F.(2d) 351, 354.

#### Place Lands

Lands granted in aid of a railroad company which are within certain limits on each side of the road, and which become instantly fixed by the adoption of the line of the road. There is a well-defined difference between place lands and "indemnity lands." See *Indemnity*. See *Jackson v. La Moure County*, 1 N. D. 238, 46 N. W. 449.

#### Public Lands

The general public domain; unappropriated lands; lands belonging to the United States and which are subject to sale or other disposal under general laws, and not reserved or held back for any special governmental or public purpose. *Newhall v. Sanger*, 92 U. S. 763, 23 L. Ed. 769; *U. S. v. Garretson* (C. C.) 42 F. 24; *Northern Pac. R. Co. v. Hinchman* (C. C.) 53 F. 526; *State v. Telegraph Co.*, 52 La. Ann. 1411, 27 So. 796. See *Lands*.

#### School Lands

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

#### Seated Land

Land that is occupied, cultivated, improved, reclaimed, farmed, or used as a place of residence. Residence without cultivation, or cultivation without residence, or both together, impart to land the character of being seated. The term is used, as opposed to "unseated land," in Pennsylvania tax laws. See *Earley v. Euwer*, 102 Pa. 340; *Stoetzel v. Jackson*, 105 Pa. 567; *Kennedy v. Daily*, 6 Watts (Pa.) 272; *Coal Co. v. Fales*, 55 Pa. 98.

#### Swamp and Overflowed Lands

Lands unfit for cultivation by reason of their swampy character and requiring drainage or reclamation to render them available for beneficial use. *Miller v. Eastern Ry. & Lumber Co.*, 84 Wash. 31, 146 P. 171, 173; *Beer v. Whiteville Lumber Co.*, 170 N. C. 337,

86 S. E. 1024. Such lands, when constituting a portion of the public domain, have generally been granted by congress to the several states within whose limits they lie. See *Miller v. Tobin* (C. C.) 18 F. 614; *Keeran v. Allen*, 33 Cal. 546; *Hogaboom v. Ehrhardt*, 58 Cal. 233; *Thompson v. Thornton*, 50 Cal. 144; *Martin v. Busch*, 93 Fla. 535, 112 So. 274, 284.

#### Tide Lands

Lands between high and low water mark on the sea or any tidal water; that portion of the shore or beach covered and uncovered by the ebb and flow of the tide. *Rondell v. Fay*, 32 Cal. 354; *Oakland v. Oakland Water Front Co.*, 118 Cal. 160, 50 P. 277; *Andrus v. Knott*, 12 Or. 501, 8 P. 763; *Walker v. State Harbor Com'rs*, 17 Wall. 650, 21 L. Ed. 744; *Hardy v. California Trojan Powder Co.*, 109 Or. 76, 219 P. 197, 199; *Sawyer v. Osterhaus* (D. C.) 212 F. 765, 775. All lands over which the tide ebbs and flows from the line of ordinary high tide to the line of mean low tide. *State v. Sturtevant*, 76 Wash. 158, 135 P. 1035, 1040. That land which is daily covered and uncovered by water by the ordinary ebb and flow of normal tides. *Apalachicola Land & Development Co. v. McRae*, 86 Fla. 393, 98 So. 505, 525.

#### 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*, *supra*. And see *Stoetzel v. Jackson*, 105 Pa. 567; *McLeod v. Lloyd*, 71 P. 799, 43 Or. 260. A tract of land ceases to be unseated as soon as it is actually occupied with a view to permanent residence. *Wallace v. Scott*, 7 Watts & S. (Pa.) 248.

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

**LANDAGENDE, LANDHLAFORD, or LANDDRICA.** In Saxon law. A proprietor of land; lord of the soil. *Anc. Inst. Eng.*

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

**LANDCHEAP.** In old English law. An ancient customary fine, paid either in money or cattle, at every alienation of land lying within some manor, or within the liberty of some borough. *Cowell*; *Blount*.

**LANDDAG.** A convention of the Dutch in New Amsterdam. See 1 *Fiske, Dutch & Quaker Colonies* 328.

**LANDEA.** In old English law. A ditch or trench for conveying water from marshy grounds. *Spelman*.

**LANDED.** As used in a revenue act levying tolls on goods, the clear meaning and pur-

port is "substantially imported." L. R. 4 Ex. 260.

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

**LANDED ESTATE.** See Estate.

**LANDED ESTATES COURT.** In English law. Tribunals established by statute for the purpose of disposing more promptly and easily than could be done through the ordinary judicial machinery, of incumbered real estate. These courts were first established in Ireland by the act of 11 & 12 Vict. c. 48, which being defective was followed by 12 & 13 Vict. c. 77. The purpose of these was to enable the owner, or a lessee for any less than 63 years unexpired, of land subject to incumbrance, to apply to commissioners who constituted a court of record to direct a sale. This court was called the Incumbered Estates Court. A new tribunal called the Landed Estates Court was created by 21 & 22 Vict. c. 72, which abolished the former court and established a permanent tribunal.

**LANDED PROPERTY.** Real estate in general, or sometimes, by local usage, suburban or rural land, as distinguished from real estate situated in a city. See *Electric Co. v. Baltimore*, 93 Md. 630, 49 Atl. 655, 52 L. R. A. 772; *Sindall v. Baltimore*, 93 Md. 526, 49 Atl. 645.

**LANDED PROPRIETOR.** Any person having an estate in lands whether highly improved or not. *Police Jury of Parish of St. Mary v. Harris*, 10 La. Ann. 677.

**LANDED SECURITIES.** Mortgages or other incumbrances affecting land. 3 Atk. 805, 808.

**LANDEFRICUS.** A landlord; a lord of the soil.

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

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

**LANDHLAFORD.** A proprietor of land; lord of the soil. *Anc. Inst. Eng.*

**LANDIMER.** In old Scotch law. A measurer of land. *Skene*.

**LANDING.** A place on a river or other navigable water for lading and unlading goods, or for the reception and delivery of passengers; the terminus of a road on a river or

other navigable water, for the use of travelers, and the loading and unloading of goods. *State v. Randall*, 1 Strob. (S. C.) 111, 47 Am. Dec. 548.

A place for loading or unloading boats, but not a harbor for them. *Hays v. Briggs*, 74 Pa. 373.

A place laid out by a town as a common landing place and used as such, but not designated as for the particular benefit of the town, is a public landing place.

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

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

**LANDLORD.** He of whom lands or tenements are holden. He who, being the owner of an estate in land, has leased it for a term of years, on a rent reserved, to another person, called the "tenant." *Jackson v. Harsen*, 7 Cow. (N. Y.) 326, 17 Am. Dec. 517; *Becker v. Becker*, 13 App. Div. 342, 43 N. Y. Supp. 17.

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

**LANDLORD AND TENANT.** A phrase used to denote the familiar legal relation existing between lessor and lessee of real estate. The relation is contractual, and is constituted by a lease (or agreement therefor) of lands for a term of years, from year to year, for life, or at will. *Dutton v. Dutton*, 253 P. 553, 554, 122 Kan. 640; *Minneapolis Iron Store Co. v. Branum*, 162 N. W. 543, 545, 36 N. D. 355, L. R. A. 1917E, 298.

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

**LANDMARK.** A monument or erection set up on the boundary line of two adjoining estates, to fix such boundary. The removing of a landmark is a wrong for which an action lies. *Collins v. Brittingham*, 90 A. 420, 5 Boyce (Del.) 89.

**LANDS.** This term, the plural of "land," is said, at common law, to be a word of less extensive signification than either "tenements" or "hereditaments." But in some of the states

it has been provided by statute that it shall include both those terms.

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

—**Lands, public.** Such lands of the United States as are open to sale or other disposition under general laws. *Bardon v. R. Co.*, 145 U. S. 538, 12 S. Ct. 856, 36 L. Ed. 806; *Newhall v. Sanger*, 92 U. S. 763, 23 L. Ed. 769; *Heydenfeldt v. Min. Co.*, 10 Nev. 290. In a statute authorizing location of script, it does not include tidelands; *Mann v. Land Co.*, 153 U. S. 273, 14 S. Ct. 820, 38 L. Ed. 714. Nor does the term include lands to which any claims or rights of others have attached; *Bardon v. R. Co.*, 145 U. S. 538, 12 S. Ct. 856, 36 L. Ed. 806; *United States v. Lee Wilson & Co.* (D. C.) 214 F. 630, 641; *Southern Pac. Co. v. City of Reno* (D. C.) 257 F. 450, 460; *Northern Pac. Ry. Co. v. Hirzel*, 29 Idaho, 438, 161 P. 854, 859; *Jackman v. Atchison, T. & S. F. R. Co.*, 24 N. M. 278, 170 P. 1036, 1041; *Northern Pac. Ry. Co. v. Wismer* (C. C. A.) 230 F. 591, 593; *U. S. v. Havenor* (D. C.) 209 F. 988, 989.

—**Lands, tenements, and hereditaments.** The technical and most comprehensive description of real property, as "goods and chattels" is of personalty. *Williams*, Real Prop. 5.

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

**LANDWARD.** In Scotch law. Rural. 7 Bell, App. Cas. 2.

**LANGEMAN.** A lord of a manor. 1 Inst. 5.

**LANGEMANNI.** The lords of manors. 1 Co. Inst. 5.

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

**LANGUAGE.** Any means of conveying or communicating ideas; specifically, human speech, or the expression of ideas by written characters. The letter, or grammatical import, of a document or instrument, as distinguished from its spirit; as "the language of the statute." See *Behling v. State*, 110 Ga. 754, 36 S. E. 85; *Stevenson v. State*, 90 Ga. 456, 16 S. E. 95; *Cavan v. Brooklyn* (City Ct. Brook.) 5 N. Y. Supp. 759. As to "offensive language," see *Offensive*.

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

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

**LANNS MANUS** (Old Fr.). A lord of the manor. *Kelham*.

**LANO NIGER.** A sort of base coin, formerly current in England. *Cowell*.

**LANZAS.** In Spanish law. A commutation in money, paid by the nobles and high officers, in lieu of the quota of soldiers they might be required to furnish in war. *Trevino v. Fernandez*, 13 Tex. 660.

**LAPIDATION.** The act of stoning a person to death.

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

**LAPILLI.** Lat. In the civil law. Precious stones. *Dig.* 34, 2, 19, 17. Distinguished from "gems," (*gemmæ*.) *Id.*

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

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

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

—**Lapsed devise.** See *Devise*.

—**Lapsed legacy.** See *Legacy*.

**LAPSE, n.**

#### In Ecclesiastical Law

The transfer, by forfeiture of a right to present or collate to a vacant benefice from a person vested with such right to another, in consequence of some act of negligence by the former. *Ayl. Par.* 331.

#### In the Law of Wills

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

### In Criminal Proceedings

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

**LARBOARD.** The left side of a ship or boat when one stands with his face towards the bow. The opposite term is starboard, which is the right-hand side looking forward. The word is now, however, no longer used, the term port having been substituted for it. The change was made by order of the English admiralty, for the very obvious reason that larboard was apt to be confused with the opposite term.

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

**LARCENOUS INTENT.** A larcenous intent exists where a man knowingly takes and carries away the goods of another without any claim or pretense of right, with intent wholly to deprive the owner of them or convert them to his own use. *Wilson v. State*, 18 Tex. App. 274, 51 Am. Rep. 309.

**LARCENY.** In criminal law. The wrongful and fraudulent taking and carrying away by one person of the mere personal goods of another from any place, with a felonious intent to convert them to his (the taker's) use, and make them his property, without the consent of the owner. *State v. South*, 28 N. J. Law, 31, 75 Am. Dec. 250; *State v. Chambers*, 22 W. Va. 786, 46 Am. Rep. 550; *State v. Parry*, 48 La. Ann. 1483, 21 So. 30; *Haywood v. State*, 41 Ark. 479; *Philamalee v. State*, 58 Neb. 320, 78 N. W. 625; *People v. Bosworth*, 64 Hun, 72, 19 N. Y. S. 114; *State v. Hawkins*, 8 Port. (Ala.) 463, 33 Am. Dec. 294; *State v. White*, 6 Boyce (Del.) 86, 97 A. 231, 233; *State v. Jones*, 119 Or. 320, 249 P. 360; *Adams v. Commonwealth*, 153 Ky. 88, 154 S. W. 381, 382, 44 L. R. A. (N. S.) 637; *Downs v. New Jersey Fidelity & Plate Glass Ins. Co. of Newark*, 91 N. J. Law, 523, 103 A. 205, 206, L. R. A. 1918D, 513; *McIntosh v. State*, 105 Neb. 328, 180 N. W. 573, 574, 12 A. L. R. 798; *People v. Pastel*, 306 Ill. 565, 138 N. E. 194, 195.

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

The taking and removing, by trespass, of personal property which the trespasser knows to belong either generally or specially to another, with the intent to deprive such owner of his ownership therein; and, perhaps it

should be added, for the sake of some advantage to the trespasser,—a proposition on which the decisions are not harmonious. 2 Bish. Crim. Law, §§ 757, 758.

Larceny is the taking of personal property, accomplished by fraud or stealth, and with intent to deprive another thereof. Pen. Code Dak. § 580 (Comp. Laws N. D. 1913, § 9913; Rev. Code S. D. 1919, § 4210).

Larceny is the felonious stealing, taking, carrying, leading, or driving away the personal property of another.

### Common-Law Larceny

That form of larceny where the defendant furtively, without the consent of the owner, takes his property, or forcibly takes it without his consent or against his will, or where the defendant accomplishes larceny by trick, device, or artifice, and the owner has not parted with his property absolutely, but only temporarily with its possession. *People v. Johnson*, 150 N. Y. S. 331, 332, 87 Misc. 89.

### Constructive Larceny

One where the felonious intent to appropriate the goods to his own use, at the time of the asportation, is made out by construction from the defendant's conduct, although, originally, the taking was not apparently felonious. 2 East, P. C. 685; 1 Leach, 212.

### Compound Larceny

Larceny or theft accomplished by taking the thing stolen either from one's person or from his house; otherwise called "mixed" larceny, and distinguished from "simple" or "plain" larceny, in which the theft is not aggravated by such an intrusion either upon the person or the dwelling. *Anderson v. Winfree*, 85 Ky. 597, 4 S. W. 351; *State v. Chambers*, 22 W. Va. 786, 46 Am. Rep. 550.

### Grand Larceny

In criminal law. In England, simple larceny, was originally divided into two sorts,—*grand* larceny, where the value of the goods stolen was above twelve pence, and *petit* larceny, where their value was equal to or below that sum. 4 Bl. Comm. 229. The distinction was abolished in England by St. 7 & 8 Geo. IV. c. 29, and is not generally recognized in the United States, although in a few states there is a statutory offense of grand larceny, one essential element of which is the value of the goods stolen, which value varies. See *State v. Bean*, 74 Vt. 111, 52 Atl. 269; *Fallon v. People*, 2 Keyes (N. Y.) 147; *People v. Murray*, 8 Cal. 520; *State v. Kennedy*, 88 Mo. 343; *State v. Baker*, 138 A. 736, 737, 100 Vt. 380.

### Larceny by Baillee

In Pennsylvania law. The crime of larceny committed where any person, being a baillee of any property, shall fraudulently take or convert the same to his own use, or to the use of any other person except the owner

thereof, although he shall not break bulk or otherwise determine the bailment. Brightly's Purd. Dig. p. 436, § 177 (18 PS § 2489). And see *Welsh v. People*, 17 Ill. 339; *State v. Skinner*, 29 Or. 599, 46 Pac. 368.

#### Larceny from the Person

Larceny committed where the property stolen is on the person or in the immediate charge or custody of the person from whom the theft is made, but without such circumstances of force or violence as would constitute robbery, including pocket-picking and such crimes. *Williams v. U. S.*, 3 App. D. C. 345; *State v. Eno*, 8 Minn. 220 (Gil. 190).

#### Mixed Larceny

Otherwise called "compound" or "complicated larceny;" that which is attended with circumstances of aggravation or violence to the person, or taking from a house.

#### Petit Larceny

The larceny of things whose value was below a certain arbitrary standard, at common law twelve pence. See *Ex parte Bell*, 19 Fla. 612; *Barnhart v. State*, 154 Ind. 177, 56 N. E. 212; *People v. Righetti*, 66 Cal. 184, 4 Pac. 1185.

#### Simple Larceny

The wrongful taking and carrying away by any person of the personal goods of another with the intent to steal, *Belmas v. State*, 82 S. E. 819, 15 Ga. App. 288, unattended by acts of violence. Larceny which is not complicated or aggravated with acts of violence. Larceny from the person, or with force and violence, is called "compound" larceny. See *State v. Chambers*, 22 W. Va. 786, 46 Am. Rep. 550; *Anderson v. Winfree*, 85 Ky. 597, 4 S. W. 351; *Pitcher v. People*, 16 Mich. 142.

**LARD.** The clarified semi-solid oil of hog's fat. Cent. Dict. The pure fat of healthy swine. *State v. Snow*, 81 Iowa, 642, 47 N. W. 777, 11 L. R. A. 355.

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

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

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

**LARONS.** In old English law. Thieves.

**LAS PARTIDAS.** In Spanish law. The name of a code of laws, more fully described

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

**LASCAR.** A native Indian sailor; the term is also applied to tent pitchers, inferior artillery-men, and others.

**LASCIVIOUS.** Tending to excite lust; lewd; indecent; obscene; relating to sexual impurity; tending to deprave the morals in respect to sexual relations. See *Swearingen v. U. S.*, 161 U. S. 446, 16 Sup. Ct. 562, 40 L. Ed. 765; *U. S. v. Britton* (Com. C.) 17 Fed. 733; *Dunlop v. U. S.*, 165 U. S. 486, 17 Sup. Ct. 375, 41 L. Ed. 799; *U. S. v. Durant* (D. C.) 46 Fed. 753.

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

**LASCIVIOUS COHABITATION.** The offense committed by two persons (not married to each other) who live together in one habitation as man and wife and practice sexual intercourse.

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

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

**LAST, adj.** Latest; ultimate; final; most recent.

**LAST ANTECEDENT RULE.** A canon of statutory construction that relative or qualifying words or phrases are to be applied to the words or phrases immediately preceding, and as not extending to or including other words, phrases, or clauses more remote, unless such extension or inclusion is clearly required by the intent and meaning of the context, or disclosed by an examination of the entire act. *Stevens v. Illinois Cent. R. Co.*, 137 N. E. 859, 861, 306 Ill. 370; *Nebraska State Ry. Commission v. Alfalfa Butter Co.*, 178 N. W. 766, 768, 104 Neb. 797.

**LAST CLEAR CHANCE.** In the law of negligence, this term denotes the doctrine or rule that, notwithstanding the negligence of a plaintiff, if, at the time the injury was done,

it might have been avoided by the exercise of reasonable care on the part of the defendant, the defendant will be liable for the failure to exercise such care. *Styles v. Railroad Co.*, 118 N. C. 1084, 24 S. E. 740; *McLamb v. Railroad Co.*, 122 N. C. 862, 29 S. E. 894. The doctrine cannot be invoked by a plaintiff unless he himself by his own negligence has proximately brought about the situation which put upon defendant an extraordinary duty which otherwise would not have rested on him. *Van Sickler v. Washington & O. D. Ry.*, 128 S. E. 367, 370, 142 Va. 857. In many jurisdictions the rule is that for a person to be brought within the "last clear chance" doctrine, the evidence must tend to show that, while his negligence may have contributed toward getting him in the position of danger, all negligence on his part had ceased for a sufficient time prior to the accident to have enabled the defendant, after he knew of his situation of peril, to have avoided the accident. *Pennsylvania Co. v. Hart*, 128 N. E. 142, 143, 101 Ohio St. 196; *Robbins v. Pennsylvania Co. (C. C. A.)* 245 F. 435, 440; *Clemens v. Chicago, R. I. & P. Ry. Co.*, 144 N. W. 354, 355, 163 Iowa, 499; *Haber v. Pacific Electric Ry. Co.*, 248 P. 741, 746, 78 Cal. App. 617; *Moran v. Smith*, 95 A. 272, 114 Me. 55; *Dyerson v. R. Co.*, 74 Kan. 528, 87 Pac. 680, 7 L. R. A. (N. S.) 132, 11 Ann. Cas. 207; *Lehigh Valley R. Co. v. Stevenson (C. C. A.)* 17 F.(2d) 748, 750. In some jurisdictions, however, the "last clear chance" rule applies, although the plaintiff negligently exposes himself to peril, and although his negligence continues until the accident happens, if the defendant, with knowledge of his danger and reason to suppose that he may not save himself, may avoid the injury by exercise of ordinary care, and fails to do so. *Norfolk Southern R. Co. v. Crocker*, 84 S. E. 681, 683, 117 Va. 327; *Leftridge v. City of Seattle*, 228 P. 302, 303, 130 Wash. 541. The last clear chance doctrine is sometimes designated as the humanitarian doctrine, *Blashfield's Cyclopedia of Automobile Law*, c. 55, § 8, p. 1270; *Gilbert v. Mississippi River & B. T. R. Co. (Mo. App.)* 226 S. W. 263, 264; and also the doctrine of discovered peril, *Missouri Pac. R. Co. v. Skipper*, 298 S. W. 849, 854, 174 Ark. 1083; *Hines v. Foreman (Tex. Civ. App.)* 229 S. W. 630, 635; *Snuck v. Davis*, 237 P. 95, 97, 110 Okl. 196. In Maryland, it is equivalent to "negligence in the third degree." *State v. New York, P. & N. R. Co.*, 96 A. 809, 811, 127 Md. 651.

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

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

the lands were held; in others, the sovereign. Cowell.

**LAST ILLNESS.** The immediate illness resulting in the person's death. In re *Duckett's Estate*, 1 Kulp (Pa.) 227; *McLean v. Breen (Tex. Civ. App.)* 183 S. W. 394, 396.

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

**LAST SICKNESS.** That illness of which a person dies is so called. *Huse v. Brown*, 8 Me. 169; *Harrington v. Stees*, 82 Ill. 54, 25 Am. Rep. 290; *McVoy v. Percival*, Dud. Law (S. C.) 337; *Prince v. Hazelton*, 20 Johns. (N. Y.) 513, 11 Am. Dec. 307.

**LAST WILL.** This term, according to Lord Coke, is most commonly used where lands and tenements are devised, and "testament" where it concerns chattels. Co. Litt. 111a. Both terms, however, are now generally employed in drawing a will either of lands or chattels. See *Reagan v. Stanley*, 11 Lea (Tenn.) 322; *Hill v. Hill*, 7 Wash. 409, 35 Pac. 360.

**LASTAGE.** A custom exacted in some fairs and markets to carry things bought whither one will. But it is more accurately taken for the ballast or lading of a ship. Also custom paid for wares sold by the last, as herrings, pitch, etc. Wharton.

**LATA CULPA.** Lat. In the law of bailment. Gross fault or neglect; extreme negligence or carelessness (*nimia negligentia*). Dig. 50, 16, 213, 2.

**Lata culpa dolo æquiparatur.** Gross negligence is equivalent to fraud.

**LATCHING.** An under-ground survey.

**LATE.** Defunct; existing recently, but now dead. *Pleasant v. State*, 17 Ala. 190. Formerly; recently; lately.

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

**LATENS.** Lat. Latent; hidden; not apparent. See *Ambiguitas*.

**LATENT.** Hidden; concealed; that does not appear upon the face of a thing; as, a latent ambiguity. See *Ambiguity*.

**LATENT DEED.** A deed kept for twenty years or more in a man's scrutoire or strong-box. *Wright v. Wright*, 7 N. J. Law, 177, 11 Am. Dec. 546.

**LATENT DEFECT.** A defect in an article sold, which is known to the seller, but not to the purchaser, and is not discoverable by mere observation. See *Hoe v. Sanborn*, 21 N. Y. 552, 78 Am. Dec. 163. A defect which reasonably careful inspection will not reveal.



**Schaff v. Ellison** (Tex. Civ. App.) 255 S. W. 680, 682. So, a latent defect in the title of a vendor of land is one not discoverable by inspection made with ordinary care. **Newell v. Turner**, 9 Port. (Ala.) 422.

**LATENT EQUITY.** See Equity.

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

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

**LATERAL SUPPORT.** The right of lateral and subjacent support is that right which the owner of land has to have his land supported by the adjoining land or the soil beneath. **Stevenson v. Wallace**, 27 Grat. (Va.) 77; **Farrand v. Marshall**, 19 Barb. (N. Y.) 380; **Foley v. Wyeth**, 2 Allen (Mass.) 131, 79 Am. Dec. 771; 12 Amer. & Eng. Enc. Law, 933.

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

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

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

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

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

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

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

**LATINARIUS.** An interpreter of Latin.

**LATINI JUNIANI.** Lat. In Roman law. A class of freedmen (*libertini*) intermediate be-

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

**LATITAT.** In old English practice. A writ which issued in personal actions, on the return of *non est inventus* to a bill of Middlesex; so called from the emphatic word in its recital, in which it was "testified that the defendant *lurks* [*latitat*] and wanders about" in the county. 3 Bl. Comm. 286. Abolished by St. 2 Wm. IV. c. 39.

**LATITATIO.** Lat. In the civil law and old English practice. A lying hid; lurking, or concealment of the person. Dig. 42, 4, 7, 5; **Bract**. fol. 126.

**LATOR.** Lat. In the civil law. A bearer; a messenger. Also a maker or giver of laws.

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

**LATROCINATION.** The act of robbing; a depredation.

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

**LATROCINITY.** Larceny.

**LATTER-MATH.** A second mowing; the aftermath.

**LAUDARE.** Lat.

#### In the Civil Law

To name; to cite or quote; to show one's title or authority. **Calvin**.

#### In Feudal Law

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

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

**LAUDATOR.** Lat. An arbitrator; a witness to character.

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

**LAUDEMUM.** Lat. In the civil law, a sum paid by a new *emphyteuta* (*q. v.*) who acquires the *emphyteusis*, not as heir, but as a singular successor, whether by gift, devise, exchange, or sale. It was a sum equal to the fiftieth part of the purchase money, paid to the *dominus* or proprietor for his acceptance of the new *emphyteuta*. Mackeld. Rom. Law, § 328. Called, in old English law, "acknowledgment money." Cowell.

**LAUDUM.** Lat. An arbitrament or award.

**In Old Scotch Law**

Sentence or judgment; dome or doom. 1 Pitc. Crim. Tr. pt. 2, p. 8.

**LAUGHE.** Frank-pledge. 2 Reeve, Eng. Law, 17.

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

**LAUNCH.** The act of launching a vessel; the movement of a vessel from the land into the water, especially the sliding on ways from the stocks on which it is built. *Homer v. The Lady of the Ocean*, 70 Me. 352.

A boat of the largest size belonging to a ship of war; an open boat of large size used in any service; a lighter.

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

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

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

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

**LAVOR NUEVA.** In Spanish law. A new work. *Las Partidas*, pt. 3, tit. 32, l. 1.

**LAW.** That which is laid down, ordained, or established. A rule or method according to which phenomena or actions co-exist or follow each other.

A system of principles and rules of human conduct, being the aggregate of those commandments and principles which are either prescribed or recognized by the governing

power in an organized jural society as its will in relation to the conduct of the members of such society, and which it undertakes to maintain and sanction and to use as the *criteria* of the actions of such members.

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

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

A rule of civil conduct prescribed by the supreme power in a state. 1 Steph. Comm. 25; Civ. Code Dak. § 2 (Comp. Laws N. D. 1913, § 4327; Rev. Code S. D. 1919, § 1); Pol. Code Cal. § 4466.

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

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

A rule or enactment promulgated by the legislative authority of a state; a long-established local custom which has the force of such an enactment. *Dubois v. Hepburn*, 10 Pet. 18, 9 L. Ed. 325.

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

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

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

For other definitions and descriptions, see *State v. McCann*, 4 Lea (Tenn.) 9; *State v. Hockett*, 70 Iowa, 454, 30 N. W. 744; *Duncan v. Magette*, 25 Tex. 253; *Baldwin v. Philadelphia*, 99 Pa. 170; *State v. Fry*, 4 Mo. 189; *Forepaugh v. Railroad Co.*, 128 Pa. 217, 18 A. 503, 5 L. R. A. 508, 15 Am. St. Rep. 672; *State v. Swan*, 1 N. D. 5, 44 N. W. 492;

Smith v. U. S., 22 Fed. Cas. 696; Swift v. Tyson, 16 Pet. 1, 10 L. Ed. 865; Miller v. Dunn, 72 Cal. 462, 14 P. 27, 1 Am. St. Rep. 67; Bier v. McGehee, 148 U. S. 137, 13 S. Ct. 580, 37 L. Ed. 397.

### Historically Considered

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

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

### Synonyms and Distinctions

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

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

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

### Classification.

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

Law is also divided into *substantive* and *adjective*. Substantive law is that part of

the law which creates rights and obligations, while adjective law provides a method of enforcing and protecting them. In other words, adjective law is the law of procedure. Holl. Jur. 61, 238.

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

### Kinds of Statutes

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

Statutes are also either *prospective* or *retrospective*; the former, when they are intended to operate upon future cases only; the latter, when they may also embrace transactions occurring before their passage.

Statutes are called "enabling" when they confer new powers; "remedial" when their effect is to provide relief or reform abuses; "penal" when they impose punishment, pecuniary or corporal, for a violation of their provisions.

### In General

—**Absolute law.** The true and proper law of nature, immutable in the abstract or in principle, in theory, but not in application; for very often the object, the reason, situation, and other circumstances, may vary its exercise and obligation. 1 Steph. Comm. 21 *et seq.*

—**Foreign laws.** The laws of a foreign country, or of a sister state. *People v. Martin*, 38 Misc. Rep. 67, 76 N. Y. S. 953; *Bank of Chillicothe v. Dodge*, 8 Barb. (N. Y.) 233. Foreign laws are often the suggesting occasions of changes in, or additions to, our own laws, and in that respect are called "*jus receptum*." Brown.

—**General law.** A general law as contradistinguished from one that is special or local, is a law that embraces a class of subjects or places, and does not omit any subject or place naturally belonging to such class. *Van Riper v. Parsons*, 40 N. J. Law, 1; *Mathis v. Jones*, 84 Ga. 804, 11 S. E. 1018; *Brooks v. Hyde*, 37 Cal. 376; *Arms v. Ayer*, 192 Ill. 601, 61 N. E. 851, 58 L. R. A. 277, 85 Am. St. Rep. 357; *State v. Davis*, 55 Ohio St. 15, 44 N. E. 511. A law, framed in general terms, restricted to no locality, and operating equally upon all of a group of objects, which, having regard to the purposes of the legislation, are distinguished by characteristics sufficiently marked and important to make them a class by themselves, is not a special or local law, but a general law. *People v. Vickroy*, 266 Ill. 384, 107 N. E. 638, 640; *Jones v. Power County*, 27 Idaho, 656, 150 P. 35, 37; *Scarborough v. Wooten*, 23 N. M. 616, 170 P.

743; *Toombs v. Sharkey*, 140 Miss. 676, 106 So. 273, 275; *Van Riper v. Parsons*, 40 N. J. Law, 123, 29 Am. Rep. 210.

—**Law agents.** Solicitors practicing in the Scotch courts.

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

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

—**Law charges.** This phrase is used, under the Louisiana Civil Code, to signify costs incurred in court in the prosecution of a suit, to be paid by the party cast. *Rousseau v. His Creditors*, 17 La. 206; *Barkley v. His Creditors*, 11 Rob. (La.) 28.

—**Law court of appeals.** In American law. An appellate tribunal, formerly existing in the state of South Carolina, for hearing appeals from the courts of law.

—**Law day.** See Day.

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

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

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

—**Law lords.** Peers in the British parliament who have held high judicial office, or have been distinguished in the legal profession. Mozley & Whitley.

—**Law martial.** See Martial Law.

—**Law merchant.** See Mercantile Law.

—**Law of nations.** See International Law.

—**Law of nature.** See Natural Law.

—**Law of arms.** That law which gives precepts and rules concerning war; how to make and observe leagues and truce, to punish offenders in the camp, and such like. Cowell; Blount. Now more commonly called the "law of war."

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

—**Law of evidence.** The aggregate of rules and principles regulating the admissibility, relevancy, and weight and sufficiency of evidence in legal proceedings. See Ballinger's Ann. Codes & St. Or. 1901, § 678 (Code 1930, § 9-102).

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

—**Laws of Oleron.** See Oleron, Laws of.

—**Law of the case.** A ruling or decision once made in a particular case by an appellate court, while it may be overruled in other cases, is binding and conclusive both upon the inferior court in any further steps or proceedings in the same litigation and upon the appellate court itself in any subsequent appeal or other proceeding for review. A ruling or decision so made is said to be "the law of the case." See *Hastings v. Foxworthy*, 45 Neb. 676, 63 N. W. 955, 34 L. R. A. 321; *Standard Sewing Mach. Co. v. Leslie*, 118 F. 559, 55 C. C. A. 323; *McKinney v. State*, 117 Ind. 26, 19 N. E. 613; *Wilson v. Binford*, 81 Ind. 591; *Nedela v. Mares Auto Co.*, 110 Neb. 108, 193 N. W. 345, 346; *De Vol v. Citizens' Bank*, 113 Or. 595, 233 P. 1008, 1011; *Grow v. Oregon Short Line R. Co.*, 47 Utah, 26, 150 P. 970; *Steinman v. Clinchfield Coal Corp.*, 121 Va. 611, 93 S. E. 684, 687; *Pabst Corporation v. City of Milwaukee*, 193 Wis. 522, 213 N. W. 888, 889; *In re Talbott's Estate*,

204 Iowa, 363, 213 N. W. 779, 780; Gosserand v. Monteleone, 164 La. 397, 113 So. 889, 890.

—**Law of the flag.** In maritime law. The law of that nation or country whose flag is flown by a particular vessel. A shipowner who sends his vessel into a foreign port gives notice by his flag to all who enter into contracts with the master that he intends the law of that flag to regulate such contracts, and that they must either submit to its operation or not contract with him. *Ruhstrat v. People*, 185 Ill. 133, 57 N. E. 41, 49 L. R. A. 181, 76 Am. St. Rep. 30.

—**Law of the land.** Due process of law, (*q. v.*) By the law of the land is most clearly intended the general law which hears before it condemns, which proceeds upon inquiry, and renders judgment only after trial. The meaning is that every citizen shall hold his life, liberty, property, and immunities under the protection of general rules which govern society. Everything which may pass under the form of an enactment is not the law of the land. *Sedg. St. & Const. Law*, (2d Ed.) 475. When first used in *Magna Charta*, the phrase "the law of the land" probably meant the established law of the kingdom, in opposition to the civil or Roman law, which was about being introduced. It is now generally regarded as meaning general public laws binding on all members of the community, in contradistinction from partial or private laws. *Janes v. Reynolds*, 2 Tex. 251; *State v. Burnett*, 6 Heisk. (Tenn.) 186. It means due process of law warranted by the constitution, by the common law adopted by the constitution, or by statutes passed in pursuance of the constitution. *Mayo v. Wilson*, 1 N. H. 53.

—**Law of the road.** A general custom in America (made obligatory by statute in some states) for pedestrians and vehicles, when meeting in a street or road, to turn to the right in order to avoid danger of collision. See *Riepe v. Elting*, 89 Iowa, 82, 56 N. W. 285, 26 L. R. A. 769, 48 Am. St. Rep. 356; *Wright v. Fleischman*, 41 Misc. Rep. 533, 85 N. Y. S. 62; *Decatur v. Stoops*, 21 Ind. App. 397, 52 N. E. 623; *Weck v. Reno Traction Co.*, 38 Nev. 285, 149 P. 65, 70.

—**Law of the staple.** Law administered in the court of the mayor of the staple; the law-merchant. 4 Inst. 235. See *Staple*.

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

—**Laws of Wisby.** See *Wisby*, *Laws of*.

—**Law reports.** Published volumes containing the reports of cases argued and adjudged in the courts of law.

—**Law spiritual.** The ecclesiastical law, or law Christian. *Co. Litt.* 344.

—**Law worthy.** Being entitled to, or having the benefit and protection of, the law.

—**Local law.** A law which, instead of relating to and binding all persons, corporations, or institutions to which it may be applicable, within the whole territorial jurisdiction of the lawmaking power, is limited in its operation to certain districts of such territory or to certain individual persons or corporations. A law is "local" when it pertains to a particular place or to a definite region or portion of space or is restricted to one place. *State v. Johnson*, 170 N. C. 685, 86 S. E. 788, 792; *State v. Daniel*, 87 Fla. 270, 99 So. 804, 809. Local or special legislation applies exclusively to special or particular places, or special or particular persons, and is distinguishable from a statute which is general in its terms and operation. *Charbonnet v. Forschler*, 138 La. 279, 70 So. 224, 226; *State v. First State Bank of Jud*, 52 N. D. 231, 202 N. W. 391, 399. A local law is one whose operation is confined within territorial limits other than those of the whole state, or any properly constituted class or locality therein, while "special legislation" is such as relates either to particular persons, places, or things, or to persons, places, or things which, though not particularized, are separated by any method of selection from the whole class to which the law might but for such legislation be applied. *King v. Commonwealth*, 194 Ky. 143, 238 S. W. 373, 376, 22 A. L. R. 535; *Vincent v. State* (Tex. Com. App.) 235 S. W. 1084, 1086; *Trumper v. School Dist. No. 55 of Musselshell County*, 55 Mont. 90, 173 P. 946, 947. A "local statute" is one which relates only to a portion of the territory of the state, while a "special act" grants some special right, privilege, or immunity, or imposes some particular burden upon some portion of the people of the state less than all. *People v. Diekmann*, 285 Ill. 97, 120 N. E. 490, 491. "Local laws" are special as to place, and "special laws" are those made from individual cases. *Day v. Commissioners of Yadkin County*, 191 N. C. 780, 133 S. E. 164, 166.

—**Personal law,** as opposed to territorial law, is the law applicable to persons not subject to the law of the territory in which they reside. It is only by permission of the territorial law that personal law can exist at the present day; *e. g.*, it applies to British subjects resident in the Levant and in other Mohammedan and barbarous countries. Under the Roman Empire, it had a very wide application. *Brown*.

—**Special law.** One relating to particular persons or things; one made for individual cases

or for particular places or districts; one operating upon a selected class, rather than upon the public generally. *Ewing v. Hoblitzelle*, 85 Mo. 78; *State v. Irwin*, 5 Nev. 120; *Sargent v. Union School Dist.*, 63 N. H. 528, 2 A. 641; *Earle v. Board of Education*, 55 Cal. 489; *Dundee Mortgage, etc., Co. v. School Dist. (C. C.)* 21 F. 158; *Spokane & Eastern Trust Co. v. Hart*, 127 Wash. 541, 221 P. 615, 618; *State v. Atchison, T. & S. F. Ry. Co.*, 20 N. M. 562, 151 P. 305, 306; *Southern Ry. Co. v. Cherokee County*, 177 N. C. 86, 97 S. E. 758, 761; *Dodge v. Youngblood (Tex. Civ. App.)* 202 S. W. 116, 118; *Ex parte Crane*, 27 Idaho, 671, 151 P. 1006, 1011, L. R. A. 1918A, 942; *State v. Daniel*, 87 Fla. 270, 99 So. 804, 809. A law is "special" when it is different from others of the same general kind or designed for a particular purpose, or is limited in range or confined to a prescribed field of action or operation. *State v. Johnson*, 170 N. C. 685, 86 S. E. 788, 792. A law is not special and local in a constitutional sense, if it affects all persons in like circumstances in the same manner. *St. Louis-San Francisco Ry. Co. v. Bledsol (C. C. A.)* 7 F. (2d) 364, 366. Whether an act be local or special is determined by the generality with which it affects the people as a whole, rather than the extent of territory over which it is operative, and, if it equally affects all people coming within its operation, it is not local or special. *State ex rel. Garvey v. Buckner*, 308 Mo. 390, 272 S. W. 940, 942. In taxation cases, courts make no distinction between "special law" and "local law." *Bozarth v. Egg Harbor City*, 85 N. J. Law, 412, 89 A. 920, 921. The phrases "special act" and "private act" mean the same thing. *Federal Trust Co. v. East Hartford Fire Dist. (C. C. A.)* 283 F. 95, 98.

As to the different kinds of law, or law regarded in its different aspects, see *Adjective Law*; *Administrative Law*; *Bankruptcy Law*; *Canon Law*; *Case Law*; *Civil Law*; *Commercial Law*; *Common Law*; *Constitutional Law*; *Criminal Law*; *Forest Law*; *International Law*; *Maritime Law*; *Martial Law*; *Mercantile Law*; *Military Law*; *Moral Law*; *Municipal Law*; *Natural Law*; *Organic Law*; *Parliamentary Law*; *Penal Law*; *Positive Law*; *Private Law*; *Public Law*; *Retrospective Law*; *Revenue Law*; *Roman Law*; *Substantive Law*; *Written Law*.

**Law always construeth things to the best.** *Wing. Max. p. 720, max. 193.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Law hateth delays.** *Wing. Max. p. 674, max. 176; Finch, Law, b. 1, c. 3, no. 71.*

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

**Law hateth wrong.** *Wing. Max. p. 563, max. 146; Finch, Law, b. 1, c. 3, no. 62.*

**Law of itself prejudiceth no man.** *Wing. Max. p. 575, max. 148; Finch, Law, b. 1, c. 3, no. 63.*

**Law respecteth matter of substance more than matter of circumstance.** *Wing. Max. p. 382, max. 101; Finch, Law, b. 1, c. 3, no. 39.*

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

**Law** [the law] respecteth the bonds of nature. Wing. Max. p. 268, max. 78; Finch, Law, b. 1, c. 3, no. 29.

**LAWFUL.** Legal; warranted or authorized by the law; having the qualifications prescribed by law; not contrary to nor forbidden by the law. Ohio Automatic Sprinkler Co. v. Fender, 108 Ohio St. 149, 141 N. E. 269, 275; McDonnell v. Murnan Shipbuilding Corporation, 210 Ala. 611, 98 So. 887, 889; Hafner Mfg. Co. v. City of St. Louis, 262 Mo. 621, 172 S. W. 28, 33.

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

**LAWFUL AGE.** Full age; majority; generally the age of twenty-one years, though sometimes eighteen as to a female. See McKim v. Handy, 4 Md. Ch. 237.

**LAWFUL AUTHORITIES.** The expression "lawful authorities," used in our treaty with Spain, refers to persons who exercised the power of making grants by authority of the crown. Mitchel v. U. S., 9 Pet. 711, 9 L. Ed. 283.

**LAWFUL DISCHARGE.** Such a discharge in insolvency as exonerates the debtor from his debts. Mason v. Haile, 12 Wheat. 370, 6 L. Ed. 660.

**LAWFUL ENTRY.** An entry on real estate, by one out of possession, under claim or color of right and without force or fraud. See Stouffer v. Harlan, 68 Kan. 135, 74 P. 613, 64 L. R. A. 320, 104 Am. St. Rep. 396.

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

Cas. (N. Y.) 1; Skidmore v. Desdouty, 2 Johns. Cas. (N. Y.) 77; Juhel v. Rhineland, 2 Johns. Cas. (N. Y.) 120.

**LAWFUL HEIRS.** See Heir.

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

**LAWFUL MONEY.** Money which is a legal tender in payment of debts. Vick v. Howard, 136 Va. 101, 116 S. E. 465, 467, 31 A. L. R. 240; Dunlap v. Whitmer, 133 La. 317, 62 So. 938, 942, Ann. Cas. 1915C, 990.

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

**LAWLESS.** Not subject to law; not controlled by law; not authorized by law; not observing the rules and forms of law. See Arkansas v. Kansas & T. Coal Co. (C. C.) 96 F. 362.

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

**LAWLESS MAN.** An outlaw.

**LAWNDE, LOWNDE.** In old English law. A plain between woods. Co. Litt. 5b.

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

**LAWYER.** A person learned in the law; as an attorney, counsel, or solicitor; a person licensed to practice law.

Any person who, for fee or reward, prosecutes or defends causes in courts of record or other judicial tribunals of the United States, or of any of the states, or whose business it is to give legal advice in relation to any cause or matter whatever. Act of July 13, 1866, § 9, (14 St. at Large, 121.)

**LAY, n.** A share of the profits of a fishing or whaling voyage, allotted to the officers and seamen, in the nature of wages. Coffin v. Jenkins, 5 Fed. Cas. 1190; Thomas v. Osborn, 19 How. 33, 15 L. Ed. 534.

**LAY, v.** To state or allege in pleading.

—**Lay damages.** To state at the conclusion of the declaration the amount of damages which the plaintiff claims.

—**Lay out.** This term has come to be used technically in highway laws as embracing all the series of acts necessary to the complete establishment of a highway. Cone v. Hartford, 28 Conn. 375; Hitchcock v. Aldermen of Springfield, 121 Mass. 382; Mansur v. County Com'rs, 83 Me. 514, 22 A. 358. See Small v. Eason, 33 N. C. 94; Crawford v. City of Bridgeport, 92 Conn. 431, 103 A. 125, 126; Borrowdale v. Board of County Com'rs of So-

corro County, 23 N. M. 1, 163 P. 721, 723, L. R. A. 1917E, 456; *Patterson v. City of Baltimore*, 130 Md. 645, 101 A. 589, 591; *Douglass v. Riggin*, 123 Md. 18, 90 A. 1000, 1001.

—**Laying the venue.** Stating in the margin of a declaration the county in which the plaintiff proposes that the trial of the action shall take place.

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

—**Lay corporation.** See Corporation.

—**Lay days.** In the law of shipping. Days allowed in charter-parties for loading and unloading the cargo. 3 Kent. Comm. 202, 203.

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

—**Lay impropriator.** In English ecclesiastical law. A lay person holding a spiritual appropriation. 3 Steph. Comm. 72.

—**Lay investiture.** In ecclesiastical law. The ceremony of putting a bishop in possession of the temporalities of his diocese.

—**Lay judge.** A judge who is not learned in the law, *i. e.*, not a lawyer; formerly employed in some of the states as assessors or assistants to the presiding judges in the *nisi prius* courts or courts of first instance.

—**Lay people.** Jurymen.

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

**LAYE.** L. Fr. Law.

**LAYSTALL.** A place for dung or soil.

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

**LAZZI.** A Saxon term for persons of a servile condition.

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

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

**LE GUIDON DE LA MER.** The title of a French work on marine insurance, by an unknown author, dating back, probably, to the sixteenth century, and said to have been pre-

pared for the merchants of Rouen. It is noteworthy as being the earliest treatise on that subject now extant.

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

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

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

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

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

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

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

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

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

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

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

**LEADING CASE.** Among the various cases that are argued and determined in the courts,



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

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

**LEADING QUESTION.** A question put or framed in such a form as to suggest the answer sought to be obtained by the person interrogating. *Coogler v. Rhodes*, 38 Fla. 240, 21 So. 111, 56 Am. St. Rep. 170; *Gunter v. Watson*, 49 N. C. 456; *Railway Co. v. Hammon*, 92 Tex. 509, 50 S. W. 123; *Franks v. Gress Lumber Co.*, 111 Ga. 87, 36 S. E. 314; *Wal-tosh v. Pennsylvania R. Co.*, 259 Pa. 372, 103 A. 55, 57; *People v. Schladweiler*, 315 Ill. 553, 146 N. E. 525, 527; *Williams v. Craig* (Tex. Civ. App.) 252 S. W. 876, 878; *De Witt v. Skinner* (C. C. A.) 232 F. 443, 445; *Southern Traction Co. v. Coley* (Tex. Civ. App.) 211 S. W. 265, 266; *Smith v. Union-Buffalo Mills Co.*, 100 S. C. 115, 84 S. E. 422, 423; *In re Melvin's Estate*, 85 Cal. App. 691, 259 P. 980, 982; *State v. Sing*, 114 Or. 267, 229 P. 921, 927; *Hill v. State*, 76 Tex. Cr. R. 269, 173 S. W. 1022, 1024; *Indiana Utilities Co. v. Wareham*, 66 Ind. App. 542, 118 N. E. 572, 574; *Mehlich v. Mabie*, 180 Iowa, 450, 160 N. W. 368, 370.

Questions are leading which suggest to the witness the answer desired, or which embody a material fact, and may be answered by a mere negative or affirmative, or which involve an answer bearing immediately upon the merits of the cause, and indicating to the witness a representation which will best accord with the interests of the party propounding them. *Turney v. State*, 8 Smedes & M. (Miss.) 104, 47 Am. Dec. 74.

A question is leading which puts into a witness' mouth the words that are to be echoed back, or plainly suggests the answer which the party wishes to get from him. *People v. Mather*, 4 Wend. (N. Y.) 229, 247, 21 Am. Dec. 122.

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

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

In Spanish and Mexican law, the league, as a legal measure of length, consisted of 5,000 varas, and a vara was equivalent to  $33\frac{1}{3}$  English inches, making the league equal

to a little more than 2.63 miles, and the square league equal to 4,428 acres. This is its meaning as used in Texas land grants. *United States v. Perot*, 98 U. S. 423, 25 L. Ed. 251; *Hunter v. Morse*, 49 Tex. 219. "League and labor," an area of land equivalent to 4,605 acres. *Ammons v. Dwyer*, 78 Tex. 639, 15 S. W. 1049. See Labor.

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

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

**LEAL.** L. Fr. Loyal; that which belongs to the law.

**LEALTE.** L. Fr. Legality; the condition of a *legalis homo*, or lawful man.

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

**LEAP-YEAR.** See Bissextile.

**LEARNED.** Possessing learning; erudite; versed in the law. In statutes prescribing the qualifications of judges, "learned in the law" designates one who has received a regular legal education, the almost invariable evidence of which is the fact of his admission to the bar. See *Jamieson v. Wiggin*, 12 S. D. 16, 80 N. W. 137, 46 L. R. A. 317, 76 Am. St. Rep. 585; *O'Neal v. McKinna*, 116 Ala. 620, 22 So. 905; *Potter v. Robbins*, 155 Tenn. 1, 290 S. W. 396, 399; *Heard v. Moore*, 154 Tenn. 566, 290 S. W. 15, 16, 50 A. L. R. 1152; *State v. Schmah*, 125 Minn. 533, 147 N. W. 425, 426.

**LEARNING.** Legal doctrine. 1 Leon. 77.

**LEASE.** A conveyance of lands or tenements to a person for life, for a term of years, or, at will, in consideration of a return of rent or some other recompense. The person who so conveys such lands or tenements is termed the "lessor," and the person to whom they are conveyed, the "lessee;" and when the lessor so conveys lands or tenements to a lessee, he is said to lease, demise, or let them. 4 Cruise, Dig. 58; U. S. Nat. Bank of La Grande v. Miller, 122 Or. 285, 258 P. 205, 207, 58 A. L. R. 339; *Papoose Oil Co. v. Swindler*, 95 Okl. 264, 221 P. 506, 509; *Lawrence v. Goodstein*, 91 Misc. 19, 154 N. Y. S. 229, 230; *Howard v. Manning*, 79 Okl. 165, 192 P. 358, 360, 79 A. L. R. 819.

A conveyance of any lands or tenements, (usually in consideration of rent or other annual recompense,) made for life, for years, or at will, but always for a less time than the lessor has in the premises; for, if it be for the whole interest, it is more properly an as-

signment than a lease. 2 Bl. Comm. 317; Shep. Touch. 266; Watk. Conv. 220. And see Sawyer v. Hansen, 24 Me. 545; Thomas v. West Jersey R. C., 101 U. S. 78, 25 L. Ed. 950; Jackson v. Harsen, 7 Cow. (N. Y.) 326, 17 Am. Dec. 517; Lacey v. Newcomb, 95 Iowa, 287, 63 N. W. 704; Mayberry v. Johnson, 15 N. J. Law, 121; Milliken v. Faulk, 111 Ala. 658, 20 So. 594; Craig v. Summers, 47 Minn. 189, 49 N. W. 742, 15 L. R. A. 236; Harley v. O'Donnell, 9 Pa. Co. Ct. R. 56.

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

"Lease" or "hire" is a synallagmatic contract, to which consent alone is sufficient, and by which one party gives to the other the enjoyment of a thing, or his labor, at a fixed price. Civil Code La. art. 2669.

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

#### Concurrent Lease

One granted for a term which is to commence before the expiration or other determination of a previous lease of the same premises made to another person; or, in other words, an assignment of a part of the reversion, entitling the lessee to all the rents accruing on the previous lease after the date of his lease and to appropriate remedies against the holding tenant. Cargill v. Thompson, 57 Minn. 534, 59 N. W. 638.

#### Lease and Release

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

#### Mining Lease

See Mining.

#### Parol Lease

A lease of real estate not evidenced by writing, but resting in an oral agreement.

#### Perpetual Lease

A lease of lands which may last without limitation as to time; a grant of lands in fee with the reserva-

tion of a rent in fee; a fee-farm. Edwards v. Noel, 88 Mo. App. 434.

#### Sublease, or Underlease

One executed by the lessee of an estate to a third person, conveying the same estate for a shorter term than that for which the lessee holds it.

The distinction between an assignment of a term for years and a sublease or subletting is that if the lessee parts with his entire interest in the term, it constitutes an assignment and not a subletting, although the transfer is in form a sublease; but if the lessee reserves to himself a reversionary interest in the term, it constitutes a sublease, whatever the form of the transfer. Johnson v. Thompson, 64 So. 554, 555, 185 Ala. 666; Weigle v. Rogers, 213 S. W. 501, 502, 202 Mo. App. 520; Cross v. Bouck, 165 P. 702, 703, 175 Cal. 253; Williams v. Randolph & C. Ry. Co., 108 S. E. 915, 918, 182 N. C. 267; Holden v. Tidwell, 133 P. 54, 55, 37 Okl. 553, 49 L. R. A. (N. S.) 369, Ann. Cas. 1915C, 394; McNamer Realty Co. v. Sunburst Oil & Gas Co., 247 P. 166, 170, 76 Mont. 332; Jordan v. Scott, 177 P. 504, 506, 38 Cal. App. 739; Davis v. First Nat. Bank (Tex. Civ. App.) 258 S. W. 241, 242; Johnson v. Moxley, 113 So. 656, 657, 216 Ala. 466.

**LEASEHOLD.** An estate in realty held under a lease; an estate for a fixed term of years. See Stubbings v. Evanston, 136 Ill. 37, 26 N. E. 577, 11 L. R. A. 839, 29 Am. St. Rep. 300; Washington F. Ins. Co. v. Kelly, 32 Md. 421, 3 Am. Rep. 149; Harley v. O'Donnell, 9 Pa. Co. Ct. R. 56.

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

**LEASING, or LESING.** Gleaning.

**LEAUTE.** L. Fr. Legality; sufficiency in law. Britt. c. 109.

**LEAVE.** To give or dispose of by will. "The word 'leave,' as applied to the subject-matter, *prima facie* means a disposition by will." Thorley v. Thorley, 10 East, 438; Carr v. Effinger, 78 Va. 203.

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

**LEAVE OF COURT.** Permission obtained from a court to take some action which, without such permission, would not be allowable; as, to sue a receiver, to file an amended pleading, to plead several pleas. See Copperthwait v. Dummer, 18 N. J. Law, 258.

**LEAVE TO DEFEND.** The bills of exchange act 1855 (18 & 19 Vict. c. 67) allowed actions on bills and notes commenced within six months after being due to be by writ of sum-

mons in a form provided by the act, and unless the defendant should within twelve days obtain leave to appear and defend the action, allowed the plaintiff to sign judgment on proof of service. This procedure was retained by the judicature act, but abolished in 1880. It is now provided that in all actions where the plaintiff seeks merely to recover a debt or liquidated demand in money, or possession where a tenancy has expired or been determined by notice to quit, the writ of summons may be specially indorsed with the particulars of the amount sought to be recovered after giving credit for any payment or set-off; in which case, if the defendant fail to appear, judgment may be signed for the amount claimed; and it is further provided that where the defendant appears on a writ of summons especially indorsed, the plaintiff may, on affidavit verifying the cause of action and swearing that in his belief there is no defence to the action, call on the defendant to show cause why the plaintiff should not sign final judgment for the amount so indorsed; and the court or judge may, unless the defendant, by affidavit or otherwise, satisfy the court or judge that he has a good defence on the merits or disclose sufficient facts to entitle him to be permitted to defend the action, make an order empowering the plaintiff to sign judgment accordingly. Whart. Lex. See Allocatur.

**LECCATOR.** A debauched person. Cowell.

**LECHERWITE, LAIRWITE, or LEGERWITE.** A fine for adultery or fornication, anciently paid to the lords of certain manors. 4 Inst. 206.

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

**LECTORES.** A term applied to notaries in the Middle Ages. So. Afr. Law Dict.

**LECTRINUM.** A pulpit. Mon. Angl. tom. iii. p. 243.

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

**LEDGE.** In mining law. This term, as used in the mining laws of the United States (Rev. St. § 2322 [30 USCA § 26]) and in both legal and popular usage in the western American states, is synonymous with "lode," which see. Myers v. Lloyd, 4 Alaska, 263, 265.

**LEDGER.** A book of accounts in which a trader enters the names of all persons with whom he has dealings; there being two parallel columns in each account, one for the entries to the debit of the person charged, the

other for his credits. Into this book are posted the items from the day-book or journal.

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

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

**LEDO.** The rising water or increase of the sea.

**LEEMAN'S ACTS.** Acts 30 Vict. c. 29 and 35 & 36 Vict. c. 91, by which contracts for the sale of bank shares are void unless the number of the shares are set forth in the contract. 9 Q. B. D. 546; and by which are authorized the application of the funds of municipal corporations and other governing bodies under certain conditions towards promoting or opposing parliamentary and other proceedings for the benefit or protection of the inhabitants.

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

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

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

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

**LEGACY.** A bequest or gift of personal property by last will and testament. Browne v. Cogswell, 5 Allen (Mass.) 557; Evans v. Price, 118 Ill. 593, 8 N. E. 854; Probate Court v. Matthews, 6 Vt. 274; In re Karr, 2 How. Prac. N. S. (N. Y.) 409; Nye v. Grand Lodge, 9 Ind. App. 131, 36 N. E. 429; Ky. St. 1903, § 467 (Ky. St. 1930, § 467). Baldwin v. Eidman (D. C.) 202 F. 968, 977; Stubbs v. Abel, 114 Or. 610, 233 P. 852, 858; Hobbs v. Breneman, 94 W. Va. 320, 118 S. E. 546, 549; Wilson v. Wilson, 261 Ill. 174, 103 N. E. 743, 745.

#### Synonyms

"Legacy" and "bequest" are equivalent terms. But in strict common-law terminology "legacy" and "devise" do not mean the same thing and are not interchangeable, the former being restricted to testamentary gifts of personal property, while the latter is properly used only in relation to real estate. But by construction the word "legacy" may be so extended as to include realty or interests therein, when this is necessary to make a statute cover its intended subject-matter or to effectuate the purpose of a testator as expressed in his will. See In re Ross's Estate, 140 Cal. 282, 73 P. 976; In re Karr, 2 How.

Prac. N. S. (N. Y.) 409; Bacon v. Bacon, 55 Vt. 247; Roth's Appeal, 94 Pa. 191; Williams v. McComb, 38 N. C. 455; Lasher v. Lasher, 13 Barb. (N. Y.) 110; In re Stuart's Will, 115 Wis. 294, 91 N. W. 688; Homes v. Mitchell, 6 N. C. 230, 5 Am. Dec. 527.

#### Classification

—**Absolute legacy.** One given without condition and intended to vest immediately.

—**Accumulative legacy.** A second, double, or additional legacy; a legacy given in addition to another given by the same instrument, or by another instrument.

—**Additional legacy.** One given to the same legatee in addition to (and not in lieu of) another legacy given before by the same will or in a codicil thereto.

—**Alternate legacy.** One by which the testator gives one of two or more things without designating which.

—**Conditional legacy.** One which is liable to take effect or to be defeated according to the occurrence or non-occurrence of some uncertain event. Harker v. Smith, 41 Ohio St. 238, 52 Am. Rep. 80; Markham v. Hufford, 123 Mich. 505, 82 N. W. 222, 48 L. R. A. 580, 81 Am. St. Rep. 222.

—**Contingent legacy.** A legacy given to a person at a future uncertain time, that may or may not arrive; as "at his age of twenty-one," or "if" or "when he attains twenty-one." 2 Bl. Comm. 513; 2 Steph. Comm. 259. A legacy made dependent upon some uncertain event. 1 Rep. Leg. 506. A legacy which has not vested. In re Engles' Estate, 166 Pa. 280, 31 A. 76; Andrews v. Russell, 127 Ala. 195, 28 So. 703; Rubencane v. McKee, 6 Del. Ch. 40, 6 A. 639.

—**Cumulative legacies.** These are legacies so called to distinguish them from legacies which are merely repeated. In the construction of testamentary instruments, the question often arises whether, where a testator has twice bequeathed a legacy to the same person, the legatee is entitled to both, or only to one of them; in other words, whether the second legacy must be considered as a mere repetition of the first, or as cumulative, *i. e.*, additional. In determining this question, the intention of the testator, if it appears on the face of the instrument prevails. Wharton.

—**Demonstrative legacy.** A bequest of a certain sum of money, with a direction that it shall be paid out of a particular fund. It differs from a specific legacy in this respect: that, if the fund out of which it is payable fails for any cause, it is nevertheless entitled to come on the estate as a general legacy. And it differs from a general legacy in this: that it does not abate in that class, but in the class of specific legacies. Appeal of Arm-

strong, 63 Pa. 316; Kenaday v. Sinnott, 179 U. S. 606, 21 S. Ct. 233, 45 L. Ed. 339; Gilmer v. Gilmer, 42 Ala. 9; Glass v. Dunn, 17 Ohio St. 424; Crawford v. McCarthy, 159 N. Y. 514, 54 N. E. 277; Roquet v. Eldridge, 118 Ind. 147, 20 N. E. 733. Spinney v. Eaton, 111 Me. 1, 87 A. 378, 380, 46 L. R. A. (N. S.) 535; Taylor v. Hull, 121 Kan. 102, 245 P. 1026, 1027; In re Obst's Estate, 115 Misc. 711, 185 N. Y. S. 283, 284; In re Douglas' Estate, 149 Minn. 276, 183 N. W. 355, 356; In re Wilson's Estate, 260 Pa. 407, 103 A. 880, 6 A. L. R. 1349; In re Bouk's Estate, 80 Misc. 196, 141 N. Y. S. 922, 924; Baker v. Baker, 319 Ill. 320, 150 N. E. 284, 285, 42 A. L. R. 1514. A legacy of quantity is ordinarily a general legacy; but there are legacies of quantity in the nature of specific legacies, as of so much money, with reference to a particular fund for payment. This kind of legacy is called by the civilians a "demonstrative legacy," and it is so far general and differs so much in effect from one properly specific that, if the fund be called in or fail, the legatee will not be deprived of his legacy, but be permitted to receive it out of the general assets; yet the legacy is so far specific that it will not be liable to abate with general legacies upon a deficiency of assets. 2 Williams, Ex'rs, 1078.

—**General legacy.** A pecuniary legacy, payable out of the general assets of a testator. 2 Bl. Comm. 512; Ward. Leg. 1, 16. One so given as not to amount to a bequest of a particular thing or particular money of the testator, distinguished from others of the same kind; one of quantity merely, not specific. Tift v. Porter, 8 N. Y. 518; Evans v. Hunter, 86 Iowa, 413, 53 N. W. 277, 17 L. R. A. 308, 41 Am. St. Rep. 503; Kelly v. Richardson, 100 Ala. 584, 13 So. 785; Gardner v. Viall, 36 R. I. 436, 90 A. 760, 762; Taylor v. Hull, 121 Kan. 102, 245 P. 1026, 1027; Leighton v. Leighton, 193 Iowa, 1299, 188 N. W. 922, 929; Spinney v. Eaton, 111 Me. 1, 87 A. 378, 380, 46 L. R. A. (N. S.) 535; Kramer v. Kramer, 119 C. C. A. 482, 201 F. 248, 253; Appeal of United States Fidelity & Guaranty Co., 90 N. J. Eq. 254, 106 A. 364, 365; Smith v. Smith, 192 N. C. 687, 135 S. E. 855, 857; Guthrie v. Guthrie Ex'r, 168 Ky. 805, 183 S. W. 221, 224; Hughes v. Hiscoc, 105 Misc. 521, 174 N. Y. S. 564, 566; School Dist. No. 1 in City and County of Denver v. International Trust Co., 59 Colo. 486, 149 P. 620, 623.

—**Indefinite legacy.** One which passes property by a general or collective term, without enumeration of number or quantity; as, a bequest of "all" the testator's "goods," or his "bank stock." Lown. Leg. 84.

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

—**Modal legacy.** A bequest accompanied by directions as to the mode or manner in which

it shall be applied for the legatee's benefit, *e. g.*, a legacy to A. to buy him a house or a commission in the army. See Lown. Leg. 151.

—**Pecuniary legacy.** A bequest of a sum of money, or of an annuity. It may or may not specify the fund from which it is to be drawn. It is not the less a pecuniary legacy if it comprises the specific pieces of money in a designated receptacle, as a purse or chest. See *Humphrey v. Robinson*, 52 Hun, 200, 5 N. Y. S. 164; *Lang v. Ropke*, 10 N. Y. Leg. Obs. 75; *Mathis v. Mathis*, 18 N. J. Law, 66.

—**Residuary legacy.** A bequest of all the testator's personal estate not otherwise effectually disposed of by his will; a bequest of "all the rest, residue, and remainder" of the personal property after payment of debts and satisfaction of the particular legacies. See *In re Williams' Estate*, 112 Cal. 521, 44 P. 808, 53 Am. St. Rep. 224; *Stubbs v. Abel*, 114 Or. 610, 233 P. 852, 857.

—**Special legacy.** A "specific legacy" (*q. v.*) is sometimes so called.

—**Specific legacy.** One which operates on property particularly designated. *Hart v. Brown*, 145 Ga. 140, 88 S. E. 670, 671; *Taylor v. Hull*, 121 Kan. 102, 245 P. 1026, 1027; *Holcomb v. Mullin*, 167 Ark. 622, 268 S. W. 32, 34; *Jones v. Virginia Trust Co.*, 142 Va. 229, 128 S. E. 533, 536; *Smith v. Smith*, 192 N. C. 687, 135 S. E. 855, 857; *Spinney v. Eaton*, 111 Me. 1, 87 A. 378, 380, 46 L. R. A. (N. S.) 535; *Bales v. Murray*, 186 Iowa, 649, 171 N. W. 747, 749; *Baker v. Baker*, 319 Ill. 320, 150 N. E. 284, 285, 42 A. L. R. 1514; *School Dist. No. 1 in City and County of Denver v. International Trust Co.*, 59 Colo. 486, 149 P. 620, 623. A legacy or gift by will of a particular specified thing, as of a horse, a piece of furniture, a term of years, and the like. *Morriss v. Garland*, 78 Va. 222. In a strict sense, a legacy of a particular chattel, which is specified and distinguished from all other chattels of the testator of the same kind; as of a horse of a certain color. A legacy of a quantity of chattels described collectively; as a gift of all the testator's pictures. *Ward*, Leg. 16-18. A legacy is general, where its amount or value is a charge upon the general assets in the hands of the executors, and where, if these are sufficient to meet all the provisions in the will, it must be satisfied; it is specific, when it is limited to a particular thing, subject, or chose in action, so identified as to render the bequest inapplicable to any other; as the bequest of a horse, a picture, or jewel, or a debt due from a person named, and, in special cases, even of a sum of money. *In re Daniels' Estate*, 192 Iowa, 326, 184 N. W. 647, 650; *Baker v. Baker*, 319 Ill. 320, 150 N. E. 284, 285, 42 A. L. R. 1514; *Carpenter's Estate v. Wiley*, 166 Iowa, 48, 147 N. W. 175, 177; *Langdon v. Astor*, 3 Duer (N. Y.) 477, 543.

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

—**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. Civ. Code La., art. 1606.

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

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

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

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

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

5. Created by law. *De Vita v. Pianisani*, 127 Misc. 611, 217 N. Y. S. 438, 440.

As to legal "Age," "Assets," "Consideration," "Cruelty," "Damages," "Day," "Debts," "Demand," "Defense," "Disability," "Discretion," "Duty," "Estate," "Evidence," "Fraud," "Heirs," "Holiday," "Incapacity," "Interest," "Irregularity," "Malice," "Memory," "Mortgage," "Negligence," "Notice," "Proceedings," "Process," "Relevancy," "Remedy," "Representative," "Reversion," "Subrogation," and "Tender," see those titles.

**LEGAL ACUMEN.** The doctrine of legal acumen is that if a defect in, or invalidity of, a claim to land is such as to require legal acumen to discover it, whether it appears upon the face of the record or proceedings, or is to be proved aliunde, then the powers or jurisdiction of a court of equity may be invoked to remove the cloud created by such defect or invalidity. *Schwab v. City of St. Louis*, 310 Mo. 116, 274 S. W. 1058, 1060.

**LEGAL ASSETS.** Such property of a testator in the hands of his executor as is liable to debts in temporal courts and to legacies in the spiritual, by course of law; equitable assets are such as are liable only by help of a court of equity. 2 Will. Ex. 1408-1431. The distinction is not important in the United States; *In re Sperry's Estate*, 1 Ashm. (Pa.) 347. See *Story*, Eq. Jur. § 551; 2 *Jarm. Wills*, 543; *Crow*. Ex. & Ad. 421, 423.

**LEGAL CRUELTY.** Such conduct on the part of a husband as will endanger the life,

health, or limb of his wife, or create a reasonable apprehension of bodily hurt; such acts as render cohabitation unsafe, or are likely to be attended with injury to the person or to the health of the wife; *Odom v. Odom*, 36 Ga. 286; 2 Curt. Eccl. 281; *Mahone v. Mahone*, 19 Cal. 626, 81 Am. Dec. 91; *Hughes v. Hughes*, 44 Ala. 698; *Ward v. Ward*, 103 Ill. 477; *Beyer v. Beyer*, 50 Wis. 254, 6 N. W. 807, 36 Am. Rep. 848; *Kennedy v. Kennedy*, 73 N. Y. 369; *Smith v. Smith*, 33 N. J. Eq. 458.

**LEGAL INSANITY.** See *Insanity*.

**LEGALIS HOMO.** Lat. A lawful man; a person who stands *rectus in curia*; a person not outlawed, excommunicated, or infamous. It occurs in the phrase, "*probi et legales homines*," (good and lawful men, competent jurors,) and "legality" designates the condition of such a man. *Jacob*.

**LEGALIS MONETA ANGLIÆ.** Lawful money of England. 1 Inst. 207.

**LEGALITY, or LEGALNESS.** Lawfulness.

**LEGALIZATION.** The act of legalizing or making legal or lawful.

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

**LEGALIZED NUISANCE.** A structure, erection, or other thing which would constitute a nuisance at common law, but which cannot be objected to by private persons because constructed or maintained under direct and sufficient legislative authority. Such, for example, are hospitals and pesthouses maintained by cities. See *Baltimore v. Fairfield Imp. Co.*, 87 Md. 352, 39 A. 1081, 40 L. R. A. 494, 67 Am. St. Rep. 344.

**LEGALLY.** Lawfully; according to law.

**LEGANTINE CONSTITUTIONS.** The name of a code of ecclesiastical laws, enacted in national synods, held under legates from Pope Gregory IX. and Clement IV., in the reign of Henry III., about the years 1220 and 1268. 1 Bl. Comm. 83.

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

**LEGATARIUS.** Lat.

**In The Civil Law**

One to whom a thing is bequeathed; a legatee or legatary. Inst. 2, 20, 2, 4, 5, 10; Bract. fol. 40.

**In Old European Law**

A legate, messenger, or envoy. *Spelman*.

**LEGATARY.** One to whom anything is bequeathed; a legatee. This word is sometimes though seldom, used to designate a legate or nuncio.

**LEGATEE.** The person to whom a legacy is given. See *Legacy*. *Hobbs v. Brenneman*, 94 W. Va. 320, 118 S. E. 546, 549; *Yopp v. Atlantic Coast Line R. Co.*, 148 Ga. 539, 97 S. E. 534, 535; *Mosser v. Flake*, 258 Ill. 233, 101 N. E. 540, 541, Ann. Cas. 1914B, 425; *In re Lewis' Estate*, 39 Nev. 445, 159 P. 961, 962, 4 A. L. R. 241.

**Residuary Legatee**

The person to whom a testator bequeaths the residue of his personal estate, after the payment of such other legacies as are specifically mentioned in the will. *Probate Court v. Matthews*, 6 Vt. 274; *Laing v. Barbour*, 119 Mass. 525; *Lafferty v. People's Sav. Bank*, 76 Mich. 35, 43 N. W. 34.

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

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

**LEGATOR.** One who makes a will, and leaves legacies.

**LEGATORY.** The third part of a freeman's personal estate, which by the custom of London, in case he had a wife and children, the freeman might always have disposed of by will. *Bac. Abr. "Customs of London," D. 4.*

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

**LEGATUM.** Lat.

**In The Civil Law**

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

**In Old English Law**

A legacy given to the church, or an accustomed mortuary. *Cowell*.

**Legatum morte testatoris tantum confirmatur, sicut donatio inter vivos traditione sola.** *Dyer*, 143. A legacy is confirmed by the death of a testator, in the same manner as a gift from a living person is by delivery alone.

**LEGATUM OPTIONIS.** In Roman law. A legacy to A. B. of any article or articles that A. B. liked to choose or select out of the tes-

tator's estate. If A. B. died after the testator, but before making the choice or selection, his representative (*hæres*) could not, prior to Justinian, make the selection for him, but the legacy failed altogether. Justinian, however, made the legacy good, and enabled the representative to choose. Brown.

**Legatus regis vice fungitur a quo destinatur et honorandus est sicut ille cuius vicem gerit.** 12 Coke, 17. An ambassador fills the place of the king by whom he is sent, and is to be honored as he is whose place he fills.

**LEGEM.** Lat. Accusative of *lex*, law. Occurring in various legal phrases, as follows:

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

**LEGEM FACERE.** In old English law. To make law or oath.

**LEGEM FERRE.** In Roman law. To propose a law to the people for their adoption. Heinecc. Ant. Rom. lib. 1, tit. 2.

**LEGEM HABERE.** To be capable of giving evidence upon oath. Witnesses who had been convicted of crime were incapable of giving evidence, until 6 & 7 Vict. c. 85.

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

**LEGEM PONE.** To propound or lay down the law. By an extremely obscure derivation or analogy, this term was formerly used as a slang equivalent for payment in cash or in ready money.

**LEGEM SCISCERE.** To give consent and authority to a proposed law; applied to the consent of the people.

**Legem terræ amittentes, perpetuam infamiæ notam inde merito incurrunt.** Those who lose the law of the land, then justly incur the ineffaceable brand of infamy. 3 Inst. 221.

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

**LEGENITA.** A fine for criminal conversation with a woman. Whart. Lex.

**LEGES.** Lat. Laws. At Rome, the *leges* (the decrees of the people in a strict sense) were laws which were proposed by a magistrate presiding in the senate, and adopted by the Roman people in the *comitia centuriata*. Mackeld, Rom. Law, § 31.

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

**Leges Angliæ sunt tripartitæ,—jus commune, consuetudines, ac decreta comitorum.** The

laws of England are threefold,—common law, customs, and decrees of parliament.

**LEGES BARBARORUM.** A class name for the codes of mediæval European law. For a list, see Jenks, 2 Sel. Essays in Anglo-Amer. Leg. Hist. 154.

**LEGES EDWARDI CONFESSORIS.** A name used for a legal treatise written from 1130 to 1135, which presents the law in force toward the end of Henry I. Its authority is said to be undeserved. 2 Sel. Essays in Anglo-Am. Leg. Hist. 17.

**LEGES ET CONSUETUDINI REGNI.** The accepted name for the common law from an early time; Green, in 9 L. Q. R. 153; since the latter half of the 12th century at least; Pollock, First Book of Jurispr. 249.

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

**LEGES HENRICI.** A book written between 1114 and 1118 containing Anglo-Saxon and Norman law. It is said to be an invaluable source of knowledge of the period preceding the full development of the Norman law. 2 Sel. Essays in Anglo-Am. Leg. Hist. 16.

**Leges humanæ nascuntur, vivunt, et moriuntur.** Human laws are born, live, and die. 7 Coke, 25; 2 Atk. 674; 11 C. B. 767; 1 Bl. Comm. 89.

**LEGES JULIÆ.** Laws enacted during the reign of Augustus or of Julius Cæsar which, with the *lex abutia*, effectually abolished the *legis actiones*.

**Leges naturæ perfectissimæ sunt et immutabiles; humani vero juris conditio semper infinitum decurrit, et nihil est in eo quod perpetuo stare possit. Leges humanæ nascuntur, vivunt, moriuntur.** The laws of nature are most perfect and immutable; but the condition of human law is an unending succession, and there is nothing in it which can continue perpetually. Human laws are born, live, and die. 7 Coke, 25.

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

**Leges non verbis, sed rebus, sunt impositæ.** Laws are imposed, not on words, but things. 10 Coke, 101; Branch, Princ.

**Leges posteriores priores contrarias abrogant.** Later laws abrogate prior laws that are contrary to them. Broom, Max. 27, 29.

**LEGES SACRATÆ.** All solemn compacts between the plebeians and patricians were so called.

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

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

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

**LEGES TABELLARIÆ.** Roman laws regulating the mode of voting by ballot, (*tabella*.) 1 Kent, Comm. 232, note.

**Leges vigilantibus, non dormientibus, subveniunt.** The laws aid the vigilant, not the negligent. Smith v. Carll, 5 Johns. Ch. (N. Y.) 122, 145; Toole v. Cook, 16 How. Prac. (N. Y.) 142, 144.

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

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

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

**Legis constructio non facit injuriam.** Co. Litt. 183. The construction of law does no injury.

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

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

**LEGISLATION.** The act of giving or enacting laws. State v. Hyde, 121 Ind. 20, 22 N. E. 644.

**LEGISLATIVE.** Making or giving laws; pertaining to the function of law-making or to the process of enactment of laws. See Evansville v. State, 118 Ind. 426, 21 N. E. 267, 4 L. R. A. 93.

**LEGISLATIVE DEPARTMENT.** That department of government whose appropriate function is the making or enactment of laws, as distinguished from the judicial department, which interprets and applies the laws, and the executive department, which carries them into execution and effect. See In re Davies, 168 N. Y. 89, 61 N. E. 118, 56 L. R. A. 855.

**LEGISLATIVE EXPENSES.** Distinction between "legislative expenses" and "personal expenses," incurred as member of Legislature, is that legislative expenses are those that are necessary to enable the Legislature to prop-

erly perform its functions, while those that are personal are those that must be incurred by a member of the Legislature in order to be present at the place of meeting, expenses for his personal comfort and convenience, which have nothing to do with the performance of his duty as a member of the Legislature. Personal expenses are those incurred for rooms, meals, laundry, communications with their homes, and other things of like character. State v. Turner, 117 Kan. 755, 233 P. 510, 511.

**LEGISLATIVE OFFICER.** A member of the legislative body or department of a state or municipal corporation. See Prosecuting Attorney v. Judge of Recorder's Court, 59 Mich. 529, 26 N. W. 694. One of those whose duties relate mainly to the enactment of laws, such as members of congress and of the several state legislatures. These officers are confined in their duties by the constitution generally to make laws, though sometimes, in cases of impeachment, one of the houses of the legislature exercises judicial functions somewhat similar to those of a grand jury, by presenting to the other articles of impeachment, and the other house acts as a court in trying such impeachment.

**LEGISLATIVE POWER.** The lawmaking power; the department of government whose function is the framing and enactment of laws. Evansville v. State, 118 Ind. 426, 21 N. E. 267, 4 L. R. A. 93; Sanders v. Cabaniss, 43 Ala. 180; Brown v. Galveston, 97 Tex. 1, 75 S. W. 495; O'Neil v. American F. Ins. Co., 166 Pa. 72, 30 A. 943, 26 L. R. A. 715, 45 Am. St. Rep. 650; State v. Lange Canning Co., 164 Wis. 228, 157 N. W. 777, 779.

**LEGISLATOR.** One who makes laws; a member of a legislative body.

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

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

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

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

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

**LEGITIMACY.** Lawful birth; the condition of being born in wedlock; the opposite of il-



legitimacy or bastardy. *Davenport v. Caldwell*, 10 S. C. 337; *Pratt v. Pratt*, 5 Mo. App. 541.

**LEGITIMATE**, *v.* To make lawful; to confer legitimacy; to place a child born before marriage on the footing of those born in lawful wedlock. *McKamie v. Baskerville*, 86 Tenn. 459, 7 S. W. 194; *Blythe v. Ayres*, 96 Cal. 532, 31 P. 915, 19 L. R. A. 40.

**LEGITIMATE**, *adj.* That which is lawful, legal, recognized by law, or according to law; as legitimate children, legitimate authority, or lawful power. *Wilson v. Babb*, 18 S. C. 69; *Gates v. Seibert*, 157 Mo. 254, 57 S. W. 1065, 80 Am. St. Rep. 625.

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

**Legitimation per subsequens matrimonium**. The legitimation of a bastard by the subsequent marriage of his parents. *Bell*.

**LEGITIME**. Lat. In the civil law. That portion of a parent's estate of which he cannot disinherit his children without a legal cause. *Miller v. Miller*, 105 La. 257, 29 So. 802; *Cox v. Von Ahlefeldt*, 50 La. Ann. 1266, 23 So. 959; *Bauman v. Pennywell*, 160 La. 555, 107 So. 425, 427. It may also apply to father or mother. Succession of Greenlaw, 148 La. 255, 86 So. 786, 791.

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

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

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

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

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

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

**LEHURECHT**. The German feudal law. 1 *Poll. & Maitl.* 214.

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

**LEIPÄ**. In old English law. A fugitive or runaway.

**LEND**. To part with a thing of value to another for a time fixed or indefinite, yet to have some time in ending, to be used or enjoyed by that other, the thing itself or the equivalent of it to be given back at the time fixed, or when lawfully asked for, with or without compensation for the use as may be agreed upon. *Kent v. Quicksilver Min. Co.*, 78 N. Y. 177.

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

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

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

**LEODES**. In old European law. A vassal, or leige man; service; a *were* or *weregild*. *Spelman*.

**LEOHT-GESCEOT**. A tax for supplying the church with lights. *Anc. Inst. Eng.*

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

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

**LEPORARIUS**. A greyhound. *Cowell*.

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

**LEPROSUS**. L. Lat. A leper.

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

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

**LESE MAJESTY**. The old English and Scotch translation of "*læsa majestas*," or high treason. 2 *Reeve, Eng. Law*, 6. See *Leze Majesty*.

**Les fictions naissent de la loi, et non la loi des fictions**. Fictions arise from the law, and not law from fictions.

**Les lois ne se chargent de punir que les actions extérieures**. Laws do not undertake to

punish other than outward actions. Montes. Esp. Lois, b. 12, c. 11; Broom. Max. 311.

**LESION.** Fr. Damage; injury; detriment. Kelham. A term of the Scotch law.

**In the Civil Law**

The injury suffered by one who does not receive a full equivalent for what he gives in a commutative contract. Civil Code La. art. 1860. Inequality in contracts. Poth. Obl., no. 33; Fleming v. Irion, 132 La. 163, 61 So. 151, 152.

**In Medical Jurisprudence**

Any change in the structure of an organ due to injury or disease, whether apparent or diagnosed as the cause of a functional irregularity or disturbance. People v. Durand, 307 Ill. 611, 139 N. E. 78, 83.

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

**LESSA.** A legacy. Mon. Ang., t. 1, p. 562.

**LESSEE.** He to whom a lease is made. He who holds an estate by virtue of a lease. Viterbo v. Friedlander, 7 S. Ct. 962, 120 U. S. 707, 30 L. Ed. 776; Lang v. Hitt, 24 Ga. App. 714, 102 S. E. 136; Lang v. Hitt, 149 Ga. 667, 101 S. E. 795, 796; Dutton v. Dutton, 122 Kan. 640, 253 P. 553, 554; Jackson v. State, 77 Tex. Cr. R. 483, 179 S. W. 711, 712; Boston Fish Market Corp. v. City of Boston, 224 Mass. 31, 112 N. E. 616, 617; 103 Park Ave. Co. v. Exchange Buffet Corporation, 242 N. Y. 366, 152 N. E. 117, 119.

**LESSOR.** He who grants a lease. Viterbo v. Friedlander, 7 S. Ct. 962, 120 U. S. 707, 30 L. Ed. 776; Dutton v. Dutton, 122 Kan. 640, 253 P. 553, 554.

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

**LEST.** Fr. In French maritime law. Balast. Ord. Mar. liv. 4, tit. 4, art. 1.

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

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

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

**LESWES.** Pastures. Domesday; Co. Litt. 4b. A term often inserted in old deeds and conveyances. Cowell.

**LET, v.**

**In Conveyancing**

To demise or lease. "To let and set" is an old expression.

**In Practice**

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

**In Contracts**

To award to one of several persons, who have submitted proposals therefor, the contract for erecting public works or doing some part of the work connected therewith, or rendering some other service to government for a stipulated compensation.

Letting the contract is the choosing one from among the number of bidders, and the formal making of the contract with him. The letting, or putting out, is a different thing from the invitation to make proposals; the letting is subsequent to the invitation. It is the act of awarding the contract to the proposer, after the proposals have been received and considered. See Eppes v. Railroad Co., 35 Ala. 33, 55.

In the language of judicial orders and decrees, the word "let" (in the imperative) imports a positive direction or command. Thus the phrase "let the writ issue as prayed" is equivalent to "it is hereby ordered that the writ issue," etc. See Ingram v. Laroussini, 50 La. Ann. 69, 23 So. 498.

**LET, n.** In old conveyancing. Hindrance; obstruction; interruption. Still occasionally used in the phrase "without any let, suit, trouble," etc. Gustafson v. Ursales, 3 Ohio App. 136, 139.

**LET IN.** In practice. To admit a party as a matter of favor; as to open a judgment and "let the defendant in" to a defense.

**LETHAL WEAPON.** In Scotch law. A deadly weapon. See State v. Godfrey, 17 Or. 300, 20 P. 625, 11 Am. St. Rep. 830.

**LETRADO.** In Spanish law. An advocate. White, New Recop. b. 1, tit. 1, c. 1, § 3, note.

**LETTER.** One of the arbitrary marks or characters constituting the alphabet, and used in written language as the representatives of sounds or articulations of the human organs of speech. Several of the letters of the English alphabet have a special significance in jurisprudence, as abbreviations and otherwise, or are employed as numerals.

A dispatch or epistle; a written or printed message; a communication in writing from one person to another at a distance. U. S. v. Huggett (C. C.) 40 F. 640; U. S. v. Denicke (C. C.) 35 F. 400.

In the imperial law of Rome, "letter" or "epistle" was the name of the answer re-

turned by the emperor to a question of law submitted to him by the magistrates.

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

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

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

As to letters of "Administration," "Advice," "Attorney," "Credit," "Horning," "Recommendation," see those titles. As to "Letters Patent," see Patent.

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

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

**LETTER MISSIVE.** In English law. A letter from the king or queen to a dean and chapter, containing the name of the person whom he would have them elect as bishop. 1 Steph. Comm. 666. A request addressed to a peer, peeress, or lord of parliament against whom a bill has been filed desiring the defendant to appear and answer to the bill. In civil-law practice. The phrase "letters missive," or "letters dimissory," is sometimes used to denote the papers sent up on an appeal by the judge or court below to the superior tribunal, otherwise called the "apostles," (*q. v.*)

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

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

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

**LETTER OF LICENSE.** A letter or written instrument given by creditors to their debtor, who has failed in trade, etc., allowing him longer time for the payment of his debts,

and protecting him from arrest in the meantime. Tomlins; Holthouse.

**LETTER OF MARQUE.** A commission given to a private ship by a government to make reprisals on the ships of another state; hence, also, the ship thus commissioned. U. S. v. The Ambrose Light (D. C.) 25 F. 408; Gibbons v. Livingston, 6 N. J. Law, 255.

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

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

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

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

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

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

**LETTERS OF FIRE AND SWORD.** See Fire and Sword.

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

**LETTERS OF SAFE CONDUCT.** No subject of a nation at war with England can, by the law of nations, come into the realm, nor

can travel himself upon the high seas, or send his goods and merchandise from one place to another, without danger of being seized, unless he has *letters of safe conduct*, which by divers old statutes, must be granted under the great seal, and enrolled in chancery, or else are of no effect; the sovereign being the best judge of such emergencies as may deserve exemption from the general law of arms. But passports or licenses from the ambassadors abroad are now more usually obtained, and are allowed to be of equal validity. Wharton.

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

**LETTERS ROGATORY.** A formal communication in writing, sent by a court in which an action is pending to a court or judge of a foreign country, requesting that the testimony of a witness resident within the jurisdiction of the latter court may be there formally taken under its direction and transmitted to the first court for use in the pending action. This process was also in use, at an early period, between the several states of the Union. The request rests entirely upon the comity of courts towards each other. See *Union Square Bank v. Reichmann*, 9 App. Div. 596, 41 N. Y. S. 602.

**LETTERS TESTAMENTARY.** The formal instrument of authority and appointment given to an executor by the proper court, empowering him to enter upon the discharge of his office as executor. It corresponds to letters of administration granted to an administrator.

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

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

**LETTRES DE CACHET.** Letters issued and signed by the kings of France, and countersigned by a secretary of state, authorizing the imprisonment of a person. It is said that they were devised by Père Joseph, under the administration of Richelieu. They were at first made use of occasionally as a means of delaying the course of justice; but during the reign of Louis XIV. they were obtained by any person of sufficient influence with the king or his ministers. Under them, persons were imprisoned for life or for a long period on the most frivolous pretenses, for the gratification of private pique or revenge, and without any reason being assigned for such punishment. They

were also granted by the king for the purpose of shielding his favorites or their friends from the consequences of their crimes; and thus were as pernicious in their operation as the protection afforded by the church to criminals in a former age. Abolished during the Revolution of 1789. Wharton.

## LEUCA.

### In Old French Law

A league, consisting of fifteen hundred paces. Spelman.

### In Old English Law

A league or mile of a thousand paces. Domesday; Spelman.

A privileged space around a monastery of a league or mile in circuit. Spelman.

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

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

**LEVANTES ET CUBANTES.** Rising up and lying down. A term applied to cattle. 3 Bl. Comm. 9. The Latin equivalent of "*levant et couchant*."

**LEVARI FACIAS.** Lat. A writ of execution directing the sheriff to cause to be made of the lands and chattels of the judgment debtor the sum recovered by the judgment. *Pentland v. Kelly*, 6 Watts & S. (Pa.) 484.

Also a writ to the bishop of the diocese, commanding him to enter into the benefice of a judgment debtor, and take and sequester the same into his possession, and hold the same until he shall have levied the amount of the judgment out of the rents, tithes, and profits thereof.

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

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

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

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

**LEEVE.** An embankment or artificial mound of earth constructed along the margin of a river, to confine the stream to its natural channel or prevent inundation or overflow. *State v. New Orleans & N. E. R. Co.*, 42 La. Ann. 138, 7 So. 226; *Royse v. Evansville & T. H. R. Co.*, 160 Ind. 592, 67 N. E. 446. Also (probably by an extension of the foregoing meaning) a landing place on a river or lake; a place on a river or other navigable water for lading and unlading goods and for the reception and discharge of passengers to and from vessels lying in the contiguous waters, which may be either a wharf or pier or the natural bank. See *Coffin v. Portland (C. C.)* 27 F. 415; *St. Paul v. Railroad Co.*, 63 Minn. 330, 68 N. W. 458, 34 L. R. A. 184; *Napa v. Howland*, 87 Cal. 84, 25 P. 247; *People v. Allen*, 317 Ill. 92, 147 N. E. 479, 481.

**LEEVE DISTRICT.** A municipal subdivision of a state (which may or may not be a public corporation) organized for the purpose, and charged with the duty, of constructing and maintaining such levees within its territorial limits as are to be built and kept up at public expense and for the general public benefit. See *People v. Levee Dist. No. 6*, 131 Cal. 30, 63 P. 676.

**LEVIABLE.** That which may be levied. That which is a proper or permissible subject for a levy; as, a "leviable interest" in land. See *Bray v. Ragsdale*, 53 Mo. 172.

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

**LEVIS.** Lat. Light; slight; trifling. *Levis culpa*, slight fault or neglect. *Levissima culpa*, the slightest neglect. *Levis nota*, a slight mark or brand. See *Brand v. Schnectady & T. R. Co.*, 8 Barb. (N. Y.) 378.

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

**LEVITY.** A term used in connection with collusion in a Pennsylvania divorce act. *Lyon v. Lyon*, 30 Pa. C. C. 359. See Collusion.

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

In reference to taxation, the word "levy" is used in two different senses. In the first place, and more properly, it means to lay or impose a tax. This is a legislative function, and includes a determination that a tax shall be imposed, and also the ascertainment of the amount necessary or desirable to be raised, the amount or rate to be imposed, and the subjects or persons to contribute to the tax. The obligation resulting from a "levy" in this sense falls upon the collective body of taxpayers or the community, not (as yet) upon individuals. But in another sense, it means the imposition of the tax directly upon the person or property involved (probably by analogy to the "levy" of an execution or other writ), and includes the assessment of persons or property, the entering of their several dues on the tax books, and the entire process of collecting the taxes. See *State v. Lakeside Land Co.*, 71 Minn. 283, 73 N. W. 970; *Morton v. Comptroller General*, 4 Rich. (S. C.) 430; *Emeric v. Alvarado*, 64 Cal. 529, 2 P. 418; *Moore v. Foote*, 32 Miss. 479; *Valle v. Fargo*, 1 Mo. App. 347; *Perry County v. Railroad Co.*, 58 Ala. 559; *Rhoads v. Given*, 5 Houst. (Del.) 186; *U. S. v. Port of Mobile (C. C.)* 12 F. 770; *Missouri-Kansas-Texas R. Co. v. Hays*, 119 Kan. 249, 237 P. 1029, 1030; *Lehigh Valley R. Co. v. State Board of Taxes and Assessment*, 101 N. J. Law, 298, 128 A. 432, 433; *Thompson v. Kreutzer*, 103 Miss. 388, 60 So. 334, 335; *Sussex County v. Jarratt*, 129 Va. 672, 106 S. E. 384, 387; *Dunn v. Harris*, 144 Ga. 157, 86 S. E. 556, 558; *In re Wausau Inv. Co.*, 163 Wis. 283, 158 N. W. 81, 83.

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

#### Equitable Levy

The lien in equity created by the filing of a creditors' bill to subject real property of the debtor, and of a *lis pendens*, is sometimes so called. *Miller v. Sherry*, 2 Wall. 249, 17 L. Ed. 827; *Mandeville v. Campbell*, 45 App. Div. 512, 61 N. Y. S. 443; *George v. Railroad Co. (C. C.)* 44 F. 120. The right to an equitable lien is sometimes called an "equitable levy." *Hudson v. Wood (C. C.)* 119 F. 764, 776, 777.

**LEVY COURT.** A court formerly existing in the District of Columbia. It was a body charged with the administration of the ministerial and financial duties of Washington county. It was charged with the duty of laying out and repairing roads, building bridges, providing poor-houses, laying and collecting the taxes necessary to enable it to discharge these and other duties, and to pay the other expenses of the county. It had capacity to make contracts in reference to any of these matters, and to raise money to meet such con-

tracts. It had perpetual succession, and its functions were those which, in the several states, are performed by "county commissioners," "overseers of the poor," "county supervisors," and similar bodies with other designations. *Levy Court v. Coroner*, 2 Wall. 507, 17 L. Ed. 851.

In Delaware, the "levy court" is an administrative board elected and organized in each county, composed of from five to thirteen "commissioners," who, in respect to taxation, perform the functions of a board of equalization and review and also of a board to supervise the assessors and collectors and audit and adjust their accounts, and who also have certain powers and special duties in respect to the administration of the poor laws, the system of public roads and the officers in charge of them, the care of insane paupers and convicts, the government and administration of jails, school districts, and various other matters of local concern. See *Rev. St. Del. 1893*, c. 8; *Mealey v. Buckingham*, 6 Del. Ch. 356, 22 A. 357.

**LEVYING WAR.** In criminal law. The assembling of a body of men for the purpose of effecting by force a treasonable object; and all who perform any part, however minute, or however remote from the scene of action, and who are leagued in the general conspiracy, are considered as engaged in levying war, within the meaning of the constitution. *Const. art. 3, § 3*; *Ex parte Bollman*, 4 Cranch, 75, 2 L. Ed. 554. The words include forcible opposition, as the result of a combination of individuals, to the execution of any public law of the United States; and to constitute treason within the Federal Constitution, there must be a combination of individuals united for the common purpose of forcibly preventing the execution of some public law and the actual or threatened use of force by the combination to prevent its execution. *Kegerreis v. Van Zile*, 167 N. Y. S. 874, 876, 180 App. Div. 414.

**LEWD.** Lustful, indecent, lascivious, lecherous. *State v. Rose*, 147 La. 243, 84 So. 643, 646; *City of Shreveport v. Wilson*, 145 La. 906, 83 So. 186, 188; *State v. Gardner*, 174 Iowa, 748, 156 N. W. 747, 749, L. R. A. 1916D, 767, *Ann. Cas.* 1917D, 239. The term imports a lascivious intent, *McKinley v. State*, 33 Okl. Cr. 434, 244 P. 208; and signifies that form of immorality which has relation to sexual impurity or incontinence carried on in a wanton manner. *State v. Barnes* (Mo. App.) 256 S. W. 496, 498.

**LEWD AND LASCIVIOUS COHABITATION.** Within statutes, the living together of a man and woman not married to each other, in the same house or apartment, as husband and wife. *State v. Bridgeman*, 88 W. Va. 231, 106 S. E. 708, 711; *State v. Ramage*, 75 W. Va. 524, 84 S. E. 246, 247; *State v. Naylor*, 68 Or. 139, 136 P. 889, 891. See, also, *Lewdness*.

**LEWDNESS.** Licentiousness; that form of immorality which has relation to sexual impurity. *U. S. v. Males* (D. C.) 51 Fed. 41. Sensuality; debauchery. *State v. Sullivan*, 187 Iowa, 385, 174 N. W. 225. An offense against the public economy, when of an open and notorious character; as by frequenting houses of ill fame, which is an indictable offense, or by some grossly scandalous and public indecency, for which the punishment at common law is fine and imprisonment. *Wharton*. See *Brooks v. State*, 2 Yerg. (Tenn.) 483; *State v. Bauguess*, 106 Iowa, 107, 76 N. W. 508.

The term includes prostitution and assignation and other immoral or degenerate conduct or conversation between persons of opposite sexes, *People v. Bay Side Land Co.*, 48 Cal. App. 257, 191 P. 994, 995; *People v. Arcega*, 49 Cal. App. 239, 193 P. 264, 266; as well as between persons of the same sex, and signifies both illicit sexual intercourse and the irregular indulgence of lust, whether public or private, *Commonwealth v. Porter*, 237 Mass. 1, 129 N. E. 298, 299; *State v. Rayburn*, 170 Iowa, 514, 153 N. W. 59, 60, L. R. A. 1915F, 640. See, also, *Adams v. Commonwealth*, 162 Ky. 76, 171 S. W. 1006, L. R. A. 1916C, 651, holding that the living together of a man and woman unmarried, when generally known throughout the neighborhood, constitutes open and gross lewdness. *Contra*: *City of Shreveport v. Wilson*, 145 La. 906, 83 So. 186, 188.

#### Open Lewdness

Lewd or lascivious behavior practised without disguise, secrecy, or concealment. The adjective relates to the quality of the act, not to the place nor to the number of spectators. *State v. Juneau*, 83 Wis. 180, 59 N. W. 580, 24 L. R. A. 857, 43 Am. St. Rep. 877; *State v. Millard*, 18 Vt. 574, 46 Am. Dec. 170; *Comm. v. Wardell*, 128 Mass. 52, 35 Am. Rep. 357. There must be present elements making the act shameless, aggressive, and defiant, rather than furtive and hiding away in shame; lewdness being deemed open when committed in the presence of another person, or in a place open to public view. *State v. Pedigo*, 190 Mo. App. 293, 176 S. W. 556, 557.

**LEX.** Lat.

#### In the Roman Law

Law; a law; the law. This term was often used as the synonym of *jus*, in the sense of a rule of civil conduct authoritatively prescribed for the government of the actions of the members of an organized jural society.

*Lex* is used in a purely juridical sense, law, and not also right; while *jus* has an ethical as well as a juridical meaning, not only law, but right. 15 L. Q. R. 367 (by Salmond). *Lex* is usually concrete, while *jus* is abstract. In English we have no term which combines the legal and ethical meanings, as do *jus* and its French equivalent, *droit*. Pollock, *First Book of Jurispr.* 14-18.

In a more limited and particular sense, it was a resolution adopted by the whole Roman "*populus*" (patricians and plebians) in the

*comitia*, on the motion of a magistrate of senatorial rank, as a consul, a prætor, or a dictator. Such a statute frequently took the name of the proposer; as the *lex Falcidia*, *lex Cornelia*, etc.

A rule of law which magistrates and people had agreed upon by means of a solemn declaration of consensus. Sohm, Inst. R. L. 28.

—**Lex Æbutia.** A statute which introduced and authorized new and more simple methods of instituting actions at law. The law which, with the *leges Juliae*, in part abolished the *legis actiones*. It provided that a *judicium* could be instituted in a city court without *legis actio*, merely by means of the formula or prætorian decree of appointment, and placed the *legis actio* and the formula, so far as the civil law was concerned, on a footing of equality. Sohm, Rom. L. 173.

—**Lex Ælia Sentia.** The Ælian Sentian law, respecting wills, proposed by the consuls Ælius and Sentius, and passed A. U. C. 756, restraining a master from manumitting his slaves in certain cases. Calvin.

—**Lex Æmilia.** A law which reduced the official term of the censors at Rome from five years to a year and a half, and provided for the discharge of their peculiar functions by the consuls in the interim until the time for a new census. Mackeld. Rom. Law, § 29.

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

—**Lex Anastasiana.** The law admitting as agnati the children of emancipated brothers and sisters. Inst. 3. 5. A law which provided that a third person who purchased a claim or debt for less than its true or nominal value should not be permitted to recover from the debtor more than the price paid with lawful interest. Mackeld. Rom. Law, § 369.

—**Lex Apuleja, or Apuleia.** A law giving to one of several joint sureties or guarantors, who had paid more than his proportion of the debt secured, a right of action for reimbursement against his co-sureties as if a partnership existed between them. See Mackeld. Rom. Law, § 454, note 2; Inst. 3, 20.

—**Lex Aquilia.** The Aquilian law; a celebrated law passed on the proposition of the tribune C. Aquilius Gallus, A. U. C. 672, superseding the earlier portions of the Twelve Tables, and regulating the compensation to be made for that kind of damage called "injurious," in the cases of killing or wounding the slave or beast of another. Inst. 4, 3; Calvin.

—**Lex Atilla.** The Atilian law; a law of Rome proposed by the tribune L. Atilius Regulus, A. U. C. 443, which conferred upon the magistrate the right of appointing guardians. It applied only to the city of Rome; Sohm, Inst. Rom. L. 400.

—**Lex Atinia.** The Atinian law; a law declaring that the property in things stolen should not be acquired by prescription, (*usucapione*.) Inst. 2, 6, 2; Adams, Rom. Ant. 207.

—**Lex Calpurnia.** A law relating to the form and prosecution of actions for the recovery of specific chattels other than money. See Mackeld. Rom. Law, § 203. The law which extended the scope of the action allowed by the *lex Silia* to all obligations for any certain definite thing.

—**Lex Canuleia.** The law which conferred upon the plebeians the *connubium*, or the right of intermarriage with Roman citizens. Morey, Rom. L. 48.

—**Lex Cincia.** A law which prohibited certain kinds of gifts and all gifts or donations of property beyond a certain measure, except in the case of near kinsmen.

—**Lex Claudia.** A law which abolished the ancient guardianship of adult women by their male agnate relations. See Mackeld. Rom. Law, § 615.

—**Lex Cornelia.** The Cornelian law; a law passed by the dictator L. Cornelius Sylla, providing remedies for certain injuries, as for battery, forcible entry of another's house, etc. Calvin.

—**Lex Cornelia de ædictis.** The law forbidding a prætor to depart during his term of office from the edict he had promulgated at its commencement. Sohm, Rom. L. 51.

—**Lex Cornelia de falso (or falsis).** The Cornelian law respecting forgery or counterfeiting. Passed by the dictator Sylla. Dig. 48, 10; Calvin. The law which provided that the same penalty should attach to the forgery of a testament of a person dying in captivity as to that of a testament made by a person dying in his own country. Inst. 2, 12, 5.

—**Lex Cornelia de injuriis.** The law providing a civil action for the recovery of a penalty in certain cases of bodily injury. Sohm, R. L. 329.

—**Lex Cornelia de sicariis et veneficis.** The Cornelian law respecting assassins and poisoners, passed by the dictator Sylla, and containing provisions against other deeds of violence. It made the killing of the slave of another person punishable by death or exile, and the provisions of this law were extended by the Emperor Antoninus Pius to the case of a master killing his own slave. Inst. 1, 8; Dig. 48, 8; Calvin.

—**Lex Cornelia de sponsu.** A law prohibiting one from binding himself for the same debtor to the same creditor in the same year for more than a specified amount. Inst. 2, 20.

—**Lex de responsis prudentum.** The law of citations.

—**Lex fabia de plagiariis.** The law providing for the infliction of capital punishment in certain cases. Inst. 4, 18, 10.

—**Lex Falcidia.** The Falcidian law; a law passed on the motion of the tribune P. Falcidius, A. U. C. 713, forbidding a testator to give more in legacies than three-fourths of all his estate, or, in other words, requiring him to leave at least one-fourth to the heir. Inst. 2, 22; Heinecc. Elem. lib. 2, tit. 22.

—**Lex Furia Caninia.** The Furian Caninian law; a law passed in the consulship of P. Furius Camillus and C. Caninius Gallus, A. U. C. 752, prohibiting masters from manumitting by will more than a certain number or proportion of their slaves. This law was abrogated by Justinian. Inst. 1, 7; Heinecc. Elem. lib. 1, tit. 7.

—**Lex Furia de sponsu.** The law limiting the liability of sponsors and fide-promissors to two years, and providing that as between several co-sponsors or co-fide-promissors, the debt should be, *ipso jure*, divided according to the number of the sureties without taking the solvency of individual sureties into account. It applied only to Italy. Sohm, Rom. L. 299, n.; Inst. 3, 20.

—**Lex Furia testamentaria.** A law enacting that a testator might not bequeath as a legacy more than one thousand asses.

—**Lex Gabinia.** A law introducing the ballot in elections.

—**Lex Genucia.** A law which entirely forbade the charging or taking of interest for the use of money among Roman citizens, but which was usually and easily evaded, as it did not declare an agreement for interest to be a nullity. See Mackeld. Rom. Law, § 382n.

—**Lex Horatia Valeria.** A law which assured to the tribal assembly its privilege of independent existence. See Lex Horatii.

—**Lex Horatii.** An important constitutional statute, taking its name from the consul who secured its enactment, to the effect that all decrees passed in the meetings of the plebians should be laws for the whole people; formerly they were binding only on the plebians. Mackeld. Rom. Law, § 32.

—**Lex Hortensia.** The law giving the plebeians a full share in the *jus publicum* and the *jus sacrum*. Sand. Just. Introd. § 9.

—**Lex hostilia de furtis.** A Roman law, which provided that a prosecution for theft might

be carried on without the owner's intervention. 4 Steph. Comm. (7th Ed.) 118.

—**Lex Julia.** Several statutes bore this name, being distinguished by the addition of words descriptive of their subject matter. The "*lex Julia de adulteriis*" related to marriage, dower, and kindred subjects. The *lex Julia de ambitu* was a law to repress illegal methods of seeking office. Inst. 4, 18. The *lex Julia de annonæ* was designed to repress combinations for heightening the price of provisions. The "*lex Julia de cessione bonorum*" related to bankruptcies. The *lex Julia de majestate* inflicted the punishment of death on all who attempted anything against the emperor or state. Inst. 4, 18. The *lex Julia de maritandis ordinibus* forbade senators and their children to intermarry with freedmen or infames, and freedmen to marry infames. Sohm, Rom. L. 497. The *lex Julia de residuis* was a law punishing those who gave an incomplete account of public money committed to their charge. Inst. 4, 18. The *lex Julia de peculatu* punished those who had stolen public money or property or anything sacred or religious. Magistrates and those who had aided them in stealing public money during their administration were punished capitally; other persons were deported. Inst. 4, 18, 9. As to *lex Julia et Papia Poppæa*, see Lex Papia Poppæa.

—**Lex Julia majestatis.** The Julian law of majesty; a law promulgated by Julius Caesar, and again published with additions by Augustus, comprehending all the laws before enacted to punish transgressors against the state. Calvin.

—**Lex junia norbana.** The law conferring legal freedom on all such freedmen as were *tuitione prætoris*. See Latini Juniani. *Lex Junia Velleja* conferred the same right on posthumous children born in the lifetime of the testator, but after the execution of the will, as were enjoyed by those born after the death of the testator. Sohm, Rom. L. 463.

—**Lex junia velleja.** A law providing that descendants who became *sui heredes* of the testator otherwise than by birth, as by the death of their father, must be disinherited or instituted heirs in the same way as posthumous children. Campbell, Rom. L. 77.

—**Lex Papia Poppæa.** The Papian Poppæan law; a law proposed by the consuls Papius and Poppæus at the desire of Augustus, A. U. C. 762, enlarging the *Lex Prætoris*, (*q. v.*) Inst. 3, 8, 2. The law which exempted from tutelage women who had three children. It is usually considered with the *Lex Julia de maritandis ordinibus* as one law.

—**Lex Petronia.** The law forbidding masters to expose their slaves to contests with wild beasts. Inst. 1, 8.



—**Lex Platoria.** A law designed for the protection of minors against frauds and allowing them in certain cases to apply for the appointment of a guardian. Inst. 1, 23.

—**Lex Plautia.** The law which conferred the full rights of citizenship on Italy below the Po. Sand. Just. Introd. § 11.

—**Lex Poetelia.** The law abolishing the right of a creditor to sell or kill his debtor. Sohm, Rom. L. 210.

—**Lex Pompeia de Parricidiis.** The law which inflicted a punishment on one who had caused the death of a parent or child. The offender was by this law to be sewn up in a sack with a dog, a cock, a viper, and an ape, and thrown into the sea or a river, so that even in his lifetime he might begin to be deprived of the use of the elements; that the air might be denied him whilst he lived and the earth when he died. Inst. 4, 18, 6.

—**Lex Publilia.** The law providing that the *plebiscita* should bind the whole people. Inst. 1, 2. The *lex Publilia de sponsu* allowed sponsores, unless reimbursed within six months, to recover from their principal by a special *actio* what they had paid.

—**Lex Scribonia.** The law abolishing the *usu-capio servitutis*. Sohm, Rom. L. 265.

—**Lex Sempronia.** The law forbidding senators from being judges and allowing the office to the knights. Sand. Just. Introd. § 12.

—**Lex Silia.** A law concerning personal actions. Sohm, Rom. L. 155.

—**Lex Voconia.** A *plebiscitum* forbidding a legatee to receive more than each heir had. Inst. 2, 22.

In a somewhat wider and more generic sense, a law (whatever its origin) or the aggregate of laws, relating to a particular subject-matter, thus corresponding to the meaning of the word "law" in some modern phrases, such as the "law of evidence," "law of wills," etc.

—**Lex commissoria.** A law by which a debtor and creditor might agree (where a thing had been pledged to the latter to secure the debt) that, if the debtor did not pay at the day, the pledge should become the absolute property of the creditor. 2 Kent. Comm. 583. This was abolished by a law of Constantine. A law according to which a seller might stipulate that, if the price of the thing sold were not paid within a certain time, the sale should be void. Dig. 18, 3.

—**Lex Regia.** The royal or imperial law. A law enacted (or supposed or claimed to have been enacted) by the Roman people, constituting the emperor a source of law, conferring the legislative power upon him, and according the force and obligation of law to the expression

of his mere will or pleasure. See Inst. 1, 2, 6; Gaius, 1, 5; Mackeld. Rom. Law, § 46; Heinecc. Rom. Ant. 1, 1, tit. 2, §§ 62-67; 1 Kent, Comm. 544, note.

—**Lex Prætoria.** The prætorian law. A law by which every freedman who made a will was commanded to leave a moiety to his patron. Inst. 3, 8, 1. The term has been applied to the rules that govern in a court of equity. Gilb. Ch. pt. 2.

Other specific meanings of the word in Roman jurisprudence were as follows: Positive law, as opposed to natural. That system of law which descended from the Twelve Tables, and formed the basis of all the Roman law. The terms of a private covenant; the condition of an obligation. A form of words prescribed to be used upon particular occasions.

#### In Medieval Jurisprudence

A body or collection of various laws peculiar to a given nation or people; not a code in the modern sense, but an aggregation or collection of laws not codified or systematized. See Mackeld. Rom. Law, § 98. Also a similar collection of laws relating to a general subject, and not peculiar to any one people.

—**Lex Alamannorum.** The law of the Alemanni; first reduced to writing from the customs of the country, by Theodoric, king of the Franks, A. D. 512. Amended and re-enacted by Clotaire II. Spelman.

—**Lex Baiuvariorum, (Baïoriorum, or Boiorum).** The law of the Bavarians, a barbarous nation of Europe, first collected (together with the law of the Franks and Alemanni) by Theodoric I., and finally completed and promulgated by Dagobert. Spelman.

—**Lex barbara.** The barbarian law. The laws of those nations that were not subject to the Roman empire were so called. Spelman.

—**Lex Brehonia.** The Brehon or Irish law, overthrown by King John. See Brehon Law.

—**Lex Bretoise.** The law of the ancient Britons, or Marches of Wales. Cowell.

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

—**Lex Danorum.** The law of the Danes; Dane-law or Dane-lage. Spelman.

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

—**Lex Frisionum.** The law of the Frisians, promulgated about the middle of the eighth century. Spelman.

—**Lex Gothica.** The Gothic law, or law of the Goths. First promulgated in writing. A. D. 466. Spelman.

—**Lex Kantia.** The body of customs prevailing in Kent during the time of Edward I. A written statement of these customs was sanctioned by the king's justices *in eyre*. They were mainly concerned with the maintenance of a form of land tenure known as gavelkind (*q. v.*). 1 Poll. & Maitl. 166.

—**Lex Longobardorum.** The law of the Lombards. The name of an ancient code of laws among that people, framed, probably, between the fifth and eighth centuries. It continued in force after the incorporation of Lombardy into the empire of Charlemagne, and traces of its laws and institutions are said to be still discoverable in some parts of Italy.

—**Lex mercatoria.** The law-merchant. That system of laws which is adopted by all commercial nations, and constitutes a part of the law of the land. It is part of the common law. *Gates v. Fauvre*, 74 Ind. App. 382, 119 N. E. 155.

—**Lex Naturale.** Natural law. See *Jus Naturale*.

—**Lex Rhodia.** The Rhodian law, particularly the fragment of it on the subject of jettison (*de jactu*), preserved in the *Pandects*. Dig. 14, 2, 1; 3 Kent, Comm. 232, 233. The *Lex Rhodia de jactu* providing that when the goods of an owner are thrown overboard for the safety of the ship or of the property of other owners, he becomes entitled to a ratable contribution. It has been adopted into the law of all civilized nations. Campbell, Rom. L. 137.

—**Lex Romana.** See *Civil Law*; *Roman Law*.

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

—**Lex Talionis.** The law of retaliation; which requires the infliction upon a wrongdoer of the same injury which he has caused to another. Expressed in the Mosaic law by the formula, "an eye for an eye; a tooth for a tooth," etc. In modern international law, the term describes the rule by which one

state may inflict upon the citizens of another state death, imprisonment, or other hardship, in retaliation for similar injuries imposed upon its own citizens.

—**Lex Wallensica.** The Welsh law; the law of Wales. Blount.

—**Lex Wisigothorum.** The law of the Visigoths, or Western Goths who settled in Spain; first reduced to writing A. D. 466. A revision of these laws was made by Egigas. Spelman.

#### In Old English Law

A body or collection of laws, and particularly the Roman or civil law. Also a form or mode of trial or process of law, as the ordeal or *battel*, or the oath of a party with purgators, as in the phrases *legem facere*, *legem vadiare*, etc. Also used in the sense of legal rights or civil rights or the protection of the law, as in the phrase *legem amittere*.

—**Lex Amissa.** One who is an infamous, perjured, or outlawed person. Bract. lib. 4, c. 19.

—**Lex Angliæ.** The law of England. The common law. Or, the *curtesy* of England.

—**Lex Apostata.** A thing contrary to law. Jacob.

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

—**Lex comitatus.** The law of the county, or that administered in the county court before the earl or his deputy. Spelman.

—**Lex communis.** The common law. See *Jus Commune*.

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

—**Lex et consuetudo parliamenti.** The law and custom (or usage) of parliament. The houses of parliament constitute a court not only of legislation, but also of justice, and have their own rules, by which the court itself and the suitors therein are governed. May, *Parl. Pr.* (6th Ed.) 38-61.

—**Lex et consuetudo regni.** The law and custom of the realm. One of the names of the common law. Hale, *Com. Law*, 52. It was bad pleading to apply the term to law made by a statute. Pollock, *First Book of Jurispr.* 250.

—**Lex imperatoria.** The Imperial or Roman law. Quoted under this name, by Fleta, lib. 1, c. 38, § 15; *Id.* lib. 3, c. 10, § 3.

—**Lex judicialis.** An ordeal.

—**Lex manifesta.** Manifest or open law; the trial by duel or ordeal. The same with *lex apparens*, (*q. v.*) In King John's charter (chapter 38) and the articles of that charter (chapter 28) the word "*manifestam*" is omitted.

—**Lex non scripta.** The unwritten or common law, which includes general and particular customs, and particular local laws. 1 Steph. Com. 40-68.

—**Lex patriæ.** National law. See Meili, *Intern. Law* 119.

—**Lex sacramentalis.** Purgation by oath.

—**Lex scripta.** Written law; law deriving its force, not from usage, but from express legislative enactment; statute law. 1 Bl. Comm. 62, 85.

—**Lex terræ.** The law of the land. The common law, or the due course of the common law; the general law of the land. Bract. fol. 17b. Equivalent to "due process of law." In the strictest sense, trial by oath; the privilege of making oath. Bracton uses the phrase to denote a freeman's privilege of being sworn in court as a juror or witness, which jurors convicted of perjury forfeited, (*legem terræ amittant.*) Bract. fol. 292b. The phrase means "the procedure of the old popular law." Thayer, *Evid.* 201, quoting Brunner, *Schw.* 254, and Fortesq. *de Laud.* c. 26 (Selden's notes).

#### In modern American and English jurisprudence

A system or body of laws, written or unwritten, or so much thereof as may be applicable to a particular case or question, considered as being local or peculiar to a given state, country, or jurisdiction, or as being different from the laws or rules relating to the same subject-matter which prevail in some other place.

—**Lex domicilii.** The law of the domicile. 2 Kent. Comm. 112, 433.

—**Lex fori.** The law of the forum, or court; that is, the positive law of the state, country, or jurisdiction of whose judicial system the court where the suit is brought or remedy sought is an integral part. "Remedies upon contracts and their incidents are regulated and pursued according to the law of the place where the action is instituted, and the *lex loci* has no application." 2 Kent, Comm. 462. "The remedies are to be governed by the laws of the country where the suit is brought; or, as it is compendiously expressed, by the *lex fori.*" *Bank of United States v. Donnally*, 8 Pet. 361, 372, 8 L. Ed. 974. "So far as the law affects the remedy, the *lex fori*, the law

of the place where that remedy is sought, must govern. But, so far as the law of the construction, the legal operation and effect, of the contract, is concerned, it is governed by the *law of the place* where the contract is made." *Warren v. Copelin*, 4 Metc. (Mass.) 594, 597. See *Lex Loci Contractus*.

—**Lex loci.** The law of the place. This may be of the following several descriptions: *Lex loci contractus*, the law of the place where the contract was made or to be performed; *lex loci actus*, the law of the place where the act was done; *lex loci rei sitæ*, or *lex situs*, the law of the place where the subject-matter is situated; *lex loci domicilii*, the law of the place of domicile. There are also the *lex loci celebrationis*, the law of the place where a contract is made; *lex loci solutionis*, the law of the place where a contract is to be performed; *lex loci delicti commissi*, the law of the place where a tort is committed. In general, however, *lex loci* is only used for *lex loci contractus*.

—**Lex loci actus.** See *Lex Loci*.

—**Lex loci celebrationis.** See *Lex Loci*.

—**Lex loci contractus.** Used sometimes to denote the law of the place where the contract was made, and at other times to denote the law by which the contract is to be governed, which may or may not be the same as that of the place where it was made. The earlier cases do not regard this distinction. See *Pritchard v. Norton*, 106 U. S. 124, 1 S. Ct. 102, 27 L. Ed. 104; *Gibson v. Connecticut F. Ins. Co.* (C. C.) 77 F. 565; *Pickering v. Fisk*, 6 Vt. 102; *May v. Breed*, 7 Cush. (Mass.) 30, 54 Am. Dec. 700; *Speed v. May*, 17 Pa. 91, 55 Am. Dec. 540; *Houghtaling v. Ball*, 19 Mo. 84, 59 Am. Dec. 331; *Hayward v. Le Baron*, 4 Fla. 404; *Glenn v. Thistle*, 23 Miss. 42; *Scudder v. Bank*, 91 U. S. 406, 23 L. Ed. 245; *Dacosta v. Davis*, 24 N. J. Law, 319; *Downer v. Chesebrough*, 36 Conn. 39, 4 Am. Rep. 29; *Hildreth v. Shepard*, 65 Barb. (N. Y.) 265. See an elaborate collection of cases on conflict of laws, 5 Eng. Rul. Cas. 703-975. The phrase "*lex loci contractus*" is used, in a double sense, to mean, sometimes, the law of the place where a contract is entered into; sometimes that of the place of its performance. *Security Trust & Savings Bank of Charles City, Iowa, v. Gleichmann*, 150 P. 908, 911, 50 Okl. 441, L. R. A. 1915F, 1203; *Farm Mortgage & Loan Co. v. Beale*, 113 Neb. 293, 202 N. W. 877, 878.

—**Lex loci delictus.** The law of the place where the crime took place.

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

—**Lex loci solutionis.** The law of the place of solution; the law of the place where payment or performance of a contract is to be made.

—**Lex ordinandi.** The same as *lex fori*, (*q. v.*).

—**Lex rei sitæ.** The law of the place of situation of the thing. It is said to be an inexact mode of expression; *lex situs*, or *lex loci rei sitæ* are better. 29 L. Q. R. 2 (H. Gondy).

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

**Lex æquitate gaudet.** Law delights in equity. Jenk. Cent. p. 36, case 69.

**Lex æquitate gaudet; appetit perfectum; est norma recti.** The law delights in equity: it covets perfection; it is a rule of right. Jenk. Cent. 36.

**Lex aliquando sequitur æquitatem.** Law sometimes follows equity. 3 Wils. 119.

**Lex Angliæ est lex misericordiæ.** 2 Inst. 315. The law of England is a law of mercy.

**Lex Angliæ non patitur absurdum.** 9 Coke, 22a. The law of England does not suffer an absurdity.

**Lex Angliæ nunquam matris sed semper patris conditionem imitari partum judicat.** The law of England rules that the offspring shall always follow the condition of the father, never that of the mother. Co. Litt. 123; Bart. Max. 59.

**Lex Angliæ nunquam sine parlamento mutari potest.** 2 Inst. 218. The law of England cannot be changed but by parliament.

**Lex beneficiæ rei consimili remedium præstat.** 2 Inst. 689. A beneficial law affords a remedy for a similar case.

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

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

**Lex de futuro, judex de præterito.** The law provides for the future, the judge for the past.

**Lex deficere non potest in justitia exhibenda.** Co. Litt. 197. The law cannot be defective [or ought not to fail] in dispensing justice.

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

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

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

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

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

**Lex est sanctio saneta, jubens honesta, et prohibens contraria.** Law is a sacred sanction, commanding what is right, and prohibiting the contrary. 2 Inst. 587; 1 Sharsw. Bla. Comm. 44, n.

**Lex est tutissima cassis; sub clypeo legis nemo decipitur.** Law is the safest helmet; under the shield of the law no one is deceived. 2 Inst. 56.

**Lex favet doti.** Jenk. Cent. 50. The law favors dower. 3 & 4 Will. IV. c. 105.

**Lex fingit ubi subsistit æquitas.** 11 Coke, 90. The law makes use of a fiction where equity subsists. Branch, Princ.

**Lex intendit vicinum vicini facta scire.** The law intends [or presumes] that one neighbor knows what another neighbor does. Co. Litt. 78b.

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

**Lex necessitatis est lex temporis; i. e., instantis.** The law of necessity is the law of the time; that is, of the instant, or present moment. Hob. 159.

**Lex neminem cogit ad vana seu inutilia peragenda.** The law compels no one to do vain or useless things. Co. Litt. 197b; Broom, Max. 252; 5 Coke, 21a; Wing. Max. 600; 3 Sharsw. Bla. Comm. 144; 2 Bingham. N. C. 121; 13 East 420; Ward v. Fuller, 15 Pick. (Mass.) 190; Southworth v. Smith, 7 Cush. (Mass.) 393; Commonwealth v. Temple, 14 Gray (Mass.) 78; Watmough v. Francis, 7 Pa. 206; Trustees of Huntington v. Nicoll, 3 Johns. (N. Y.) 598.

**Lex neminem cogit ostendere quod nescire præsumitur.** Lofft, 569. The law compels no one to show that which he is presumed not to know.

**Lex nemini facit injuriam.** The law does injury to no one. Branch, Princ.; Brown's Appeal, 66 Pa. 157.

**Lex nemini operatur iniquum.** The law works injustice to no one. Jenk. Cent. p. 18, case 33.

**Lex nemini operatur iniquum, nemini facit injuriam.** The law never works an injury, or does a wrong. Jenk. Cent. 22.

**Lex nil facit frustra.** The law does nothing in vain. Jenk. Cent. p. 12, case 19; Broom, Max. 252; 1 Ventr. 417.

**Lex nil facit frustra, nil jubet frustra.** The law does nothing and commands nothing in vain. 3 Bulstr. 279; Jenk. Cent. 17.

**Lex nil frustra jubet.** The law commands nothing vainly. 3 Bulst. 280.

**Lex non a rege est violanda.** Jenk. Cent. 7. The law is not to be violated by the king.

**Lex non cogit ad impossibilia.** The law does not compel the doing of impossibilities. Broom, Max. 242; Hob. 96; Co. Litt. 231*b*; 1 Bouv. Inst. n. 851; Wells v. Burbank, 17 N. H. 411.

**Lex non curat de minimis.** Hob. 88. The law cares not about trifles. The law does not regard small matters.

**Lex non deficit in justitia exhibenda.** The law does not fail in showing justice. Jenk. Cent. p. 31, case 61.

**Lex non exacte definit, sed arbitrio boni viri permittit.** The law does not define exactly, but trusts in the judgment of a good man. Bissell v. Briggs, 9 Mass. 475, 6 Am. Dec. 88.

**Lex non favet delicatarum votis.** The law favors not the wishes of the dainty. Broom, Max. 379; 9 Coke, 58.

**Lex non intendit aliquid impossibile.** The law does not intend anything impossible. 12 Coke, 89*a*. For otherwise the law should not be of any effect.

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

**Lex non præcipit inutilia, quia inutilis labor stultus.** The law commands not useless things, because useless labor is foolish. Co. Litt. 197; 5 Co. 89*a*; Mowry's Case, 112 Mass. 400.

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

**Lex plus laudatur quando ratione probatur.** The law is the more praised when it is approved by reason. Broom, Max. 159; 3 Term 146; 7 Term 252; 7 A. & E. 657.

**Lex posterior derogat priori.** A later statute takes away the effect of a prior one. But the later statute must either expressly repeal, or be manifestly repugnant to, the earlier

one. Broom, Max. 29; Mackeld. Rom. Law, § 7.

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

**Lex punit mendacium.** The law punishes falsehood. Jenk. Cent. p. 15, case 26.

**Lex rejicit superflua, pugnancia, incongrua.** Jenk. Cent. 133. The law rejects superfluous, contradictory, and incongruous things.

**Lex reprobat moram.** Jenk. Cent. 35. The law dislikes delay.

**Lex respicit æquitatem.** Co. Litt. 24*b*. The law pays regard to equity. See 14 Q. B. 504, 511, 512; Broom, Max. 151.

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

**Lex semper dabit remedium.** The law will always give a remedy. Branch, Princ.; Broom, Max. 192; Bac. Abr. *Actions in general* (B); 12 A. & E. 266; 7 Q. B. 451; Smith v. Bonsall, 5 Rawle (Pa.) 89.

**Lex semper intendit quod convenit rationi.** Co. Litt. 78*b*. The law always intends what is agreeable to reason.

**Lex spectat naturæ ordinem.** The law regards the order of nature. Co. Litt. 197*b*; Broom, Max. 252.

**Lex succurrit ignorantibus.** Jenk. Cent. 15. The law assists the ignorant.

**Lex succurrit minoribus.** The law aids minors. Jenk. Cent. p. 51, case 97.

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

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

**LEY.** L. Fr. (A corruption of *loi*.) Law; the law. For example, *Termes de la Ley*, Terms of the Law.

In another, and an old technical, sense, *ley* signifies an oath, or the oath with compurgators; as, *il tend sa ley aïu pleyntiffe*. Britton, c. 27.

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

—**Ley gager.** Law wager; wager of law; the giving of gage or security by a defendant that he would make or perfect his law at a certain day. Litt. § 514; Co. Litt. 294b, 295a. An offer to make an oath denying the cause of action of the plaintiff, confirmed by compurgators, which oath was allowed in certain cases. When it was accomplished, it was called the "doing of the law," "*fesans de ley*." *Termes de la Ley*; 2 B. & C. 538; 3 B. & P. 297.

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

**LEYES DE ESTILO (or ESTILLO).** In Spanish law. Laws of the age. A collection of laws usually published as an appendix to the *Fuero Real*; treating of the mode of conducting suits, prosecuting them to judgment, and entering appeals. Schm. Civil Law, Introd. 74. Formed under the authority of Alonzo X. and his son Sancho, and of Fernando el Emplazado, and published at the end of the 13th century or beginning of the 14th; some of them are inserted in the *New Recopilacion*. 1 *New Recop.* 354.

**LEZE MAJESTY, or LESE MAJESTY.** An offense against sovereign power; treason; rebellion.

**LIABILITY.** The state of being bound or obliged in law or justice to do, pay, or make good something. *Feil v. City of Cœur d'Alene*, 129 P. 643, 649, 23 Idaho, 32, 43 L. R. A. (N. S.) 1095; *Breslaw v. Rightmire*, 196 N. Y. S. 539, 541, 119 Misc. 833. Legal responsibility; the state of one who is bound in law and justice to do something which may be enforced by action. *State v. Thompson's Malted Food Co.*, 152 N. W. 458, 459, 160 Wis. 671; *Harper v. Adams*, 106 So. 354, 356, 141 Miss. 806; *International-Great Northern R. Co. v. Texas Co.* (Tex. Civ. App.) 280 S. W. 282, 285; *Wood v. Currey*, 57 Cal. 209; *McElfresh & Kirkendall*, 36 Iowa, 225; *Benge v. Bowling*, 106 Ky. 575, 51 S. W. 151; *Joslin v. New Jersey Car-Spring Co.*, 36 N. J. Law, 145.

The condition of being exposed to the upspringing of an obligation to discharge or make good an undertaking of another, or a loss or deficit, or the being exposed or subject to a given contingency, risk, or casualty which is more or less probable. *First National Bank of East Islip v. National Surety Co.*, 228 N. Y. 469, 127 N. E. 478, 480; *United States Fidelity & Guaranty Co. v. Haney*, 166 Minn. 403, 208 N. W. 17.

Any obligation which one is bound in law or justice to perform. *Murphy v. Chicago League Ball Club*, 221 Ill. App. 120, 126; *Ex parte Lamachia* (D. C.) 250 F. 814, 816.

The term is therefore broader than the word "debt," or "indebtedness," *Coulter Dry Goods Co. v. Wentworth*, 171 Cal. 500, 153 P. 939, 940; *Lowery v. Fuller*, 221 Mo. App. 495, 281 S. W. 968, 972; and includes in addition existing obligations, which may or may not in the future eventuate in an indebtedness, *Daniels v. Goff*, 192 Ky. 15, 232 S. W. 66, 67; *Irving Bank-Columbia Trust Co. v. New York Rys. Co.* (D. C.) 292 F. 429, 433. The word has been referred to as of the most comprehensive significance, including almost every character of hazard or responsibility, absolute, contingent, or likely, and has been defined as the condition of being responsible for a possible or actual loss, penalty, evil, expense, or burden. *Wentz v. State*, 108 Neb. 597, 183 N. W. 467, 468.

The word is not synonymous with "loss" or "damage," and under an automobile insurance policy insuring against "liabilities," there may be recovery without allegation or proof that insured has been required to pay any sum, whereas under a policy covering "actual loss or damage," no obligation arises till insured has suffered loss or damage. *Ducommun v. Strong*, 193 Wis. 179, 214 N. W. 616; *Stag Mining Co. v. Missouri Fidelity & Casualty Co.* (Mo. App.) 209 S. W. 321, 323.

#### Liability Bond

One which is intended to protect the assured from liability for damages or to protect the persons damaged by injuries occasioned by the assured as specified, when such liability should accrue, and be imposed by law, as by a court, as distinguished from an indemnity bond, whose purpose is only to indemnify the assured against actual loss by way of reimbursement for moneys paid or which must be paid. *Fenton v. Poston*, 195 P. 31, 33, 114 Wash. 217.

#### Liability Created by Statute

One depending for its existence on the enactment of the statute, and not on the contract of the parties. *Dietrich v. Copeland Lumber Co.*, 154 P. 626, 628, 23 Idaho, 312. One which would not exist but for the statute. *Frank Shepard Co. v. Zachary P. Taylor Pub. Co.*, 138 N. E. 409, 410, 234 N. Y. 465; *Hocking Valley R. Co. v. New York Coal Co.* (C. C. A.) 217 F. 727, 730.

#### Legal Liability

A liability which courts of justice recognize and enforce as between parties litigant. *Royal Ins. Co. v. St. Louis-San Francisco Ry. Co.* (C. C. A.) 291 F. 358, 360. See, also, *Brooklyn Clothing Corporation v. Fidelity-Phenix Fire Ins. Co.*, 200 N. Y. S. 208, 211, 205 App. Div. 743.

#### Secondary Liability

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

**LIABLE.** 1. Bound or obliged in law or equity; responsible; chargeable; answerable; compellable to make satisfaction, compensation, or restitution. *Hannibal Trust Co. v. Elzea*, 286 S. W. 371, 377, 315 Mo. 485; *State*

v. Albert, 133 A. 693, 694, 125 Me. 325. Obligated; accountable for or chargeable with. Wilhelm v. Parkersburg, M. & I. R'y. Co., 82 S. E. 1089, 1091, 74 W. Va. 678.

2. Exposed or subject to a given contingency, risk, or casualty, which is more or less probable. Jennings v. National American (Mo. App.) 179 S. W. 789. Exposed, as to damage, penalty, expense, burden, or anything unpleasant or dangerous; justly or legally responsible or answerable. Breslaw v. Rightmire, 196 N. Y. S. 539, 541, 119 Misc. 833.

The term is not the equivalent of "probably," but refers rather to a future possible or probable happening which may not actually occur, and relates to an occurrence within the range of possibility. Alabama Great Southern R. Co. v. Smith, 209 Ala. 301, 96 So. 239, 240; Saylor v. Taylor, 42 Cal. App. 474, 183 P. 843, 844. Compare Adams v. Moberly Light & Power Co. (Mo. App.) 237 S. W. 162, 165.

#### Limited Liability

The liability of the members of a joint-stock company may be either unlimited or limited; and, if the latter, then the limitation of liability is either the amount, if any, unpaid on the shares, (in which case the limit is said to be "by shares,") or such an amount as the members guaranty in the event of the company being wound up, (in which case the limit is said to be "by guaranty.") Brown.

#### Personal Liability

The liability of the stockholders in corporations, under certain statutes, by which they may be held individually responsible for the debts of the corporation, either to the extent of the par value of their respective holdings of stock, or to twice that amount, or without limit, or otherwise, as the particular statute directs.

**LIARD.** An old French coin, of silver or copper, formerly current to a limited extent in England, and there computed as equivalent to a farthing.

#### LIBEL, *v.*

##### In Admiralty Practice

To proceed against, by filing a libel; to seize under admiralty process, at the commencement of a suit.

##### In Torts

To defame or injure a person's reputation by a published writing.

#### LIBEL, *n.*

##### In Practice

The initiatory pleading on the part of the plaintiff or complainant in an admiralty or ecclesiastical cause, corresponding to the declaration, bill, or complaint.

A written statement by a plaintiff of his cause of action, and of the relief he seeks to obtain in a suit. Ayliffe, Par. 346; Shelf. Marr. & D. 506; Dunl. Adm. Pr. 111.

#### In Scotch Law

The form of the complaint or ground of the charge on which either a civil action or criminal prosecution takes place. Bell.

#### In Torts

That which is written or printed, and published, calculated to injure the character or reputation of another by bringing him into ridicule, hatred, or contempt. Palmer v. Concord, 48 N. H. 211, 97 Am. Dec. 605; Negley v. Farrow, 60 Md. 175, 45 Am. Rep. 715; Collins v. Dispatch Pub. Co., 152 Pa. 187, 25 A. 546, 34 Am. St. Rep. 636; Hartford v. State, 96 Ind. 463, 49 Am. Rep. 185; 15 M. & W. 344; Oklahoma Pub. Co. v. Kendall, 96 Okl. 194, 221 P. 762, 765; Hughes v. Samuels Bros., 179 Iowa, 1077, 159 N. W. 539, 590, L. R. A. 1917F, 1088.

A false and unprivileged publication by writing, printing, picture, effigy, or other fixed representation to the eye which exposes any person to hatred, contempt, ridicule, or obloquy, or which causes him to be shunned or avoided, or which has a tendency to injure him in his occupation. Civ. Code Cal. § 45; Penal Law N. Y. (Consol. Laws, c. 40) § 1340; Civ. Code S. D. § 29 (Rev. Code 1919, § 95); Comp. Laws N. D. 1913, § 4352. This definition includes almost any language which upon its face has a natural tendency to injure a man's reputation, either generally or with respect to his occupation. Stevens v. Snow, 191 Cal. 58, 214 P. 968, 969. See, also, Rem. & Bal. Code Wash. § 2424 (Rem. Comp. Stat. § 2424); Rev. St. Mo. 1909, § 4818 (Mo. St. Ann. § 4366); Vernon's Ann. Civ. St. Tex. art. 5430; Cr. Code Ill. § 177 (Smith-Hurd Rev. St. 1931, c. 38, § 402); McClellan v. L'Engle, 74 Fla. 581, 77 So. 270, 272.

A malicious defamation, expressed either by writing, printing, or by signs or pictures, or the like, tending to blacken the memory of one who is dead, or to impeach the honesty, integrity, virtue, or reputation, or publish the natural or alleged defects, of one who is alive, and thereby to expose him to public hatred, contempt, or ridicule. Pen. Code Cal. § 248; Bac. Abr. tit. "Libel;" 1 Hawk. P. C. 1, 73, § 1; Ryckman v. Delavan, 25 Wend. (N. Y.) 198; Brown v. Elm City Lumber Co., 167 N. C. 9, 82 S. E. 931, 962, L. R. A. 1915E, 275, Ann. Cas. 1916E, 631; Riley v. Askin & Marine Co., 134 S. C. 198, 132 S. E. 584, 586, 46 A. L. R. 558; Smith v. Lyons, 142 La. 975, 77 So. 896, 900, L. R. A. 1918E, 1; Willetts v. Scudder, 72 Or. 535, 144 P. 87, 89; Commonwealth v. Szliakys, 254 Mass. 424, 150 N. E. 190, 191.

A publication, without justification or lawful excuse, of words calculated to injure the reputation of another, and expose him to hatred or contempt. Whitney v. Janesville Gazette, 5 Biss. 330, Fed. Cas. No. 17,590; O'Brien v. Clement, 15 Mees. & W. 435. Or a written statement, injurious to his trade. 7 App. Cas. 741.

A censorious or ridiculing writing, picture, or sign

made with a mischievous intent. *State v. Farley*, 4 McCord (S. C.) 317; *People v. Crowell*, 3 Johns. Cas. (N. Y.) 354; *Steele v. Southwick*, 9 Johns. (N. Y.) 215; *McCorkle v. Binns*, 5 Bin. (Pa.) 348; 6 Am. Dec. 420; *Tillson v. Robbins*, 68 Me. 295, 28 Am. Rep. 50.

A publication by any means other than words orally spoken of any false and scandalous matter with intent to injure or defame another. L. O. L., Or. § 1930 (Code 1930, § 14-238).

A false and unprivileged publication, which tends to impair the social standing of a man, to make him contemptible or ridiculous, or to deprive him of the confidence, good will, or esteem of his fellow men. *Robinson v. Johnson* (C. C. A.) 239 F. 671, 673.

Any false and malicious writing published of another, when its tendency is to render the party contemptible or ridiculous in public estimation or expose him to public hatred or contempt; *Talbot v. Mack*, 41 Nev. 245, 169 P. 25, 30; or hinder virtuous men from associating with him; *Colbert v. Journal Pub. Co.*, 19 N. M. 156, 142 P. 146, 148; *Burns v. Telegram Pub. Co.*, 89 Conn. 549, 94 A. 917, 918.

Any publication the tendency of which is to degrade or injure another person, or to bring him into contempt, ridicule, or hatred, or which accuses him of a crime punishable by law, or of an act odious and disgraceful in society. *Dexter v. Spear*, 4 Mason, 115, Fed. Cas. No. 3,867; *White v. Nicholls*, 3 How. 201, 11 L. Ed. 591; *Wells v. Times Printing Co.*, 77 Wash. 171, 137 P. 457, 459.

Libels have been classified according to their objects: (1) Libels which impute to a person the commission of a crime; (2) libels which have a tendency to injure him in his office, profession, calling, or trade; (3) libels which hold him up to scorn and ridicule and to feelings of contempt or execration, impair him in the enjoyment of general society, and injure those imperfect rights of friendly intercourse and mutual benevolence which man has with respect to man. *Newell, Stan. & L. 67*.

"Libel" and "slander" are both methods of defamation; the former being expressed by print, writing, pictures, or signs; the latter by oral expressions. *Spence v. Johnson*, 142 Ga. 267, 82 S. E. 646, 647, Ann. Cas. 1916A, 1195.

If a written or printed publication tends to degrade a person, that is, to reduce his character or reputation in the estimation of his friends or acquaintances, or the public, or to disgrace him, or to render him odious, ridiculous, or contemptible, it is "libelous per se," though spoken words are "slanderous per se" only if they falsely impute the commission of a crime involving moral turpitude, an infectious disease, or unfitness to perform duties of an office or employment, prejudice him in his profession or trade, or tend to disinherit him. *Axton Fisher Tobacco Co. v. Evening Post Co.*, 169 Ky. 64, 183 S. W. 269, 274, L. R. A. 1916E, 667, Ann. Cas. 1918B, 560.

#### In General

—**Libel of accusation.** In Scotch law. The instrument which contains the charge against a person accused of a crime. Libels are of two kinds, namely, indictments and criminal letters.

—**Criminal libel.** A libel which is punishable criminally; one which tends to excite a breach of the peace. *Moody v. State*, 94 Ala. 42, 10 So. 670; *State v. Shaffner*, 2 Penn-

will (Del.) 171, 44 A. 620; *People v. Stokes*, 30 Abb. N. C. 200, 24 N. Y. S. 727; 3 Greenl. Ev. § 164; *Com. v. Clap*, 4 Mass. 163, 3 Am. Dec. 212; *White v. Nicholls*, 3 How. (U. S.) 266, 11 L. Ed. 591; 5 Co. 125; 4 Term 126; *Allen v. Pub. Co.*, 81 Wis. 120, 50 N. W. 1093; *Walker v. Wickens*, 49 Kan. 42, 30 P. 181; *Penal Law N. Y.* (Consol. Laws, c. 40), § 1340; *Kennerly v. Hennessy*, 68 Fla. 138, 66 So. 729, 19 A. L. R. 1468. The malicious defamation of a person made public by any printing or writing tending to provoke him to wrath and to deprive him of the benefits of public confidence and social intercourse. Code Iowa 1897, § 5086 (Code 1931, § 13256).

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

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

**LIBELEE.** A party against whom a libel has been filed in an ecclesiastical court or in admiralty, corresponding to the defendant in a common-law action.

**LIBELLUS.** Lat.

#### In the Civil Law

A little book. *Libellus supplex*, a petition, especially to the emperor, all petitions to whom must be in writing. *Libellum rescribere*, to mark on such petition the answer to it. *Libellum agere*, to assist or counsel the emperor in regard to such petitions. *Libellus accusatorius*, an information and accusation of a crime. *Libellus divortii*, a writing of divorce. *Libellus rerum*, an inventory. *Calvin. Libellus or oratio consultoria*, a message by which emperors laid matters before the senate. *Id. Libellus appellatorius*, an appeal. *Id.*

A writing in which are contained the names of the plaintiff (*actor*) and defendant, (*reus*) the thing sought, the right relied upon, and name of the tribunal before which the action is brought. *Calvin.*

#### In Feudal Law

An instrument of alienation or conveyance, as of a fief, or a part of it.

Also, a bill. *Bracton*, fol. 112. Sometimes called *libellus conventionis* (*q. v.*).



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

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

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

**LIBELOUS PER QUOD.** Expressions "libelous per quod" are such as require that their injurious character or effect be established by allegation and proof. Talbot v. Mack, 41 Nev. 245, 169 P. 25, 32. They are those expressions which are not actionable upon their face, but which become so by reason of the peculiar situation or occasion upon which the words are written. Oliveros v. Henderson, 116 S. C. 77, 106 S. E. 855, 857.

**LIBELOUS PER SE.** A defamatory publication is libelous *per se* when the words are of such a character that an action may be brought upon them without the necessity of showing any special damage, the imputation being such that the law will presume that any one so slandered must have suffered damage. See *Mayrant v. Richardson*, 1 Nott & McC. (S. C.) 349, 9 Am. Dec. 707; *Woolworth v. Star Co.*, 97 App. Div. 525, 90 N. Y. S. 147; *Morse v. Times-Republican Printing Co.*, 124 Iowa, 707, 100 N. W. 867. Defamatory words to be "libelous per se" must be of such a nature that the court can presume as a matter of law that they will tend to disgrace and degrade the party, or hold him up to public hatred, contempt, or ridicule, or cause him to be shunned and avoided. *Providence-Washington Ins. Co. v. Owens* (Tex. Civ. App.) 207 S. W. 666, 671. Such words must be of a character so obviously hurtful to the person aggrieved thereby that no explanation of meaning or proof of injurious character is needed. *Jerald v. Huston*, 120 Kan. 3, 242 P. 472, 474; *Lemmer v. The Tribune*, 50 Mont. 559, 148 P. 338, 339; *Erick Bowman Remedy Co. v. Jensen Salsbery Laboratories* (C. C. A.) 17 F.(2d) 255, 258, 52 A. L. R. 1187; *Kee v. Armstrong, Byrd & Co.* (Okl. Sup.) 151 P. 572, 574; *Rail v. National Newspaper Ass'n*, 198 Mo. App. 463, 192 S. W. 129, 135; *Atlanta Post Co. v. McHenry*, 26 Ga. App. 341, 106 S. E. 324, 326. See, also, Actionable words.

**LIBER, n.** Lat. A book, of whatever material composed; a main division of a literary work.

—**Liber assisarum.** The Book of Assizes or pleas of the crown. A collection of cases that arose on assizes and other trials in the country. It was the fourth volume of the reports of the reign of Edward III. 3 Reeve, Eng. Law, 148.

—**Liber authenticorum.** The authentic collection of the novels of Justinian, so called to distinguish them from the *Epitome Juliani*. Sohm, Rom. L. 14.

—**Liber feudorum.** The book of feuds. This was a compilation of feudal law, prepared by order of the emperor Frederick I., and published at Milan in 1170. It comprised five books, of which only the first two are now extant with fragmentary portions of the others, printed at the end of modern editions of the *Corpus Juris Civilis*. Giannone, b. 13, c. 3; Cruise, Dig. prel. diss. c. 1, § 31.

—**Liber judicialis of Alfred.** Alfred's dome-book. See *Domesday*.

—**Liber judiciarum.** The book of judgment, or doom-book. The Saxon *Domboc*. Conjectured to be a book of statutes of ancient Saxon kings. See Jacob, *Domboc*; 1 Bla. Comm. 64.

—**Liber niger.** Black book. A name given to several ancient records.

—**Liber niger domus regis,** (the black book of the king's household.) The title of a book in which there is an account of the household establishment of King Edward IV., and of the several musicians retained in his service, as well for his private amusement as for the service in his chapel. Enc. Lond.

—**Liber niger scaccarii.** The black book of the exchequer, attributed to Gervase of Tilbury. 1 Reeve, Eng. Law, 220, note.

—**Liber ruber scaccarii.** The red book of the exchequer. 1 Reeve, Eng. Law, 220, note.

**LIBER, adj.** Lat. Free; open and accessible, as applied to courts, places, etc.; of the state or condition of a freeman, as applied to persons. Exempt from the service or jurisdiction of another.

—**Liber bancus.** In old English law. Free bench. Bract. fol. 97b.

—**Liber et legalis homo.** In old English law. A free and lawful man. A term applied to a juror, or to one worthy of being a jurymen, from the earliest period.

—**Liber homo.** A free man; a freeman lawfully competent to act as juror. *Ld. Raym.* 417; *Kebl.* 563. An allodial proprietor, as distinguished from a vassal or feudatory. This was the sense of the term in the laws of the barbarous nations of Europe. Calvinus, *Lex. Alood.*

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

**LIBERA.** Lat. (Feminine of *liber*, *adj.*) Free; at liberty; exempt; not subject to toll or charge.

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

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

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

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

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

**LIBERA PISCARIA.** In old English law. A free fishery. Co. Litt. 122a.

**LIBERA WARRENA.** In old English law. Free wæren, (*q. v.*)

**LIBERAL.** Free in giving; generous; not mean or narrow-minded; not literal or strict.

**LIBERAL CONSTRUCTION OR INTERPRETATION.** That by which the letter of a statute is enlarged or restrained to accomplish the intended purpose, as opposed to "strict construction," which refuses to extend the import of words used. *Causey v. Guilford County*, 192 N. C. 298, 135 S. E. 40, 46. That which simply expresses the legislative intention drawn from the chief purpose of the statute, its context, subject-matter, and consequences. *State v. Morris*, 199 Ind. 78, 155 N. E. 198, 201. It means, not that the words should be forced out of their natural meaning, but simply that they should receive a fair and reasonable interpretation with respect to the objects and purposes of the instrument. *Lawrence v. McCalmont*, 2 How. 426, 11 L. Ed. 326.

**LIBERAM LEGEM AMITTERE.** To lose one's free law, (called the villainous judgment,) to become discredited or disabled as juror and witness, to forfeit goods and chattels and lands for life, to have those lands wasted, houses razed, trees rooted up, and one's body committed to prison. It was an-

ciently pronounced against conspirators, but is now disused, the punishment substituted being fine and imprisonment. *Hawk. P. C.* 61, c. lxxii., s. 9; 3 Inst. 221; *Jones v. Brinkley*, 174 N. C. 23, 93 S. E. 372, 374.

**LIBERARE.** Lat.

**In the Civil Law**

To free or set free; to liberate; to give one his liberty. Calvin.

**In Old English Law**

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

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

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

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

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

A writ which issues on lands, tenements, and chattels, being returned under an extent on a statute staple, commanding the sheriff to deliver them to the plaintiff, by the extent and appraisal mentioned in the writ of extent and in the sheriff's return thereto. See Com. Dig. *Statute Staple* (D 6).

**LIBERATIO.**

**In Old English Law**

Livery; money paid for the delivery or use of a thing.

**In Old Scotch Law**

Livery; a fee given to a servant or officer. Skene.

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

**LIBERATION.** In Civil Law. The extinguishment of a contract, by which he who was bound becomes free or liberated. Wolff, *Dr. de la Nat.* § 749. Synonymous with payment. Dig. 50. 16. 47.

**LIBERI.**

**In Saxon Law**

Freemen; the possessors of allodial lands. 1 Reeve, Eng. Law, 5.

**In the Civil Law**

Children. The term included "grand-children."

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

**LIBERTAS ECCLESIASTICA.** Church liberty, or ecclesiastical immunity.

**Libertas est naturalis facultas ejus quod cuique facere libet, nisi quod de jure aut vi prohibetur.** Co. Litt. 116. Liberty is that natural faculty which permits every one to do [or the natural power of doing] anything he pleases except that which is restrained by law or force.

**Libertas inestimabilis res est.** Liberty is an inestimable thing; a thing above price. Dig. 50, 17, 106; Fleta, lib. 2, c. 51, § 13.

**Libertas non recipit æstimationem.** Freedom does not admit of valuation. Bract. fol. 14.

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

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

**LIBERTATIBUS ALLOCANDIS.** A writ lying for a citizen or burgess, impleaded contrary to his liberty, to have his privilege allowed. Reg. Orig. 262.

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

**LIBERTI; LIBERTINI.** Lat. In Roman law. Freedmen. The condition of those who, having been slaves, had been made free. 1 Brown, Civ. Law 99. There seems to have been some difference in the use of these two words; the former denoting the manumitted slaves considered in their relations with their former master, who was now called their "patron;" the latter term applying to them in their *status* in the general social economy of Rome subsequent to manumission. *Lec. El. Dr. Rom.* § 93. See Morey, Rom. L. 236.

**LIBERTICIDE.** A destroyer of liberty.

**LIBERTIES.** Privileged districts exempt from the sheriff's jurisdiction; as, "gaol liberties." See Gaol.

In colonial times, laws, or legal rights resting upon them. The early colonial ordinances in Massachusetts were termed laws and liberties, and the code of 1641 the "Body of Liberties." Com. v. Alger, 7 Cush. (Mass.) 70.

Formerly, political subdivisions of Philadelphia; as, Northern Liberties.

**Libertinum ingratum leges civiles in pristinam servitutem redigunt; sed leges Angliæ semel manumissum semper liberum judicant.** Co.

Litt. 137. The civil laws reduce an ungrateful freedman to his original slavery; but the laws of England regard a man once manumitted as ever after free.

**LIBERTY.** Freedom; exemption from extraneous control. The power of the will to follow the dictates of its unrestricted choice, and to direct the external acts of the individual without restraint, coercion, or control from other persons. See Booth v. Illinois, 22 S. Ct. 425, 184 U. S. 425, 46 L. Ed. 623; Munn v. Illinois, 94 U. S. 142, 24 L. Ed. 77; People v. Warden of City Prison, 157 N. Y. 116, 51 N. E. 1006, 43 L. R. A. 264, 68 Am. St. Rep. 763; Bessette v. People, 193 Ill. 334, 62 N. E. 215, 56 L. R. A. 558; State v. Continental Tobacco Co., 177 Mo. 1, 75 S. W. 737; Kuhn v. Detroit City Council, 70 Mich. 534, 38 N. W. 470; People v. Judson, 11 Daly (N. Y.) 1.

Freedom from all restraints except such as are justly imposed by law. Ex parte Kreutzer, 187 Wis. 463, 204 N. W. 595, 604. Freedom from restraint, under conditions essential to the equal enjoyment of the same right by others; freedom regulated by law. Kelly v. James, 37 S. D. 272, 157 N. W. 990, 991. The absence of arbitrary restraint, not immunity from reasonable regulations and prohibitions imposed in the interests of the community. Southern Utilities Co. v. City of Palatka, 86 Fla. 583, 99 So. 236, 240. See, also, Western Theological Seminary v. City of Evanston, 325 Ill. 511, 156 N. E. 778, 782; Hall v. State, 100 Neb. 84, 158 N. W. 362, 364, L. R. A. 1916F, 136; Hardie-Tynes Mfg. Co. v. Cruse, 189 Ala. 66, 66 Sp. 657, 661.

Liberty, on its positive side, denotes the fullness of individual existence; on its negative side it denotes the necessary restraint on all, which is needed to promote the greatest possible amount of liberty for each. Amos, Science of Law, p. 90.

The word "liberty" as used in the state and federal Constitutions means, in a negative sense, freedom from restraint, but in a positive sense, it involves the idea of freedom secured by the imposition of restraint, and it is in this positive sense that the state, in the exercise of its police powers, promotes the freedom of all by the imposition upon particular persons of restraints which are deemed necessary for the general welfare. Fitzsimmons v. New York State Athletic Commission (Sup.) 146 N. Y. S. 117, 121.

"Liberty," in so far as it is noticed by government, is restraint, rather than license. It is a yielding of the individual will to that of the many, subject to such constitutional guarantees or limitations as will preserve those rights and privileges which are admitted of all men to be fundamental. "Liberty" in the civil state is a giving up of natural right in consideration of equal protection, and opportunity. Weber v. Doust, 84 Wash. 330, 146 P. 623, 625.

The "personal liberty" guaranteed by Const. U. S. Amend. 13 consists in the power of locomotion without imprisonment or restraint unless by due course of law, except those restraints imposed to prevent commission of threatened crime or in punishment of crime committed, those in punishment of contempts of courts or legislative bodies or to render

their jurisdiction effectual, and those necessary to enforce the duty citizens owe in defense of the state to protect community against acts of those who by reason of mental infirmity are incapable of self-control. *Ex parte Hudgins*, 86 W. Va. 526, 103 S. E. 327, 329, 9 A. L. R. 1361.

"Liberty," as used in the provision of the fourteenth amendment to the federal constitution, forbidding the states to deprive any person of life, liberty, or property without due process of law, includes, it seems, not merely the right of a person to be free from physical restraint, but to be free in the enjoyment of all his faculties in all lawful ways; to live and work where he will; to earn his livelihood by any lawful calling; to pursue any livelihood or avocation; and for that purpose to enter into all contracts which may be proper, necessary, and essential to carrying out the purposes above mentioned. *Allgeyer v. State of Louisiana*, 17 S. Ct. 427, 165 U. S. 578, 41 L. Ed. 832; *State v. Wilson*, 101 Kan. 789, 168 P. 679, 682, L. R. A. 1913B, 374; *Hyatt v. Blackwell Lumber Co.*, 31 Idaho, 452, 173 P. 1083, 1084, 1 A. L. R. 1663; *Shilling v. State*, 143 Miss. 709, 109 So. 737, 739; *Wolff Pack Co. v. Court of Industrial Relations*, 43 S. Ct. 630, 262 U. S. 522, 67 L. Ed. 1103; *Ex parte Messer*, 87 Fla. 92, 99 So. 330, 333; *Minot Special School Dist. No. 1 v. Olsness*, 53 N. D. 683, 208 N. W. 968, 970, 45 A. L. R. 1337; *In re Opinion of the Justices*, 220 Mass. 627, 108 N. E. 807, L. R. A. 1917B, 1119; *Alabama & N. O. Transp. Co. v. Doyle (D. C.)* 210 F. 173, 178. The word "liberty" denotes, not merely freedom from bodily restraint, but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home, and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men. *Meyer v. State of Nebraska*, 43 S. Ct. 625, 626, 262 U. S. 390, 67 L. Ed. 1042, 29 A. L. R. 1446; *Jenkins v. State*, 14 Ga. App. 276, 80 S. E. 688, 690. See, also, *Lawrence v. Barlow*, 77 W. Va. 289, 87 S. E. 380, 381; *Rawles v. Jenkins*, 212 Ky. 287, 279 S. W. 350, 351; *People v. Horwitz*, 27 N. Y. Cr. R. 237, 140 N. Y. S. 437, 441.

Also, a franchise or personal privilege, being some part of the sovereign power, vested in an individual, either by grant or prescription.

The term is used in the expression, rights, liberties, and franchises, as a word of the same general class and meaning with those words and privileges. This use of the term is said to have been strictly conformable to its sense as used in *Magna Charta* and in English declarations of rights, statutes, grants, etc.; *Com. v. Alger*, 7 Cush. (Mass.) 70.

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

#### Civil Liberty

The liberty of a member of society, being a man's natural liberty, so far restrained by human laws (and no further) as is necessary and expedient for the general advantage of the public. 1 Bl. Comm. 125; 2 Steph. 487. The power of doing whatever the laws permit.

1 Bl. Comm. 6; Inst. 1, 3, 1. See *People v. Berberich*, 20 Barb. (N. Y.) 231; *In re Ferrier*, 103 Ill. 372, 43 Am. Rep. 10; *Dennis v. Moses*, 18 Wash. 537, 52 P. 333, 40 L. R. A. 302; *State v. Kreutzberg*, 114 Wis. 530, 90 N. W. 1098, 58 L. R. A. 748, 91 Am. St. Rep. 934; *Hayes v. Mitchell*, 69 Ala. 454; *Bell v. Gaynor*, 14 Misc. 334, 36 N. Y. S. 122. The greatest amount of absolute liberty which can, in the nature of things, be equally possessed by every citizen in a state. Guaranteed protection against interference with the interests and rights held dear and important by large classes of civilized men, or by all the members of a state, together with an effectual share in the making and administration of the laws, as the best apparatus to secure that protection. *Lieber, Civ. Lib.* 24.

#### Liberty of a Port

In marine insurance. A license or permission incorporated in a marine policy allowing the vessel to touch and trade at a designated port other than the principal port of destination. See *Allegre v. Maryland Ins. Co.*, 8 Gill & J. (Md.) 200, 29 Am. Dec. 536.

#### Liberty of Conscience

Religious liberty, as defined below.

#### Liberty of Contract

The ability at will, to make or abstain from making, a binding obligation enforced by the sanctions at the law. *Judson, Liberty of Contract*, Rep. Am. Bar Ass'n (1891) 233. The right to contract about one's affairs, including the right to make contracts of employment, and to obtain the best terms one can as the result of private bargaining. *Adkins v. Children's Hospital of District of Columbia*, 43 S. Ct. 394, 396, 261 U. S. 525, 67 L. Ed. 785, 24 A. L. R. 1238. It includes the corresponding right to accept a contract proposed. *St. Louis Southwestern Ry. Co. of Texas v. Griffin*, 106 Tex. 477, 171 S. W. 703, 704, L. R. A. 1917B, 1108. There is, however, no absolute freedom of contract. The government may regulate or forbid any contract reasonably calculated to affect injuriously public interest. *Atlantic Coast Line R. Co. v. Riverside Mills*, 31 S. Ct. 164, 219 U. S. 186, 55 L. Ed. 167, 31 L. R. A. (N. S.) 7.

#### Liberty of Speech

Freedom accorded by the constitution or laws of a state to express opinions and facts by word of mouth, uncontrolled by any censorship or restrictions of government. But language tending to the violation of the rights of personal security and private property, and toward breaches of the public peace, is an abuse of the right, *State v. Boyd*, 86 N. J. Law, 75, 91 A. 586, 587; which is not license, nor lawlessness, but rather the right to fairly criticize and comment, *State v. Pape*, 90 Conn. 98, 96 A. 313, 315. Liberty never has meant the unrestricted right to say what one

pleases at all times and under all circumstances. *Fraina v. U. S.* (C. C.  $\mathcal{A}$ ) 255 F. 28, 35. It has been thought that the liberty to speak includes the corresponding right to be silent, and that this right is infringed by a statute compelling a corporation to give a discharged employee a statement of the cause of discharge. *St. Louis Southwestern Ry. Co. of Texas v. Griffin*, 106 Tex. 477, 171 S. W. 703, 705, L. R. A. 1917B, 1108.

#### Liberty of the Globe

In marine insurance. A license or permission incorporated in a marine policy authorizing the vessel to go to any part of the world, instead of being confined to a particular port of destination. See *Eyre v. Marine Ins. Co.*, 6 Whart. (Pa.) 254.

#### Liberty of the Press

The right to print and publish the truth, from good motives and for justifiable ends. *People v. Crowell*, 3 Johns. Cas. 394. The right to print without any previous license, subject to the consequences of the law. 3 Term 431; *Respublica v. Dennie*, 4 Yeates (Pa.) 267, 2 Am. Dec. 402; *Williams Printing Co. v. Saunders*, 113 Va. 156, 73 S. E. 472, Ann. Cas. 1913E, 693. The right freely to publish whatever the citizen may please, and to be protected against any responsibility for so doing except so far as such publications, from their blasphemy, obscenity, or scandalous character, may be a public offense, or as by their falsehood and malice they may injuriously affect the standing, reputation, or pecuniary interests of individuals. *Cooley*, Const. Lim. p. 422. It is said to consist in this: "That neither courts of justice, nor any judges whatever, are authorized to take notice of writings *intended* for the press, but are confined to those which are actually printed." *De Lolme*, Eng. Const. 254.

#### Liberty of the Rules

A privilege to go out of the Fleet and Marshalsea prisons within certain limits, and there reside. Abolished by 5 & 6 Vict. c. 22.

#### Liberty to Hold Pleas

The liberty of having a court of one's own. Thus certain lords had the privilege of holding pleas within their own manors.

#### Natural Liberty

The power of acting as one thinks fit, without any restraint or control, unless by the law of nature. 1 Bl. Comm. 125. The right which nature gives to all mankind of disposing of their persons and property after the manner they judge most consistent with their happiness, on condition of their acting within the limits of the law of nature, and so as not to interfere with an equal exercise of the same rights by other men. *Burlamaqui*, c. 3, § 15; 1 Bl. Comm. 125. It is called by Lieber *social liberty*, and is defined as the protection or un-

restrained action in as high a degree as the same claim of protection of each individual admits of.

#### Personal Liberty

The right or power of locomotion; of changing situation, or moving one's person to whatsoever place one's own inclination may direct, without imprisonment or restraint, unless by due course of law. 1 Bl. Comm. 134. *Civil Rights Cases*, 3 S. Ct. 42, 109 U. S. 3, 27 L. Ed. 835; *Pinkerton v. Verberg*, 78 Mich. 573, 44 N. W. 579, 7 L. R. A. 507, 18 Am. St. Rep. 473.

#### Political Liberty

Liberty of the citizen to participate in the operations of government, and particularly in the making and administration of the laws.

#### Religious Liberty

Freedom from dictation, constraint, or control in matters affecting the conscience, religious beliefs, and the practice of religion; freedom to entertain and express any or no system of religious opinions, and to engage in or refrain from any form of religious observance or public or private religious worship, not inconsistent with the peace and good order of society and the general welfare. See *Frazee's Case*, 63 Mich. 396, 30 N. W. 72, 6 Am. St. Rep. 310; *State v. White*, 64 N. H. 48, 5 A. 828.

**Libenum corpus nullam recipit æstimationem.** Dig. 9, 3, 7. The body of a freeman does not admit of valuation.

**Libenum est cuique apud se explorare an expediat sibi consilium.** Every one is free to ascertain for himself whether a recommendation is advantageous to his interests. *Upton v. Vail*, 6 Johns. (N. Y.) 181, 184, 5 Am. Dec. 210.

**LIBERUM MARITAGIUM.** In old English law. Frank-marriage. *Bract. fol. 21; Littleton, § 17.*

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

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

The tenure of free service does not make a villein a free man, unless homage or manumission precede, any more than a tenure by villein services makes a freeman a villein. *Bract. fol. 24.*

**LIBERUM SOCAGIUM.** In old English law. Free socage. *Bract. fol. 207; 2 Bl. Comm. 61, 62.*

**LIBERUM TENEMENTUM.**

#### In Real Law

Freehold. Frank-tenement.

## In Pleading

A plea of freehold. A plea by the defendant in an action of trespass to real property that the *locus in quo* is his freehold, or that of a third person, under whom he acted. 1 Tidd, Pr. 645; 2 Salk. 453; 7 Term 355; 1 Wms. Saund. 299b.

**LIBLAC.** In Saxon law. Witchcraft, particularly that kind which consisted in the compounding and administering of drugs and philters. Sometimes occurring in the Latinized form *liblacum*.

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

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

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

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

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

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

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

A neutral person or balance holder, who was present at a conveyance of real property. He held in his hand the symbolic balance, which was struck by the purchaser with a piece of bronze as a sign of the completion of the conveyance. The bronze was then transferred to the seller as a sign of the purchase money. Morey, Rom. L. 21, 80.

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

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

## LICENSE.

## In Constitutional Law, and in the Law of Contracts

A permission, accorded by a competent authority, conferring the right to do some act which without such authorization would be illegal, or would be a trespass or a tort. *State v. Hipp*, 38 Ohio St. 226; *Youngblood v. Sexton*, 32 Mich. 406, 20 Am. Rep. 654; *Hubman v. State*, 61 Ark. 482, 33 S. W. 843; *Chicago v. Collins*, 175 Ill. 445, 51 N. E. 907, 49 L. R. A. 408, 67 L. R. A. 224; *City of Houston v. Richter* (Tex. Civ. App.) 157 S. W. 189, 192; *Message Photo-Play Co. v. Bell*, 179 App. Div. 13, 166 N. Y. S. 338, 341. A permit or privilege to do what otherwise would be unlawful. *Palmetto Fire Ins. Co. v. Beha* (D. C.) 13 F.(2d) 50, 505; *Harry E. Prettyman, Inc., v. Florida Real Estate Commission*, 92 Fla. 515, 109 So. 442, 445; *La Plante v. State Board of Public Roads*, 47 R. I. 258, 131 A. 641, 642.

A permit, granted by the sovereign, generally for a consideration (*Smith v. Commonwealth*, 175 Ky. 286, 194 S. W. 367, 370), to a person, firm, or corporation to pursue some occupation or to carry on some business subject to regulation under the police power. *State ex rel. Guillot v. Central Bank & Trust Co.*, 143 La. 1053, 79 So. 857, 858.

A "license" is in no sense a contract between the state and the licensee, but is a mere personal permit, neither transferable nor vendible. *Foshee v. State*, 15 Ala. App. 113, 72 So. 685; *Ex parte Deats*, 22 N. M. 536, 166 P. 913, 915; *State v. Clark*, 79 Tex. Cr. R. 559, 187 S. W. 760, 766; *Gherna v. State*, 16 Ariz. 344, 146 P. 494, 502, Ann. Cas. 1916D, 94; *Murphy Liquor Co. v. Medbery*, 35 S. D. 589, 153 N. W. 654.

Also, the written evidence of such permission.

## In Real Property Law

An authority to do a particular act or series of acts upon the land of another without possessing any estate or interest therein. *Polley v. Ford*, 190 Ky. 579, 227 S. W. 1007, 1008; *Haas v. Brannon*, 99 Okl. 94, 225 P. 931, 936; *Grant v. Haynes*, 164 Ga. 371, 138 S. E. 892, 894; *Priddy v. Green* (Tex. Civ. App.) 220 S. W. 243, 248; *Clifford v. O'Neill*, 12 App. Div. 17, 42 N. Y. S. 607; *Davis v. Townsend*, 10 Barb. (N. Y.) 343; *Morrill v. Mackman*, 24 Mich. 282, 9 Am. Rep. 124; *Wynn v. Garland*, 19 Ark. 23, 68 Am. Dec. 190; *Cheever v. Pearson*, 16 Pick. (Mass.) 266; *Metcalf v. Hart*, 3 Wyo. 513, 27 P. 900, 31 P. 407, 31 Am. St. Rep. 122; *Clark v. Glidden*, 60 Vt. 702, 15 A. 358. A permissive use. *Novinger v. Shoop* (Mo. Sup.) 201 S. W. 64, 66.

A personal, revocable, and unassignable privilege conferred, either by writing or by parol, to do one or more acts on land without possessing any interest therein. *Gravelly Ford Canal Co. v. Pope & Talbot Land Co.*, 36 Cal. App. 717, 178 P. 155, 163; *Schnuerle v. Gilbert*, 43 S. D. 535, 180 N. W. 953, 954.

Also, the written evidence of authority so accorded.

**Executed license.** That which exists when the licensed act has been done.

**Executory license.** That which exists where the licensed act has not been performed.

**Express license.** One which is granted in direct terms.

**Implied license.** One which is presumed to have been given from the acts of the party authorized to give it.

**Simple license.** One revocable at the will of the grantor; *i. e.*, one not coupled with a grant. *Cook v. Stearnes*, 11 Mass. 533; *Mumford v. Whitney*, 15 Wend. (N. Y.) 380, 30 Am. Dec. 60; *Fluker v. Banking Co.*, 81 Ga. 461, 8 S. E. 529, 2 L. R. A. 843, 12 Am. St. Rep. 328; *Wheeler v. West*, 78 Cal. 95, 20 P. 45; *Cowles v. Kidder*, 24 N. H. 364, 57 Am. Dec. 287.

It is distinguished from an "easement," which implies an interest in the land to be affected, and a "lease," or right to take the profits of land. It may be, however, and often is, coupled with a grant of some interest in the land itself, or right to take the profits. 1 Washb. Real Prop. \*398; *Davis v. Tway*, 16 Ariz. 566, 147 P. 750, L. R. A. 1915E, 604; *Markley v. Christen* (Tex. Civ. App.) 226 S. W. 150, 153; *Penman v. Jones*, 256 Pa. 416, 100 A. 1043, 1046.

A license is an authority to enter on land which is generally granted by parol and may be revoked by the licensor at pleasure and is not assignable, being a personal privilege, while an easement confers an interest in the land and may not be terminated at the pleasure of the servient owner. *Louisville Chair & Furniture Co. v. Otter*, 219 Ky. 757, 294 S. W. 483, 485.

The distinction between an easement and a license is often so metaphysical, subtle, and shadowy as to elude analysis. But there are certain fundamental principles underlying most cases which enable courts to distinguish an easement from a license when construed in the light of surrounding circumstances. *East Jersey Iron Co. v. Wright*, 32 N. J. Eq. 254; *Nunnally v. Iron Co.*, 94 Tenn. 397, 29 S. W. 361, 28-L. R. A. 4:1.

A "tenancy" implies some interest in the land leased, while a "license" conveys only a temporary privilege in the use of property usually revocable at the will of the licensor. *Klein v. City of Portland*, 106 Or. 686, 213 P. 147, 150; *Vicker v. Byrne*, 155 Wis. 281, 143 N. W. 186, 188. But see *Mitchell v. Probst*, 52 Okl. 10, 152 P. 597, 598.

An "invitation" is inferred where there is a common interest or mutual advantage, or where an owner or occupant of premises, by acts or conduct, leads another to believe the premises or something thereon were intended to be used by such other person, that such use is not only acquiesced in by the owner or occupant, but is in accordance with the intention or design for which the way, place, or thing was adapted or prepared or allowed to be used; while a "license" is implied where the object is the mere pleasure, convenience, or benefit of the person enjoying the privilege. *Kruntorad v. Chicago*, R. I. & P. Ry. Co., 111 Neb. 753, 197 N. W. 611, 612; *Milauksis v. Terminal R. Ass'n of St. Louis*, 286 Ill. 547, 122 N. E. 78, 81; *Konick v. Champneys*, 108 Wash. 35, 183 P. 75, 77, 6 A. L. R. 459; *Bush v. Weed Lumber Co.*, 63 Cal. App. 426, 218 P. 618, 620; *Polluck v. Minneapolis & St. L. R. Co.*, 44 S. D. 249, 133 N. W. 859, 862.

## In Pleading

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

## In the Law of Patents

A written authority granted by the owner of a patent to another person empowering the latter to make or use the patented article for a limited period or in a limited territory. Any transfer of patent rights short of assignment. *Wayman v. Louis Lipp Co.* (D. C.) 222 F. 679, 681. It signifies the assignment by the patentee to another of rights less in degree than the patent itself. *Arnold v. North American Chemical Co.*, 232 Mass. 196, 122 N. E. 283, 284.

A "license" is a permission to make, use or sell articles embodying invention, or is a transfer which does not affect the monopoly of the patent, otherwise than by estopping licensor from exercising its prohibitory powers in derogation of privileges conferred on licensee. *De Forest Radio Telephone & Telegraph Co. v. Radio Corporation of America* (D. C.) 9 F.(2d) 150, 151.

## In International Law

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

## In General

**—High license.** A system for the regulation and restriction of the traffic in intoxicating liquors, of which the distinguishing feature is the grant of licenses only to carefully selected persons and the charging of a license fee so great in amount as automatically to limit the number of retailers.

**—Letter of license.** In English law, a written instrument in the nature of an agreement, signed by all the creditors of a failing or embarrassed debtor in trade, granting him an extension of time for the payment of the debts, allowing him in the mean time to carry on the business in the hope of recuperation, and protecting him from arrest, suit, or other interference pending the agreement. This form is not usual in America; but something similar to it is found in the "composition" or "extension agreement," by which all the creditors agree to fund their claims in the form of promissory notes, concurrent as to date and maturity, sometimes payable serially and sometimes extending over a term of years. Provision is often made for the supervision or partial control of the business, in the mean time, by a trustee or a committee of the creditors, in which case the agreement is sometimes called a "deed of inspectorship," though this term is more commonly used in England than in the United States.

—**License cases.** The name given to the group of cases including *Peirce v. New Hampshire*, 5 How. 504, 12 L. Ed. 256, decided by the United States supreme court in 1847, to the effect that state laws requiring a license or the payment of a tax for the privilege of selling intoxicating liquors were not in conflict with the constitutional provision giving to congress the power to regulate interstate commerce, even as applied to liquors imported from another state and remaining in the original and unbroken packages. This decision was overruled in *Leisy v. Hardin*, 135 U. S. 100, 10 Sup. Ct. 681, 34 L. Ed. 128, which in turn was counteracted by the act of congress of August 8, 1890, commonly called the "Wilson law."

—**License fee or tax.** The price paid to governmental or municipal authority for a license to engage in and pursue a particular calling or occupation. See *Home Ins. Co. v. Augusta*, 50 Ga. 537; *Levi v. Louisville*, 97 Ky. 394, 30 S. W. 973, 28 L. R. A. 480.

—**License in amortization.** A license authorizing a conveyance of property which, without it, would be invalid under the statutes of mortmain.

—**Marriage license.** A written license or permission granted by public authority to persons who intend to intermarry, usually addressed to the minister or magistrate who is to perform the ceremony, or, in general terms, to any one authorized to solemnize marriages.

—**Registrar's license.** In English law, a license issued by an officer of that name authorizing the solemnization of a marriage without the use of the religious ceremony ordained by the Church of England.

—**Rod license.** In Canadian law, a license, granted on payment of a tax or fee, permitting the licensee to angle for fish (particularly salmon) which are otherwise protected or preserved.

—**Special license.** In English law. One granted by the archbishop of Canterbury to authorize a marriage at any time or place whatever. 2 Steph. Comm. 247, 255.

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

**LICENSEE.** A person to whom a license has been granted. See *Dennis v. State*, 5 Boyce (Del.) 298, 92 A. 853.

A person who is neither a passenger, servant, or trespasser, and does not stand in any contractual relation with the owner of premises, and who is permitted to go thereon for his own interest, convenience, or gratification. *Patten v. Bartlett*, 111 Me. 409, 89 A. 375, 376, 49 L. R. A. (N. S.) 1120; *Petree v. Davison-Paxon-Stokes Co.*, 30 Ga. App. 490, 118 S. E.

697, 698; *J. Ray Arnold Lumber Co. v. Carter*, 91 Fla. 548, 108 So. 815, 819, 46 A. L. R. 1068; *Hoyer v. Central R. Co. of New Jersey* (C. C. A.) 255 F. 493, 495; *Kiser v. Colonial Coal & Coke Co.*, 115 Va. 346, 79 S. E. 348, 349; *Vaughan v. Transit Development Co.*, 222 N. Y. 79, 118 N. E. 219.

To make one a "licensee" upon the premises or property of another, it must be shown that he is there by permission or authority of the owner, or his authorized agent. The permission and authority amounting to a license must be expressly or impliedly granted, and mere sufferance or failure to object to one's presence upon another's premises is insufficient within itself to constitute a license, unless under such circumstances that permission should be inferred. *Texas, O. & E. Ry. Co. v. McCarroll*, 80 Okl. 282, 195 P. 139, 141; *Kinsman v. Barton & Co.*, 141 Wash. 311, 251 P. 563, 564.

**In Patent Law**

One who has had transferred to him, either in writing or orally, a less or different interest than either the interest in the whole patent, or an undivided part of such whole interest, or an exclusive sectional interest. *Potter v. Holland*, 4 Blatchf. 211, Fed. Cas. No. 11,329.

**LICENSEE BY INVITATION.** A person who goes upon the lands of another with his express or implied invitation to transact business with the owner or occupant or do some act to his advantage or to the mutual advantage of both the licensee and the owner or occupant. *Cleveland, C., C. & St. L. Ry. Co. v. Means*, 59 Ind. App. 383, 104 N. E. 785, 789.

**LICENSING ACTS.** This expression is applied by Hallam (Const. Hist. c. 13) to acts of parliament for the restraint of printing, except by license. It may also be applied to any act of parliament passed for the purpose of requiring a license for doing any act whatever. But, generally, when we speak of the licensing acts, we mean the acts regulating the sale of intoxicating liquors. *Mozley & Whitley*.

**LICENSOR.** The person who gives or grants a license.

**LICENTIA.** Lat. License; leave; permission.

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

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

**LICENTIA SURGENDI.** In old English practice. License to arise; permission given by the court to a tenant in a real action, who had cast an *essoin de malo lecti*, to arise out



of his bed. Also, the writ thereupon. If the demandant can show that the tenant was seen abroad before leave of court, and before being viewed by the knights appointed by the court for that purpose, such tenant shall be taken to be deceitfully essoined, and to have made default. Bract. lib. 5; Fleta, lib. 6, c. 10.

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

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

**LICENTIOUSNESS.** The indulgence of the arbitrary will of the individual, without regard to ethics or law, or respect for the rights of others. In this it differs from "liberty;" for the latter term may properly be used only of the exercise of the will in its *moral* freedom, with justice to all men and obedience to the laws. Welch v. Durand, 36 Conn. 184, 4 Am. Rep. 55; State v. Brigman, 94 N. C. 889.

It differs from liberty in this, that the latter is restrained by natural or positive law, and consists in doing whatever we please not inconsistent with the rights of others, whereas the former does not respect those rights. Wolff, Inst. § 84.

In a narrower sense, lewdness or lasciviousness. Holton v. State, 28 Fla. 303, 9 So. 716.

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

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

**LICET.** Lat. From the verb "*licere*," (*q. v.*). It is allowed; it is permissible; it is lawful; not forbidden by law.

Although; notwithstanding. Calvin. Importing, in this sense, a direct affirmation. Plowd. 127.

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

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

claimed is still called the "*licet sæpius requisitus*."

**Licita bene miscentur, formula nisi juris obstat.** Lawful acts [done by several authorities] are well mingled, [*i. e.*, become united or consolidated into one good act,] unless some form of law forbid. Bac. Max. p. 94, reg. 24 (*E. g.* Two having a right to convey, each a moiety, may unite and convey the whole.)

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

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

**LICITATION.** In the civil law. An offering for sale to the highest bidder, or to him who will give most for a thing. An act by which co-heirs or other co-proprietors of a thing in common and undivided between them put it to bid between them, to be adjudged and to belong to the highest and last bidder, upon condition that he pay to each of his co-proprietors a part in the price equal to the undivided part which each of the said co-proprietors had in the estate *licited*, before the adjudication. Poth. Cont. Sale, nn. 516, 638. See Barbarich v. Meyer, 154 La. 325, 97 So. 459, 460.

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

**LICKING OF THUMBS.** An ancient formality by which bargains were completed.

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

**LIE, n.** An untruth deliberately told; the uttering or acting of that which is false for the purpose of deceiving; intentional misstatement. Brothers v. Brothers, 208 Ala. 258, 94 So. 175, 177.

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

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

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

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

**LIE IN WAIT.** See Lying in Wait.

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

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

## LIEGE.

### In Feudal Law

Bound by a feudal tenure; bound in allegiance to the lord paramount, who owned no superior.

The term was applied to the lord, or liege lord, to whom allegiance was due, since he was *bound* to protection and a just government, and also to the feudatory, liegeman, or subject bound to allegiance, for he was *bound* to tribute and due subjection. 34 & 35 Hen. VIII. So *lieges* are the king's subjects. Stat. 8 Hen. VI. c. 10; 14 Hen. VIII. c. 2. So in Scotland. Bell, Dict.

### In Old Records

Full; absolute; perfect; pure. *Liege* widowhood was pure widowhood. Cowell. *Ligius* was also used; *e. g. ligia potestas*, full and free power of disposal. Paroch. Antiq. 280.

**LIEGE HOMAGE.** Homage which, when performed by one sovereign prince to another, included fealty and services, as opposed to *simple homage*, which was a mere acknowledgment of tenure. (1 Bl. Comm. 367; 2 Steph. Comm. 400.) Mozley & Whitley.

**LIEGE LORD.** A sovereign; a superior lord.

**LIEGE POUSTIE.** In Scotch law. That state of health which gives a person full power to dispose of, *mortis causâ* or otherwise, his heritable property. Bell. A deed executed at the time of such a state of health, as opposed to a death-bed conveyance. The term seems to be derived from the Latin "*legitima potestas*."

**LIEGEMAN.** He that oweth allegiance. Cowell.

**LIEGER, or LEGER.** A resident ambassador.

**LIEGES, or LIEGE PEOPLE.** Subjects.

**LIEN.** At common law, a mere right arising only in cases of the possession of another's chattel by a person, as a mechanic or artisan, who, according to some authorities, has improved the chattel, or who, according to others, has performed labor thereon or given it some particular care at the request, express or implied, of the owner, to retain possession until the debt or charge is paid. Jordan v. James, 5 Ohio 88; Taylor v. Baldwin, 10 Barb.

(N. Y.) 626; Houston & T. C. Ry. Co. v. Bremond, 66 Tex. 159, 18 S. W. 448; Clemson v. Davidson, 5 Binn. (Pa.) 398; Danforth v. Pratt, 42 Me. 50; King v. Canal Co., 11 Cush. (Mass.) 231; Elliot v. Bradley, 23 Vt. 217; Egan v. A Cargo of Spruce Lath (C. C.) 43 F. 480; Benj. Sales § 799; Metc. Yelv. 67, n.; 2 East 235; Vaught v. Knue, 64 Ind. App. 467, 115 N. E. 108, 109; Rapp v. Mabbett Motor Car Co., 201 App. Div. 283, 194 N. Y. S. 200, 202; Ellison v. Scheffsky, 141 Wash. 14, 250 P. 452, 453; Jones v. Carpenter, 90 Fla. 407, 106 So. 127, 129, 43 A. L. R. 1409; Oppenheimer v. Szulerecki, 297 Ill. 81, 130 N. E. 325, 328, 28 A. L. R. 1439; Koenig v. Leppert-Roos Fur Co. (Mo. App.) 260 S. W. 756, 757.

A hold or claim which one person has upon the property of another as a security for some debt or charge. Benedict v. Higgins, 165 App. Div. 611, 151 N. Y. S. 42, 44; Hubble v. Berry, 180 Ind. 513, 103 N. E. 328, 330; Hunker v. Estes (Tex. Civ. App.) 159 S. W. 470, 473; Connecticut Co. v. New York, N. H. & H. R. Co., 94 Conn. 13, 107 A. 646, 652; State v. Davis, 111 Ohio St. 569, 146 N. E. 82, 84; Mahan v. Bitting, 103 W. Va. 449, 137 S. E. 889, 890, 52 A. L. R. 689.

A qualified right of property which a creditor has in or over specific property of his debtor, as security for the debt or charge or for performance of some act. 6 East 25, n.

A charge upon property for the payment of a debt or duty. Phillips v. Atwell, 76 Fla. 480, 80 So. 180, 181; Hartford Fire Ins. Co. v. Jones, 31 Ariz. 8, 250 P. 248, 251; Philip Gruner & Bros. Lumber Co. v. Hartshorn-Barber Realty & Building Co., 171 Mo. App. 614, 154 S. W. 846, 850.

A charge imposed upon specific property, by which it is made security for the performance of an act. Code Civil Proc. Cal. § 1180; Civ. Code Cal. § 2872; Vidal v. South American Securities Co. (C. C. A.) 276 F. 855, 870.

A "lien" is not a property in or right to the thing itself, but constitutes a charge or security thereon. Koenig v. Leppert-Roos Fur Co. (Mo. App.) 260 S. W. 756, 758; Steagall-Cheairs Fertilizer Co. v. Bethume Mule Co., 181 Ala. 250, 61 So. 274, 275; The Poznan (C. C. A.) 9 F.(2d) 838, 846.

In a narrow and technical sense, the term signifies the right by which a person in possession of personal property holds and detains it against the owner in satisfaction of a demand; but it has a more extensive meaning, and in common acceptation is understood and used to denote a legal claim or charge on property, either real or personal, for the payment of any debt or duty; every such claim or charge remaining a lien on the property, although not in the possession of the person to whom the debt or duty is due. Downer v. Brackett, 21 Vt. 602, Fed. Cas. No. 4,043. And see Trust v. Pirsson, 1 Hilt. (N. Y.) 296; In re Byrne (D. C.) 97 F. 764; Storm v. Waddell, 2 Sandf. Ch. (N. Y.) 507; Stansbury v. Patent Cloth Mfg. Co., 5 N. J. Law, 441; The Menomine (D. C.) 36 F. 199; Mobile B. & L. Ass'n v. Robertson, 65 Ala. 382; The J. E. Rumbell, 13 S. Ct. 498, 148 U. S. 1, 37 L. Ed. 345.

A lien is a charge imposed upon specific property, whereas an assignment, unless in some way qualified, is properly the transfer of one's whole interest

in an estate, or chattel, or other thing. *Guaranteed State Bank of Durant v. D'Yarmett*, 67 Okl. 164, 169 P. 639, 641; *Millsap v. Sparks*, 21 Ariz. 317, 188 P. 135, 136.

An "estate" in land is the right to the possession and enjoyment of it, while a "lien" on land is the right to have it sold or otherwise applied in satisfaction of a debt. *State Bank of Decatur v. Sanders*, 114 Ark. 440, 170 S. W. 86, 89.

A "claim" is generally a liability in personam, but capable of embracing both a personal liability and a lien on property, while a lien is a liability in rem. *Fairbanks, Morse & Co. v. Town of Cape Charles*, 144 Va. 56, 131 S. E. 437, 439.

In a broader sense, any of various preferred or privileged claims given by statute or by law. *Marshall v. People of State of New York*, 254 U. S. 380, 41 S. Ct. 143, 145, 65 L. Ed. 315.

#### In the Scotch Law

The doctrine of lien is known by the name of "retention," and that of set-off by the name of "compensation"; though certain rights of retention are also called liens. *Ersk. Prin.* 374.

#### In the Roman or Civil Law

The peculiar securities which, in the common and maritime law and equity, are termed "liens," are embraced under the head of "mortgage and privilege."

#### Classification

Liens are either *particular* or *general*. The former is a right to retain a thing for some charge or claim growing out of, or connected with, the identical thing. A general lien is a right to detain a chattel, etc., until payment be made, not only of any debt due in respect of the particular chattel, but of any balance that may be due on general account in the same line of business. A general lien, being against the ordinary rule of law, depends entirely upon contract, express or implied, from the special usage of dealing between the parties. *Wharton. Crommelin v. Railroad Co.*, 10 Bosw. (N. Y.) 80; *McKenzie v. Nevius*, 22 Me. 150, 38 Am. Dec. 291; *Brooks v. Bryce*, 21 Wend. (N. Y.) 16; 3 B. & P. 494. A *special* lien is in the nature of a particular lien, being a lien upon particular property; a lien which the holder can enforce only as security for the performance of a particular act or obligation and of obligations incidental thereto. *Green v. Coast Line R. Co.*, 97 Ga. 15, 24 S. E. 814, 33 L. R. A. 806, 54 Am. St. Rep. 379; *Civ. Code Cal.* § 2875; *Marks v. Baum Bldg. Co.*, 73 Okl. 264, 175 P. 818, 822.

Liens are also either *conventional* or *by operation of law*. The former is the case where the lien, general or particular (*Cro. Car.* 271; 6 Term. 14; 2 Kent. 637), is raised by the express agreement and stipulation of the parties, in circumstances where the law alone would not create a lien from the mere relation of the parties or the details of their transaction. The latter is the case where the law itself, without the stipulation of the parties, raises a lien, as an implication

or legal consequence from the relation of the parties or the circumstances of their dealings. Liens of this species may arise either under the rules of common law or of equity or under a statute. In the first case they are called "common-law liens;" in the second, "equitable liens;" in the third, "statutory liens."

Liens are either *possessory* or *charging*; the former, where the creditor has the right to hold possession of the specific property until satisfaction of the debt; the latter, where the debt is a charge upon the specific property although it remains in the debtor's possession.

#### Other Compound and Descriptive Terms

—**Lien creditor.** One whose debt or claim is secured by a lien on particular property, as distinguished from a "general" creditor, who has no such security.

—**Lien of a covenant.** The commencement of a covenant stating the names of the covenantors and covenantees, and the character of the covenant, whether joint or several. *Wharton.*

—**Attorney's lien.** The right of an attorney at law to hold or retain in his possession the money or property of a client until his proper charges have been adjusted and paid. It requires no equitable proceeding for its establishment. *Sweeley v. Sieman*, 123 Iowa, 183, 98 N. W. 571. Also a lien on funds in court payable to the client, or on a judgment or decree or award in his favor, recovered through the exertions of the attorney, and for the enforcement of which he must invoke the equitable aid of the court. *Fowler v. Lewis*, 36 W. Va. 112, 14 S. E. 447; *Jennings v. Bacon*, 84 Iowa, 403, 51 N. W. 15; *Ackerman v. Ackerman*, 14 Abb. Prac. (N. Y.) 229; *Mosley v. Norman*, 74 Ala. 422; *Wright v. Wright*, 70 N. Y. 98; *Sanders v. Seelye*, 128 Ill. 631, 21 N. E. 601; *Strohecker v. Irvine*, 76 Ga. 639, 2 Am. St. Rep. 62. See *Blackburn v. Clarke*, 85 Tenn. 506, 3 S. W. 505; *Taylor Iron & Steel Co. v. Higgins*, 66 Hun 626, 20 N. Y. S. 746. See, also, "Charging lien" and "Retaining lien," *infra*.

—**Charging lien.** An attorney's lien, for his proper compensation, on the fund or judgment which his client has recovered by means of his professional aid and services. *Goodrich v. McDonald*, 112 N. Y. 157, 19 N. E. 649; *Young v. Renshaw*, 102 Mo. App. 173, 76 S. W. 701; *Ex parte Lehman*, 59 Ala. 632; *Koons v. Beach*, 147 Ind. 137, 45 N. E. 601, 46 N. E. 587; *In re Wilson* (D. C.) 12 F. 239; *Sewing Mach. Co. v. Boutelle*, 56 Vt. 576, 48 Am. Rep. 762; *In re Craig*, 171 App. Div. 218, 157 N. Y. S. 310, 311; *Hale v. Tyson*, 202 Ala. 107, 79 So. 499. It is a specific lien covering only the services rendered by an attorney in the action in which the judgment was obtained, whereas a retaining lien is a general lien for the balance of the account between the attorney and his client, and applies to the

property of the client which may come into the attorney's possession in the course of his employment. In *re Heinsheimer*, 159 App. Div. 33, 143 N. Y. S. 895, 896.

—**Concurrent liens.** Maritime liens are concurrent when they are of the same rank, and for supplies or materials or services in preparation for the same voyage, or if they arise on different bottomry bonds to different holders for advances at the same time for the same repairs. *The J. W. Tucker* (D. C.) 20 F. 132.

—**Consummate lien.** A term which may be used to describe the lien of a judgment when a motion for a new trial has been denied (the lien having theretofore been merely inchoate). *Sterling v. Parker-Washington Co.*, 185 Mo. App. 192, 170 S. W. 1156, 1159.

—**Equitable liens** are such as exist in equity, and of which courts of equity alone take cognizance. A lien is neither a *ius in re* nor a *ius ad rem*. It is not property in the thing, nor does it constitute a right of action for the thing. It more properly constitutes a charge upon the thing. Equitable liens most commonly grow out of constructive trusts. *Story*, Eq. Jur. § 1215; *International Realty Associates v. McAdoo*, 87 Fla. 1, 99 So. 117, 120; *Jones v. Carpenter*, 90 Fla. 407, 106 So. 127, 129, 43 A. L. R. 1409; *Milam v. Milam*, 138 Tenn. 686, 200 S. W. 826, 827; *Aldrich v. R. J. Ederer Co.*, 302 Ill. 391, 134 N. E. 726, 728. An equitable lien is a right, not recognized at law, to have a fund or specific property, or the proceeds of its sale, applied in full or in part to the payment of a particular debt or class of debts. *Burdon Cent. Sugar Refining Co. v. Ferris Sugar Mfg. Co.* (C. C.) 78 F. 421; *The Menominie* (D. C.) 36 F. 199; *Fallon v. Worthington*, 13 Colo. 559, 22 P. 960, 6 L. R. A. 708, 16 Am. St. Rep. 231; In *re Lesser* (D. C.) 100 F. 436; *Clatworthy v. Ferguson*, 72 Colo. 259, 210 P. 693, 694; *Greil Bros. Co. v. City of Montgomery*, 182 Ala. 291, 62 So. 692, 695, Ann. Cas. 1915D, 738; *Foster v. Frampton-Foster Lumber Co.*, 96 W. Va. 325, 123 S. E. 50, 52. It is simply a right to proceed in an equitable action against the subject-matter of the lien and have it sold or sequestered and its proceeds or rents and profits applied to the demand of the owner of the lien. *Oppenheimer v. Szulerecki*, 297 Ill. 81, 130 N. E. 325, 328, 28 A. L. R. 1439. Every express executory agreement in writing, whereby the contracting party sufficiently indicates an intention to make some particular property, real or personal, or fund therein identified, a security for a debt or other obligation, or whereby the party promises to convey, assign, or transfer the property as security, creates an equitable lien upon the property so indicated, which is enforceable against the property. *Knott v. Mfg. Co.*, 30 W. Va. 790, 5 S. E. 266; *Geddes v. Reeves Coal & Dock Co.* (C. C. A.) 20 F.(2d) 48, 50, 54 A. L. R. 282; *Root Mfg.*

*Co. v. Johnson* (C. C. A.) 219 F. 397, 406. The equitable lien differs essentially from a common-law lien, in that in the equitable lien, possession remains with the debtor who holds the proprietary interest. *Jones v. Carpenter*, 90 Fla. 407, 106 So. 127, 129, 43 A. L. R. 1409; *Klaustermeyer v. Cleveland Trust Co.*, 89 Ohio St. 142, 105 N. E. 278, 280.

—**First lien.** One which takes priority or precedence over all other charges or incumbrances upon the same piece of property, and which must be satisfied before such other charges are entitled to participate in the proceeds of its sale.

—**Inchoate lien.** The lien of a judgment, from the day of its entry, subject to be defeated by its vacation, becoming a consummate lien if the motion for a new trial is thereafter overruled; such lien then relating back to the original entry of the judgment. *Sterling v. Parker-Washington Co.*, 185 Mo. App. 192, 170 S. W. 1156, 1159.

—**Prior lien.** This term commonly denotes a first or superior lien, and not one necessarily antecedent in time. *Titus v. United States Smelting, Refining & Mining Exploration Co.* (D. C.) 231 F. 205, 210.

—**Retaining lien.** The lien which an attorney has upon all his client's papers, deeds, vouchers, etc., which remain in his possession, entitling him to retain them until satisfaction of his claims for professional services. In *re Wilson* (D. C.) 12 F. 239; In *re Lexington Ave.*, 30 App. Div. 602, 52 N. Y. S. 203; In *re Craig*, 171 App. Div. 218, 157 N. Y. S. 310, 311; *Prichard v. Fulmer*, 22 N. M. 134, 159 P. 39, 40, 2 A. L. R. 474; *Hale v. Tyson*, 202 Ala. 107, 79 So. 499. It is a general lien. *Roxana Petroleum Co. v. Rice*, 109 Okl. 161, 235 P. 502, 507.

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

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

As to the particular kinds of liens described as "Bailee's," "Judgment," "Maritime," "Mechanics'," "Municipal," and "Vendors'" liens, see those titles.

**LIENOR.** The person having or owning a lien; one who has a right of lien upon property of another.

**LIEU.** Fr. Place; room. It is only used with "in;" *in lieu*, instead of. Enc. Lond.

**LIEU CONUS.** L. Fr. In old pleading. A known place; a place well known and generally taken notice of by those who dwell about it, as a castle, a manor, etc. *Whishaw*; 1 Ld. Raym. 259.

**LIEU LANDS.** A term used to indicate public lands within the indemnity limits granted in *lieu* of those lost within place limits. See *Weyerhaeuser v. Hoyt*, 31 S. Ct. 300, 219 U. S. 380, 55 L. Ed. 258.

**LIEUTENANCY, COMMISSION OF.** See Commission of Array.

**LIEUTENANT.** 1. A deputy; substitute; an officer who supplies the place of another; one acting by vicarious authority. Etymologically, one who holds the post or office of another, in the place and stead of the latter.

2. The word is used in composition as part of the title of several civil and military officers, who are subordinate to others, and especially where the duties and powers of the higher officer may, in certain contingencies, devolve upon the lower; as lieutenant governor, lieutenant colonel, etc. See *infra*.

3. In the army, a lieutenant is a commissioned officer, ranking next below a captain. In the United States navy, he is an officer whose rank is intermediate between that of an ensign and that of a lieutenant commander. In the British navy, his rank is next below that of a commander.

**LIEUTENANT COLONEL.** An officer of the army whose rank is above that of a major and below that of a colonel.

**LIEUTENANT COMMANDER.** A commissioned officer of the United States navy, whose rank is above that of lieutenant and below that of commander.

**LIEUTENANT GENERAL.** An officer in the army, whose rank is above that of major general and below that of "general of the army." In the United States, this rank is not permanent, being usually created for special persons or in times of war.

**LIEUTENANT GOVERNOR.** In English law. A deputy-governor, acting as the chief civil officer of one of several colonies under a governor general. Webster. In American law. An officer of a state, sometimes charged with special duties, but chiefly important as the deputy or substitute of the governor, acting in the place of the governor upon the latter's death, resignation, or disability.

**LIFE.** That state of animals and plants or of an organized being, in which its natural functions and motions are performed, or in which its organs are capable of performing their functions. Webster.

The sum of the forces by which death is resisted. Bichat.

—**Life-annuity.** An engagement to pay an income yearly during the life of some person; also the sum thus promised.

—**Life-estate.** An estate whose duration is limited to the life of the party holding it, or of some other person; a freehold estate, not

of inheritance. *Williams v. Ratcliff*, 42 Miss. 154; Civ. Code Ga. 1895, § 3087 (Civ. Code 1910, § 3663).

—**Life in being.** A phrase used in the common-law and statutory rules against perpetuities, meaning the remaining duration of the life of a person who is in existence at the time when the deed or will takes effect. See *McArthur v. Scott*, 5 S. Ct. 652, 113 U. S. 340, 28 L. Ed. 1015.

—**Life insurance.** See Insurance.

—**Life-interest.** A claim or interest, not amounting to ownership, and limited by a term of life, either that of the person in whom the right is vested or that of another.

—**Life-land, or Life-hold.** Land held on a lease for lives.

—**Life of a writ.** The period during which a writ (execution, etc.) remains effective and can lawfully be served or levied, terminating with the day on which, by law or by its own terms, it is to be returned into court.

—**Life peerage.** Letters patent, conferring the dignity of baron for life only, do not enable the grantee to sit and vote in the house of lords, not even with the usual writ of summons to the house. Wharton.

—**Life policy.** A policy of life insurance; a policy of insurance upon the life of an individual.

—**Life-rent.** In Scotch law. An estate for life; a right to the use and enjoyment of an estate or thing for one's life, but without destruction of its substance. They are either *legal*, such as *terce* and *curtesy*, (*q. v.*) or *conventional, i. e.*, created by act of the parties. Conventional life-rents are either *simple*, where the owner of an estate grants a life-interest to another, or *by reservation*, where the owner, in conveying away the fee, reserves a life-estate to himself.

—**Life-renter.** In Scotch law. A tenant for life without waste. Bell.

—**Life tables.** Statistical tables exhibiting the probable proportion of persons who will live to reach different ages. Cent. Dict.

Such tables are used for many purposes, such as the computation of the present value of annuities, dower rights, etc.; and for the computation of damages resulting from injuries which destroy the earning capacity of a person, or those resulting from the death of a person to those who are dependent upon him.

—**Life tenant.** One who holds an estate in lands for the period of his own life or that of another certain person.

—**Natural life.** The period of a person's existence considered as continuing until terminated by physical dissolution or death

occurring in the course of nature; used in contradistinction to that juristic and artificial conception of life as an aggregate of legal rights or the possession of a legal personality, which could be terminated by "civil death," that is, that extinction of personality which resulted from entering a monastery or being attainted of treason or felony. See *People v. Wright*, 89 Mich. 70, 50 N. W. 792.

**LIFT.** To raise; to take up. To "lift" a promissory note is to discharge its obligation by paying its amount or substituting another evidence of debt. To "lift the bar" of the statute of limitations, or of an estoppel, is to remove the obstruction which it interposes, by some sufficient act or acknowledgment.

**LIGA.** In old European law. A league or confederation. Spelman.

**LIGAN, LAGAN.** Goods cast into the sea tied to a buoy, so that they may be found again by the owners, are so denominated. When goods are cast into the sea in storms or shipwrecks, and remain there, without coming to land, they are distinguished by the barbarous names of "jetsam," "flotsam," and "ligan." 5 Coke, 108; Harg. State Tr. 48; 1 Bl. Comm. 292.

**LIGARE.** To tie or bind. Bract. fol. 369b. To enter into a league or treaty. Spelman.

**LIGEA.** In old English law. A liege-woman; a female subject. Reg. Orig. 312b.

**LIGEANCE.** Allegiance; the faithful obedience of a subject to his sovereign, of a citizen to his government. Also, derivatively, the territory of a state or sovereignty.

**LIGEANTIA.** Lat. Ligeance; allegiance.

*Ligeantia est quasi legis essentia; est vinculum fidei.* Co. Litt. 129. Allegiance is, as it were, the essence of law; it is the chain of faith.

*Ligeantia naturalis nullis claustris coercetur, nullis metis refrænatur, nullis finibus premitur.* 7 Coke, 10. Natural allegiance is restrained by no barriers, reined by no bounds, compressed by no limits.

**LIGEAS.** In old records. A liege.

**LIGHT.** A window, or opening in the wall for the admission of light. Also a privilege or easement to have light admitted into one's building by the openings made for that purpose, without obstruction or obscuration by the walls of adjacent or neighboring structures.

**LIGHT-HOUSE.** A structure, usually in the form of a tower, containing signal-lights for the guidance of vessels at night, at dangerous points of a coast, shoals, etc. They are usually erected by government, and subject to governmental regulation.

**LIGHT-HOUSE BOARD.** A commission authorized by congress, consisting of two officers of the navy, two officers of the corps of engineers of the army, and two civilians, together with an officer of the navy and an officer of engineers of the army as secretaries, attached to the office of the secretary of the treasury, at Washington, and charged with superintending the construction and management of light-houses, light-ships, and other maritime signals for protection of commerce. Abbott.

**LIGHT-SHIP, LIGHT-VESSEL.** A vessel serving the purpose of a light-house, usually at a place where the latter could not well be built.

**LIGHTER.** A small vessel used in loading and unloading ships and steamers. The *Mamie* (D. C.) 5 Fed. 818; *Reed v. Ingham*, 26 Eng. Law & Eq. 167.

**LIGHTERAGE.** The business of transferring merchandise to and from vessels by means of lighters; also the compensation or price demanded for such service. *Western Transp. Co. v. Hawley*, 1 Daly (N. Y.) 327.

**LIGHTERMAN.** The master or owner of a lighter. He is liable as a common carrier.

**LIGHTS.** 1. Windows; openings in the wall of a house for the admission of light.

2. Signal-lamps on board a vessel or at particular points on the coast, required by the navigation laws to be displayed at night.

**LIGIUS.** A person bound to another by a solemn tie or engagement. Now used to express the relation of a subject to his sovereign.

*Ligna et lapides sub "armorum" appellatione non continentur.* Sticks and stones are not contained under the name of "arms." Bract. fol. 144b.

**LIGNAGIUM.** A right of cutting fuel in woods; also a tribute or payment due for the same. Jacob.

**LIGNAMINA.** Timber fit for building. Du Fresne.

**LIGULA.** In old English law. A copy, exemplification, or transcript of a court roll or deed. Cowell.

**LIMB.** A member of the human body. In the phrase "life and limb," the latter term appears to denote bodily integrity in general; but in the definition of "mayhem" it refers only to those members or parts of the body which may be useful to a man in fighting. 1 Bl. Comm. 130.

**LIMENARCHA.** In Roman law. An officer who had charge of a harbor or port. Dig. 50, 4, 18, 10; Cod. 7, 16, 38.

**LIMIT, v.** To mark out; to define; to fix the extent of. Thus, to limit an estate means to mark out or to define the period of its duration, and the words employed in deeds for this purpose are thence termed "words of limitation," and the act itself is termed "limiting the estate." Brown.

**LIMIT, n.** A bound; a restraint; a circumscription; a boundary. *Casler v. Connecticut Mut. L. Ins. Co.*, 22 N. Y. 429.

**LIMITATION.** Restriction or circumspection; settling an estate or property; a certain time allowed by a statute for litigation.

#### In Estates

A limitation, whether made by the express words of the party or existing in intendment of law, circumscribes the continuance of time for which the property is to be enjoyed, and by positive and certain terms, or by reference to some event which possibly may happen, marks the period at which the time of enjoyment shall end. *Prest. Estates*, 25. And see *Brattle Square Church v. Grant*, 3 Gray (Mass.) 147, 63 Am. Dec. 725; *Smith v. Smith*, 23 Wis. 181, 99 Am. Dec. 153; *Hoselton v. Hoselton*, 166 Mo. 182, 65 S. W. 1005; *Stearns v. Godfrey*, 16 Me. 160.

#### In General

**—Conditional limitation.** A condition followed by a limitation over to a third person in case the condition be not fulfilled or there be a breach of it. *Stearns v. Godfrey*, 16 Me. 158; *Church v. Grant*, 3 Gray (Mass.) 151, 63 Am. Dec. 725; *Smith v. Smith*, 23 Wis. 176, 99 Am. Dec. 153; *Community of Priests of St. Basil v. Byrne* (Tex. Com. App.) 255 S. W. 601, 603; *Hess v. Kernens Bros.*, 149 N. W. 847, 851, 169 Iowa 646; *McWilliams v. Havelly*, 283 S. W. 103, 105, 214 Ky. 320; *McCutcheon Realty Corporation v. Kilb*, 222 N. Y. S. 241, 243, 129 Misc. 637; *Norman S. Riesenfeld, Inc., v. R. W. Realty Co., Inc.*, 217 N. Y. S. 306, 311, 127 Misc. 630; *Lonas v. Silver*, 195 N. Y. S. 214, 215, 201 App. Div. 383; *Daggett v. Ft. Worth* (Tex. Civ. App.) 177 S. W. 222, 225; *Yarbrough v. Yarbrough*, 209 S. W. 36, 38, 151 Tenn. 221; *Stewart v. Blain* (Tex. Civ. App.) 159 S. W. 928, 930; *Board of Education of Borough of West Paterson v. Brophy*, 106 A. 32, 34, 90 N. J. Eq. 57. A conditional limitation is where an estate is so expressly defined and limited by the words of its creation that it cannot endure for any longer time than till the contingency happens upon which the estate is to fail. 1 Steph. Comm. 309. Between conditional limitations and estates depending on conditions subsequent there is this difference: that in the former the estate determines as soon as the contingency happens; but in the latter it endures until the grantor or his heirs take advantage of the breach. *Id.* 310.

**—Collateral limitation.** One which gives an interest in an estate for a specified period, but makes the right of enjoyment to depend on some collateral event, as an estate to A. till B. shall go to Rome. *Templeman v. Gibbs*, 86 Tex. 358, 24 S. W. 792; 4 Kent, Comm. 128.

**—Contingent limitation.** When a remainder in fee is limited upon any estate which would by the common law be adjudged a fee tail, such a remainder is valid as a contingent limitation upon a fee, and vests in possession on the death of the first taker without issue living at the time of his death. *Rev. Codes N. D.* 1899, § 3328 (*Comp. Laws* 1913, § 5307).

**—Limitation in law.** A limitation in law, or an estate limited, is an estate to be holden only during the continuance of the condition under which it was granted, upon the determination of which the estate vests immediately in him in expectancy. 2 Bl. Comm. 155.

**—Limitation of actions.** The restriction by statute of the right of action to certain periods of time, after the accruing of the cause of action, beyond which, except in certain specified cases, it will not be allowed. Also the period of time so limited by law for the bringing of actions. See *Keyser v. Lowell*, 117 Fed. 404, 54 C. C. A. 574; *Battle v. Shivers*, 39 Ga. 409; *Baker v. Kelley*, 11 Mian. 493 (Gil. 358); *Riddelsbarger v. Hartford F. Ins. Co.*, 7 Wall. 390, 19 L. Ed. 257.

**—Limitation of assize.** In old practice. A certain time prescribed by statute, within which a man was required to allege himself or his ancestor to have been seised of lands sued for by a writ of assize. Cowell.

**—Limitation of estate.** The restriction or circumscription of an estate, in the conveyance by which it is granted, in respect to the interest of the grantee or its duration; the specific curtailment or confinement of an estate, by the terms of the grant, so that it cannot endure beyond a certain period or a designated contingency.

**—Limitation over.** This term includes any estate in the same property created or contemplated by the conveyance, to be enjoyed after the first estate granted expires or is exhausted. Thus, in a gift to A. for life, with remainder to the heirs of his body, the remainder is a "limitation over" to such heirs. *Ewing v. Shropshire*, 80 Ga. 374, 7 S. E. 554.

**—Special limitation.** A qualification serving to mark out the bounds of an estate, so as to determine it *ipso facto* in a given event, without action, entry, or claim, before it would, or might, otherwise expire by force of, or according to, the general limitation. *Henderson v. Hunter*, 59 Pa. 340.

**—Statute of limitations.** A statute prescribing limitations to the right of action on certain described causes of action; that is, declaring

that no suit shall be maintained on such causes of action unless brought within a specified period after the right accrued. Statutes of limitation are statutes of repose. *Philadelphia, B. & W. R. Co. v. Quaker City Flour Mills Co.*, 127 A. 845, 846, 282 Pa. 362, and are such legislative enactments as prescribe the periods within which actions may be brought upon certain claims or within which certain rights may be enforced, *People v. Kings County Development Co.*, 191 P. 1004, 1005, 48 Cal. App. 72. In criminal cases, however, a statute of limitation is an act of grace, a surrendering by sovereign of its right to prosecute. *People v. Ross*, 156 N. E. 303, 304, 325 Ill. 417.

—**Title by limitation.** A prescriptive title; one which is indefeasible because of the expiration of the time prescribed by the statute of limitations for the bringing of actions to test or defeat it. See *Dalton v. Rentaria*, 2 Ariz. 275, 15 Pac. 37.

—**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.* And see *Ball v. Payne*, 6 Rand. (Va.) 75; *Summit v. Yount*, 109 Ind. 506, 9 N. E. 582.

**LIMITED.** Restricted; bounded; prescribed. Confined within positive bounds; restricted in duration, extent, or scope.

**LIMITED ADMINISTRATION.** An administration of a temporary character, granted for a particular period, or for a special or particular purpose. *Holthouse.*

**LIMITED OWNER.** A tenant for life, in tail, or by the curtesy, or other person not having a fee-simple in his absolute disposition.

As to limited "Company," "Divorce," "Executor," "Fee," "Jurisdiction," "Liability," and "Partnership," see those titles.

**LIMOGIA.** Enamel. *Du Cange.*

**LINARIUM.** In old English law. A flax plat, where flax is grown. *Du Cange.*

**LINCOLN'S INN.** An inn of court. See *Inns of Court.*

**LINE.**

**In Descents**

The order or series of persons who have descended one from the other or all from a common ancestor, considered as placed in a line of succession in the order of their birth, the line showing the connection of all the blood-relatives.

**Measures**

A line is a lineal measure, containing the one-twelfth part of an inch.

**In Estates**

The boundary or line of division between two estates.

**In General**

—**Building line.** A line established by municipal authority, to secure uniformity of appearance in the streets of the city, drawn at a certain uniform distance from the curb or from the edge of the sidewalk, and parallel thereto, upon which the fronts of all buildings on that street must be placed, or beyond which they are not allowed to project. See *Tear v. Freebody*, 4 C. B. (N. S.) 263.

—**Collateral line.** A line of descent connecting persons who are not directly related to each other as ascendants or descendants, but whose relationship consists in common descent from the same ancestor.

—**Direct line.** A line of descent traced through those persons only who are related to each other directly as ascendants or descendants.

—**Line of credit.** A margin or fixed limit of credit, granted by a bank or merchant to a customer, to the full extent of which the latter may avail himself in his dealings with the former, but which he must not exceed; usually intended to cover a series of transactions, in which case, when the customer's line of credit is nearly or quite exhausted, he is expected to reduce his indebtedness by payments before drawing upon it further. See *Isador Bush Wine Co. v. Wolff*, 48 La. Ann. 918, 19 So. 765; *Schneider-Davis Co. v. Hart*, 23 Tex. Civ. App. 529; 57 S. W. 903.

—**Line of duty.** In military law and usage, an act is said to be done, or an injury sustained, "in the line of duty," when done or suffered in the performance or discharge of a duty incumbent upon the individual in his character as a member of the military or naval forces. See *Rhodes v. U. S.*, 79 F. 743, 25 C. C. A. 186.

—**Lines and corners.** In surveying and conveying. Boundary lines and their terminating points, where an angle is formed by the next boundary line.

—**Maternal line.** A line of descent or relationship between two persons which is traced through the mother of the younger.

—**Paternal line.** A similar line of descent traced through the father.

**LINEA.** Lat. A line; line of descent. See *Line.*

**LINEA OBLIQUA.** In the civil law. The oblique line. More commonly termed "*linea transversalis.*"



**LINEA RECTA.** The direct line; the vertical line. In computing degrees of kindred and the succession to estates, this term denotes the direct line of ascendants and descendants. Where a person springs from another immediately, or mediately through a third person, they are said to be in the direct line, (*linea recta*.) and are called "ascendants" and "descendants." Mackeld. Rom. Law, § 129.

**Linea recta est index sui et obliqui; lex est linea recti.** Co. Litt. 158. A right line is a test of itself, and of an oblique; law is a line of right.

**Linea recta semper præfertur transversali.** The right line is always preferred to the collateral. Co. Litt. 10; Broom, Max. 529.

**LINEA TRANSVERSALIS.** A collateral, transverse, or oblique line. Where two persons are descended from a third, they are called "collaterals," and are said to be related in the collateral line, (*linea transversa* or *obliqua*.)

**LINEAGE.** Race; progeny; family, ascending or descending. Lockett v. Lockett, 94 Ky. 289, 22 S. W. 224.

**LINEAL.** That which comes in a line; especially a direct line, as from father to son. Collateral relationship is not called "lineal," though the expression "collateral line," is not unusual.

**LINEAL CONSANGUINITY.** That kind of consanguinity which subsists between persons of whom one is descended in a *direct line* from the other; as between a particular person and his father, grandfather, great-grandfather, and so upward, in the direct ascending line; or between the same person and his son, grandson, great-grandson, and so downwards in the direct descending line. 2 Bl. Comm. 203; Willis Coal & Min. Co. v. Grizzell, 198 Ill. 313, 65 N. E. 74.

**LINEAL DESCENT.** See Descent.

**LINEAL HEIR.** One who inherits in a line either ascending or descending from the common source, as distinguished from a collateral heir. Rocky Mountain Fuel Co. v. Kovaics, 26 Colo. App. 554, 144 P. 863, 865.

**LINEAL WARRANTY.** A warranty by an ancestor from whom the title did or might have come to the heir. 2 Bl. Comm. 301; Rawle, Cov. 30.

**LINES AND CORNERS.** In *deeds and surveys*. Boundary-lines and their angles with each other. Nolin v. Parmer, 21 Ala. 66.

**LINK.** A unit in a connected series; anything which serves to connect or bind together the things which precede and follow it. Thus, we speak of a "link in the chain of title."

**LIQUERE.** Lat. In the civil law. To be clear, evident, or satisfactory. When a *judeæ* was in doubt how to decide a case, he represented to the prætor, under oath, *sibi non liquere*, (that it was not clear to him,) and was thereupon discharged. Calvin.

**LIQUET.** It is clear or apparent; it appears. *Satis liquet*, it sufficiently appears. 1 Strange, 412.

**LIQUIDATE.** To adjust or settle an indebtedness; to determine an amount to be paid; to clear up an account and ascertain the balance; to fix the amount required to satisfy a judgment. Midgett v. Watson, 29 N. C. 145; Martin v. Kirk, 2 Humph. (Tenn.) 531; Peurifoy v. First Nat. Bank, 141 S. C. 370, 139 S. E. 793, 797; Gibson v. American Ry. Express Co., 195 Iowa, 1126, 193 N. W. 274, 278; Browne v. Hammett, 133 S. C. 446, 131 S. E. 612, 614.

To clear away; to lessen; to pay. "To *liquidate* a balance means to *pay* it." Fleckner v. Bank of U. S., 8 Wheat. 338, 362, 5 L. Ed. 631.

**LIQUIDATED.** Ascertained; determined; fixed; settled; made clear or manifest. Cleared away; paid; discharged. Canda v. Canda, 92 N. J. Eq. 423, 112 A. 727, 13 A. L. R. 1029; Wright v. Barnard (D. C.) 248 F. 756, 769; Norwich Pharmacal Co. v. Barret, 205 App. Div. 749, 200 N. Y. S. 298, 300; State Bank of Stratford v. Young, 159 Iowa, 375, 140 N. W. 376, 380; Wm. Cameron Co. v. Santikos (Tex. Civ. App.) 195 S. W. 984, 986; Sinclair Refining Co. v. Unadilla Motor & Supply Co., 126 Misc. 292, 213 N. Y. S. 81, 83.

**LIQUIDATED ACCOUNT.** An account whereof the amount is certain and fixed, either by the act and agreement of the parties or by operation of law; a sum which cannot be changed by the proof; it is so much or nothing; but the term does not necessarily refer to a writing. Nisbet v. Lawson, 1 Ga. 287.

**LIQUIDATED DAMAGES.** See Damages.

**LIQUIDATED DEBT.** A debt is liquidated when it is certain what is due and how much is due. Roberts v. Prior, 20 Ga. 562.

**LIQUIDATED DEMAND.** A demand is a liquidated one if the amount of it has been ascertained—settled—by the agreement of the parties to it, or otherwise. Mitchell v. Addison, 20 Ga. 53.

**LIQUIDATING PARTNER.** The partner who upon the dissolution or insolvency of the firm, is appointed to settle its accounts, collect assets, adjust claims, and pay debts. Garretson v. Brown, 40 A. 300, 185 Pa. 447.

**LIQUIDATION.** The act or process of settling or making clear, fixed, and determinate that which before was uncertain or unascertained.

As applied to a company, (or sometimes to the affairs of an individual,) liquidation is used in a broad sense as equivalent to "winding up;" that is, the comprehensive process of settling accounts, ascertaining and adjusting debts, collecting assets, and paying off claims.

**LIQUIDATOR.** A person appointed to carry out the winding up of a company.

**Official Liquidator**

In English law. A person appointed by the judge in chancery, in whose court a joint-stock company is being wound up to bring and defend suits and actions in the name of the company, and generally to do all things necessary for winding up the affairs of the company, and distributing its assets. 3 Steph. Comm. 24.

**LIQUOR.** This term, when used in statutes forbidding the sale of liquors, refers only to spirituous or intoxicating liquors. Brass v. State, 45 Fla. 1, 34 So. 307; State v. Brittain, 89 N. C. 576; People v. Crilley, 20 Barb. (N. Y.) 248. See Alcoholic Liquors; Intoxicating Liquor; Spirituous Liquor.

**LIQUOR DEALER.** One who carries on the business of selling intoxicating liquors, either at wholesale or retail and irrespective of whether the liquor sold is produced or manufactured by himself or by others; but there must be more than a single sale. See Timm v. Harrison, 109 Ill. 601; U. S. v. Allen (D. C.) 38 F. 738; Fincannon v. State, 93 Ga. 418, 21 S. E. 53; State v. Dow, 21 Vt. 484; Mansfield v. State, 17 Tex. App. 472.

**LIQUOR-SHOP.** A house where spirituous liquors are kept and sold. Wooster v. State, 6 Baxt. (Tenn.) 534.

**LIQUOR TAX CERTIFICATE.** Under the excise laws of New York a certificate of payment of the tax imposed upon the business of liquor-selling, entitling the holder to carry on that business, and differing from the ordinary form of license in that it does not confer a mere personal privilege but creates a species of property which is transferable by the owner. See In re Lyman, 160 N. Y. 96, 54 N. E. 577; In re Cullinan, 82 App. Div. 445, 81 N. Y. S. 567.

**LIRA.** The name of an Italian coin, of the value of about eighteen cents.

**LIS.** Lat. A controversy or dispute; a suit or action at law.

—**Lis alibi pendens.** A suit pending elsewhere. The fact that proceedings are pending between a plaintiff and defendant in one court in respect to a given matter is frequently a ground for preventing the plaintiff from taking proceedings in another court against the same defendant for the same object and arising out of the same cause of action. Sweet.

—**Lis mota.** A controversy moved or begun. By this term is meant a dispute which has arisen upon a point or question which afterwards forms the issue upon which legal proceedings are instituted. Westfelt v. Adams, 131 N. C. 379, 42 S. E. 823. After such controversy has arisen, (*post litem motam*.) it is held, declarations as to pedigree, made by members of the family since deceased, are not admissible. See 4 Camp. 417; 6 Car. & P. 560.

—**Lis pendens.** A suit pending; that legal process, in a suit regarding land, which amounts to legal notice to all the world that there is a dispute as to the title. In equity the filing of the bill and serving a subpoena creates a *lis pendens*, except when statutes require some record. Stim. Law Gloss. See Boyd v. Emmons, 103 Ky. 393, 45 S. W. 364; Tinsley v. Rice, 105 Ga. 285, 31 S. E. 174; Bowen v. Kirkland, 17 Tex. Civ. App. 346, 44 S. W. 189; Hines v. Duncan, 79 Ala. 117, 58 Am. Rep. 580; Intermediary Finance Corporation v. McKay, 93 Fla. 101, 111 So. 531, 532; Hodgens v. Columbia Trust Co., 171 N. Y. S. 235, 240, 103 Misc. 415; De Pass v. Chitty, 90 Fla. 77, 105 So. 148, 149; Troll v. City of St. Louis, 257 Mo. 626, 168 S. W. 167, 177; Heckmann v. Detlaff, 283 Ill. 505, 119 N. E. 639, 640; Cook v. Hendricks, 146 Ga. 63, 90 S. E. 383, 384. In the civil law. A suit pending. A suit was not said to be pending before that stage of it called "*litis contestatio*," (*q. v.*) Mackeld. Rom. Law, § 219; Calvin.

—**Notice of lis pendens.** A notice filed for the purpose of warning all persons that the title to certain property is in litigation, and that, if they purchase the defendant's claim to the same, they are in danger of being bound by an adverse judgment. See Empire Land & Canal Co. v. Engley, 18 Colo. 388, 33 P. 153.

**LIST.** A docket or calendar of causes ready for trial or argument, or of motions ready for hearing.

**LISTED.** Included in a list; put on a list, particularly on a list of taxable persons or property.

**LISTERS.** This word is used in some of the states to designate the persons appointed to make lists of taxables. See Rev. St. Vt. 538.

**LITE PENDENTE.** Lat. Pending the suit. Fleta, lib. 2, c. 54, § 23.

**LITEM DENUNCIARE.** Lat. In the civil law. To cast the burden of a suit upon another; particularly used with reference to a purchaser of property who, being sued in respect to it by a third person, gives notice to his vendor and demands his aid in its defense. See Mackeld. Rom. Law, § 403.

**LITEM SUAM FACERE.** Lat. To make a suit his own. Where a *judex*, from partiality or enmity, evidently favored either of the

parties, he was said *litem suam facere*. Calvin.

**LITERA.** Lat. A letter. The letter of a law, as distinguished from its spirit. See Letter.

**LITERA PISANA.** The Pisan letter. A term applied to the old character in which the copy of the Pandects formerly kept at Pisa, in Italy, was written. Spelman.

**LITERÆ.** Letters. A term applied in old English law to various instruments in writing, public and private.

**LITERÆ DIMISSORIÆ.** Dimissory letters, (*q. v.*).

**LITERÆ HUMANIORES.** A term including Greek, Latin, general philology, logic, moral philosophy, metaphysics; the name of the principal course of study in the University of Oxford. Wharton.

**LITERÆ MORTUÆ.** Dead letters; fulfilling words of a statute. Lord Bacon observes that "there are in every statute certain words which are as veins, where the life and blood of the statute cometh, and where all doubts do arise, and the rest are *literæ mortuæ*, fulfilling words." Bac. St. Uses, (Works, iv. 189.)

**LITERÆ PATENTES.** Letters patent; literally, open letters.

*Literæ patentes regis non erunt vacuæ.* 1 Bulst. 6. The king's letters patent shall not be void.

**LITERÆ PROCURATORIÆ.** In old English law. Letters procuratory; letters of procurator; letters of attorney. Bract. fols. 40, 43.

**LITERÆ RECOGNITIONIS.** In maritime law. A bill of lading. Jac. Sea Laws, 172.

*Literæ scriptæ manent.* Written words last.

**LITERÆ SIGILLATÆ.** In old English law. Sealed letters. The return of a sheriff was so called. Fleta, lib. 2, c. 64, § 19.

**LITERAL.** According to language; following expression in words. A literal construction of a document adheres closely to its words, without making differences for extrinsic circumstances; a literal performance of a condition is one which complies exactly with its terms.

**LITERAL CONTRACT.** In Roman law. A species of written contract, in which the formal act by which an obligation was superinduced on the convention was an entry of the sum due, where it should be specifically ascertained, on the debit side of a ledger. Maine, Anc. Law, 320. A contract, the whole of the evidence of which is reduced to writing, and binds the party who subscribed it, although he has received no consideration. Lec. El. Dr. Rom. § 887.

**LITERAL PROOF.** In the civil law. Written evidence.

**LITERARY.** Pertaining to polite learning; connected with the study or use of books and writings.

The word "literary," having no legal signification, is to be taken in its ordinary and usual meaning. We speak of literary persons as learned, erudite; of literary property, as the productions of ripe scholars, or, at least, of professional writers; of literary institutions, as those where the positive sciences are taught, or persons eminent for learning associate, for purposes connected with their professions. This we think the popular meaning of the word; and that it would not be properly used as descriptive of a school for the instruction of youth. *Indianapolis v. McLean*, 8 Ind. 332.

**LITERARY COMPOSITION.** In copyright law. An original result of mental production, developed in a series of written or printed words, arranged for an intelligent purpose, in an orderly succession of expressive combinations. *Keene v. Wheatley*, 14 Fed. Cas. 192; *Woolsey v. Judd*, 4 Duer (N. Y.) 396.

**LITERARY PROPERTY.** May be described as the right which entitles an author and his assigns to all the use and profit of his composition, to which no independent right is, through any act or omission on his or their part, vested in another person. 9 Amer. Law Reg. 44. And see *Keene v. Wheatley*, 14 Fed. Cas. 192; *Palmer v. De Witt*, 32 N. Y. Super. Ct. 552. A distinction is to be taken between "literary property" (which is the natural, common-law right which a person has in the form of written expression to which he has, by labor and skill, reduced his thoughts) and "copyright," (which is a statutory monopoly, above and beyond natural property, conferred upon an author to encourage and reward a dedication of his literary property to the public.) Abbott.

**LITERATE.** In English ecclesiastical law. One who qualifies himself for holy orders by presenting himself as a person accomplished in classical learning, etc., not as a graduate of Oxford, Cambridge, etc.

**LITERATURA.** "*Ad literaturam ponere*" means to put children to school. This liberty was anciently denied to those parents who were servile tenants, without the lord's consent. The prohibition against the education of sons arose from the fear that the son, being bred to letters, might enter into holy orders, and so stop or divert the services which he might otherwise do as heir to his father. Paroch. Antiq. 401.

**LITERIS OBLIGATIO.** In Roman law. The contract of *nomen*, which was constituted by writing, (*scripturâ*.) It was of two kinds, viz.: (1) *A re in personam*, when a transaction was transferred from the daybook (*adversaria*) into the ledger (*codex*) in the form of a debt under the name or heading of the

purchaser or debtor, (*nomen*;) and (2) a *personâ in personam*, where a debt already standing under one *nomen* or heading was transferred in the usual course of *novatio* from that *nomen* to another and substituted *nomen*. By reason of this transferring, these obligations were called "*nomina transcriptia*." No money was, in fact, paid to constitute the contract. If ever money was paid, then the *nomen* was *arcarium*, (i. e., a real contract, *re contractus*;) and not a *nomen proprium*. Brown.

**LITIGANT.** A party to a lawsuit; one engaged in litigation; usually spoken of active parties, not of nominal ones.

**LITIGARE.** Lat. To litigate; to carry on a suit, (*litem agere*;) either as plaintiff or defendant; to claim or dispute by action; to test or try the validity of a claim by action.

**LITIGATE.** To dispute or contend in form of law; to carry on a suit.

**LITIGATION.** A judicial controversy. A contest in a court of justice, for the purpose of enforcing a right.

**LITIGIOSITY.** In Scotch law. The pendency of a suit; it is a tacit legal prohibition of alienation, to the disappointment of an action, or of diligence, the direct object of which is to obtain possession, or to acquire the property of a particular subject. The effect of it is analogous to that of inhibition. Bell.

**LITIGIOSO.** Span. Litigious; the subject of litigation; a term applied to property which is the subject of dispute in a pending suit. *White v. Gay*, 1 Tex. 388.

**LITIGIOUS.** That which is the subject of a suit or action; that which is contested in a court of justice. In another sense, "litigious" signifies fond of litigation; prone to engage in suits.

**LITIGIOUS CHURCH.** In ecclesiastical law, a church is said to be litigious where two presentations are offered to the bishop upon the same avoidance. *Jenk. Cent.* 11.

**LITIGIOUS RIGHT.** In the civil law. A right which cannot be exercised without undergoing a lawsuit. *Civil Code La.* art. 3556, par. 18.

**LITIS ÆSTIMATIO.** Lat. The measure of damages.

**LITIS CONTESTATIO.** Lat.

#### In The Civil and Canon Law

Contestation of suit; the process of contesting a suit by the opposing statements of the respective parties; the process of coming to an issue; the attainment of an issue; the issue itself.

#### In The Practice of The Ecclesiastical Courts

The general answer made by the defendant, in which he denies the matter charged against him in the libel. *Hallifax, Civil Law*, b. 3, c. 11, no. 9.

#### In Admiralty Practice

The general issue. 2 *Browne, Civil & Adm. Law*, 358, and note.

**LITIS DENUNCIATIO.** Lat. In the civil law. The process by which a purchaser of property, who is sued for its possession or recovery by a third person, falls back upon his vendor's covenant of warranty, by giving the latter notice of the action and demanding his aid in defending it. See *Mackeld. Rom. Law*, § 403.

**LITIS DOMINIUM.** Lat. In the civil law. Ownership, control, or direction of a suit. A fiction of law by which the employment of an attorney or proctor (*procurator*) in a suit was authorized or justified, he being supposed to become, by the appointment of his principal (*dominus*) or client, the *dominus litis*. *Heinecc. Elem. lib.* 4, tit. 10, §§ 1246, 1247.

*Litis nomen omnem actionem significat, sive in rem, sive in personam sit.* *Co. Litt.* 292. A lawsuit signifies every action, whether it be *in rem* or *in personam*.

**LITISPENDENCE.** An obsolete term for the time during which a lawsuit is going on.

**LITISPENDENCIA.** In Spanish law. *Litispendency*. The condition of a suit pending in a court of justice.

**LITRE.** Fr. A measure of capacity in the metric system, being a cubic decimetre, equal to 61.022 cubic inches, or 2.113 American pints, or 1.76 English pints. *Webster*.

**LITTORAL.** Belonging to the shore, as of seas and great lakes. *Webster*. Corresponding to riparian proprietors on a stream or small pond are littoral proprietors on a sea or lake. But "riparian" is also used coextensively with "littoral." *Commonwealth v. Alger*, 7 *Cush. (Mass.)* 94. See *Boston v. Lecraw*, 17 *How.* 426, 15 *L. Ed.* 118.

**LITURA.** Lat. In the civil law. An obliteration or blot in a will or other instrument. *Dig.* 28, 4, 1, 1.

**LITUS.**

#### In Old European Law

A kind of servant; one who surrendered himself into another's power. *Spelman*.

#### In The Civil Law

The bank of a stream or shore of the sea; the coast.

*Litus est quousque maximus fluctus a mari pervenit.* The shore is where the highest wave from the sea has reached. *Dig.* 50, 16, 96. *Ang. Tide-Waters*, 67.

**LITUS MARIS.** The sea-shore. "It is certain that that which the sea overflows, either at high spring tides or at extraordinary tides, comes not, as to this purpose, under the denomination of '*litus maris*,' and consequently the king's title is not of that large extent, but only to land that is usually overflowed at ordinary tides. That, therefore, I call the '*shore*' that is between the common high-water and low-water mark, and no more." Hale de Jure Mar. c. 4.

**LIVE-STOCK INSURANCE.** See Insurance.

**LIVE STORAGE.** As applied to storage of automobiles in garages, "dead storage" is where cars not in use are deposited or put away, sometimes for the season, and "live storage" is the storage of cars in active daily use. Hogan v. O'Brien, 123 Misc. 865, 206 N. Y. S. 831, 832.

**LIVELODE.** Maintenance; support.

**LIVERY.** 1. In English law. Delivery of possession of their lands to the king's tenants *in capite* or tenants by knight's service.

2. A writ which may be sued out by a ward in chivalry, on reaching his majority, to obtain delivery of the possession of his lands out of the hands of the guardian. 2 Bl. Comm. 68.

3. A particular dress or garb appropriate or peculiar to certain persons, as the members of a guild, or, more particularly, the servants of a nobleman or gentleman.

4. The privilege of a particular guild or company of persons, the members thereof being called "livery-men."

5. A contract of hiring of work-beasts, particularly horses, to the use of the hirer. It is seldom used alone in this sense, but appears in the compound, "livery-stable."

**LIVERY IN CHIVALRY.** In feudal law. The delivery of the lands of a ward in chivalry out of the guardian's hands, upon the heir's attaining the requisite age,—twenty-one for males, sixteen for females. 2 Bl. Comm. 68.

**LIVERY OFFICE.** An office appointed for the delivery of lands.

**LIVERY OF SEISIN.** The appropriate ceremony, at common law, for transferring the corporal possession of lands or tenements by a grantor to his grantee. It was livery *in deed* where the parties went together upon the land, and there a twig, clod, key, or other symbol was delivered in the name of the whole. Livery *in law* was where the same ceremony was performed, not upon the land itself, but in sight of it. 2 Bl. Comm. 315, 316; Micheau v. Crawford, 8 N. J. Law, 108; Northern Pac. R. Co. v. Cannon (C. C.) 46 F. 232.

**LIVERY STABLE.** A place where horses are groomed, fed, and hired, and where vehicles are let. Williams v. Garignes, 30 La. Ann.

1095; Grimes v. State, 82 Tex. Cr. R. 512, 200 S. W. 378, 379.

**LIVERY STABLE KEEPER.** One whose business it is to keep horses for hire or to let, or to keep, feed, or board horses for others. Kittanning Borough v. Montgomery, 5 Pa. Super. 198.

**LIVERYMAN.** A member of some company in the city of London; also called a "free-man."

**LIVRE TOURNOIS.** A coin used in France before the Revolution. It is to be computed in the *ad valorem* duty on goods, etc., at eighteen and a half cents. Act Cong. March 2, 1798, § 61; 1 Story, Laws, 629.

**LLOYD'S.** An association in the city of London, originally for the transaction of marine insurance, the members of which underwrite one another's policies. See Durbrow v. Eppens, 65 N. J. Law, 10, 46 A. 585.

**LLOYD'S BONDS.** The name of a class of evidences of debt, used in England; being acknowledgments, by a borrowing company made under its seal, of a debt incurred and actually due by the company to a contractor or other person for work done, goods supplied, or otherwise, as the case may be, with a covenant for payment of the principal and interest at a future time. Brown.

**LOAD-LINE.** The depth to which a ship will sink in salt water when loaded.

Every British ship must be marked on each side amidships with a load-line indicating the maximum load-line in salt water, to which it is lawful to load the ship. Sailing ships under eighty tons, fishing ships, and pleasure yachts, also ships employed exclusively in trading in any river or inland water wholly or partly in any British possession, and tugs and passenger steamers plying in smooth water or in excursion limits are excepted. This mark is called Plimsoll's Mark or Line, from Samuel Plimsoll, by whose efforts the passage of an act of parliament to prevent overloading was procured. The law applies to foreign ships while within any port of the United Kingdom, other than such as come into any such port to which they are not bound and for any purpose other than embarking or landing passengers or taking in or discharging cargo or taking in bunker coal. There must also be a mark on each side amidships indicating the position of each deck above water.

**LOADMANAGE.** The pay to loadsmen; that is, persons who sail or row before ships, in barks or small vessels, with instruments for towing the ship and directing her course, in order that she may escape the dangers in her way. Poth. Des Avaries, no. 137.

**LOAN.** A bailment without reward; consisting of the delivery of an article by the owner to another person, to be used by the latter gratuitously, and returned either *in specie* or in kind. A sum of money confided to another. Ramsey v. Whitbeck, 81 Ill. App. 210; Nichols v. Fearson, 7 Pet. 109, 8 L. Ed. 623;

Rodman v. Munson, 13 Barb. (N. Y.) 75; Booth v. Terrell, 16 Ga. 25; Payne v. Gardiner, 29 N. Y. 167.

A loan of money is a contract by which one delivers a sum of money to another, and the latter agrees to return at a future time a sum equivalent to that which he borrowed. Civ. Code Cal. § 1912; In re Grand Union Co. (C. C. A.) 219 F. 353, 356.

**LOAN ASSOCIATION.** See Building and Loan Association.

**LOAN CERTIFICATES.** Certificates issued by a clearing-house to the associated banks to the amount of seventy-five per cent. of the value of the collaterals deposited by the borrowing banks with the loan committee of the clearing-house. Anderson.

**LOAN FOR CONSUMPTION.** The loan for consumption is an agreement by which one person delivers to another a certain quantity of things which are consumed by the use, under the obligation, by the borrower, to return to him as much of the same kind and quality. Civ. Code La. art. 2910. Loans are of two kinds,—for consumption or for use. A loan for consumption is where the article is not to be returned *in specie*, but in kind. This is a sale, and not a bailment. Code Ga. 1882, § 2125 (Civ. Code 1910, § 3516).

**LOAN FOR EXCHANGE.** A loan for exchange is a contract by which one delivers personal property to another, and the latter agrees to return to the lender a similar thing at a future time, without reward for its use. Civ. Code Cal. § 1902.

**LOAN FOR USE.** The loan for use is an agreement by which a person delivers a thing to another, to use it according to its natural destination, or according to the agreement, under the obligation on the part of the borrower, to return it after he shall have done using it. Civ. Code La. art. 2893. A loan for use is a contract by which one gives to another the temporary possession and use of personal property, and the latter agrees to return the same thing to him at a future time, without reward for its use. Civ. Code Cal. § 1884. A loan for use is the gratuitous grant of an article to another for use, to be returned *in specie*, and may be either for a certain time or indefinitely, and at the will of the grantor. Code Ga. 1882, § 2126 (Civ. Code 1910, § 3517). Loan for use (called "*commodatum*" in the civil law) differs from a loan for consumption, (called "*mutuum*" in the civil law,) in this: that the *commodatum* must be specifically returned; the *mutuum* is to be returned in kind. In the case of a *commodatum*, the property in the thing remains in the lender; in a *mutuum*, the property passes to the borrower. Bouvier.

**LOAN, GRATUITOUS, (or COMMODATE.)** A class of bailment which is called "*commo-*

*datum*" in the Roman law, and is denominated by Sir William Jones a "loan for use," (*prêt-à-usage*), to distinguish it from "*mutuum*," a loan for consumption. It is the gratuitous lending of an article to the borrower for his own use. Wharton.

**LOAN SOCIETIES.** In English law. A kind of club formed for the purpose of advancing money on loan to the industrial classes.

**LOBBYING.** "Lobbying" is defined to be any personal solicitation of a member of a legislative body during a session thereof, by private interview, or letter or message, or other means and appliances not addressed solely to the judgment, to favor or oppose, or to vote for or against, any bill, resolution, report, or claim pending, or to be introduced by either branch thereof, by any person who misrepresents the nature of his interest in the matter to such member, or who is employed for a consideration by a person or corporation interested in the passage or defeat of such bill, resolution, report, or claim, for the purpose of procuring the passage or defeat thereof. But this does not include such services as drafting petitions, bills, or resolutions, attending to the taking of testimony, collecting facts, preparing arguments and memorials, and submitting them orally or in writing to a committee or member of the legislature, and other services of like character, intended to reach the reason of legislators. Code Ga. 1882, § 4486. And see Colusa County v. Welch, 122 Cal. 428, 55 P. 248; Trist v. Child, 21 Wall. 448, 22 L. Ed. 623; Dunham v. Hastings Pavement Co., 56 App. Div. 244, 67 N. Y. S. 632; Houlton v. Nichol, 93 Wis. 393, 67 N. W. 715, 33 L. R. A. 166, 57 Am. St. Rep. 928; Galveston County v. Gresham (Tex. Civ. App.) 220 S. W. 560, 563; Graves & Houtchens v. Diamond Hill Independent School Dist. (Tex. Civ. App.) 243 S. W. 638, 639.

**LOBBYIST.** One who makes it a business to procure the passage of bills pending before a legislative body.

One "who makes it a business to 'see' members and procure, by persuasion, importunity, or the use of inducements, the passing of bills, public as well as private, which involve gain to the promoters." 1 Bryce, Am. Com. 156.

**L'obligation sans cause, ou sur une fausse cause, ou sur cause illicite, ne peut avoir aucun effet.** An obligation without consideration, or upon a false consideration, (which fails,) or upon unlawful consideration, cannot have any effect. Code Civil, 3, 4; Chit. Cont. (11th Am. Ed.) 25, note.

**LOCAL.** Relating to place, expressive of place; belonging or confined to a particular place. Distinguished from "general," "personal," and "transitory."

**LOCAL ACT OF PARLIAMENT.** An act which has for its object the interest of some particular locality, as the formation of a road, the alteration of the course of a river, the formation of a public market in a particular district, etc. Brown.

**LOCAL ASSESSMENT.** A charge in the nature of tax, levied to pay the whole or part of the cost of local improvements, and assessed upon the various parcels of property specially benefited thereby. *Gould v. Baltimore*, 59 Md. 380.

**LOCAL CHATTEL.** A thing is local that is fixed to the freehold. *Kitchin*, 180.

**LOCAL COURTS.** Courts whose jurisdiction is limited to a particular territory or district. The expression often signifies the courts of the state, in opposition to the United States courts. *People v. Porter*, 90 N. Y. 75; *Geraty v. Reid*, 78 N. Y. 67.

**LOCAL FREIGHT.** Freight shipped from either terminus of a railroad to a way station, or *vice versa*, or from one way station to another; that is, over a part of the road only. *Mobile & M. R. Co. v. Steiner*, 61 Ala. 579.

**LOCAL FREIGHT TRAIN.** A train that stops at any siding where there is freight to load and unload, as differentiated from one which takes and leaves freight only at certain stops, and generally called a "through train." *Arizona Eastern R. Co. v. State*, 29 Ariz. 446, 242 P. 870, 871.

**LOCAL INFLUENCE.** As a statutory ground for the removal of a cause from a state court to a federal court, this means influence enjoyed and wielded by the plaintiff, as a resident of the place where the suit is brought, in consequence of his wealth, prominence, political importance, business or social relations, or otherwise, such as might affect the minds of the court or jury and prevent the defendant from winning the case, even though the merits should be with him. See *Neale v. Foster* (C. C.) 31 F. 53.

**LOCAL OPTION.** A privilege accorded by the legislature of a state to the several counties or other districts of the state to determine, each for itself, by popular vote, whether or not licenses should be issued for the sale of intoxicating liquors within such districts. See *Wilson v. State*, 35 Ark. 416; *State v. Brown*, 19 Fla. 598.

**LOCAL PREJUDICE.** The "prejudice or local influence" which will warrant the removal of a cause from a state court to a federal court may be either prejudice and influence existing against the party seeking such removal or existing in favor of his adversary. *Neale v. Foster* (C. C.) 31 F. 53.

As to local "Action," "Agent," "Allegiance," "Custom," "Government," "Improvement,"

"Law," "Statute," "Taxes," and "Venue," see those titles.

**LOCALITY.** In Scotch law. This name is given to a life-rent created in marriage contracts in favor of the wife, instead of leaving her to her legal life-rent of tierce. 1 Bell, Comm. 55.

**LOCARE.** To let for hire; to deliver or bail a thing for a certain reward or compensation. *Bract. fol. 62.*

**LOCARIUM.** In old European law. The price of letting; money paid for the hire of a thing; rent. *Spelman.*

**LOCATAIRE.** In French law. A lessee, tenant, or renter.

**LOCATARIUS.** Lat. A deposittee.

**LOCATE.** To ascertain and fix the position of something, the place of which was before uncertain or not manifest; as to locate the calls in a deed.

To decide upon the place or direction to be occupied by something not yet in being; as to locate a road.

**LOCATIO.** Lat. In the civil law. Letting for hire. The term is also used by text-writers upon the law of bailment at common law. *Hanes v. Shapiro & Smith*, 84 S. E. 33, 35, 168 N. C. 24. In Scotch law it is translated "location." Bell.

**LOCATIO-CONDUCTIO.** In the civil law. A compound word used to denote the contract of bailment for hire, expressing the action of *both* parties, viz., a letting by the one and a hiring by the other. 2 Kent, Comm. 586, note; *Story, Bailm. § 368; Coggs v. Bernard*, 2 Ld. Raym. 913.

**LOCATIO CUSTODIÆ.** A letting to keep; a bailment or deposit of goods for hire. *Story, Bailm. § 442.* According to the classification of bailments at civil law, a "locatio custodiæ" is the hiring of care and services to be bestowed on the thing delivered. *Hanes v. Shapiro & Smith*, 84 S. E. 33, 35, 168 N. C. 24.

**LOCATIO OPERIS.** In the civil law. The contract of hiring work, *i. e.*, labor and services. It is a contract by which one of the parties gives a certain work to be performed by the other, who binds himself to do it for the price agreed between them, which he who gives the work to be done promises to pay to the other for doing it. *Poth. Louage*, no. 392; *Zell v. Dunkle*, 156 Pa. 353, 27 Atl. 38.

**LOCATIO OPERIS FACIENDI.** A letting out of work to be done; a bailment of a thing for the purpose of having some work and labor or care and pains bestowed on it for a pecuniary recompense. 2 Kent, Com. 586, 588; *Story, Bailm. §§ 370, 421, 422; Hanes v. Shapiro & Smith*, 84 S. E. 33, 35, 168 N. C. 24. *Metal Package Corporation of New York v. Osborn*, 125 A. 752, 754, 145 Md. 371.

**LOCATIO OPERIS MERCIUM VEHENDARUM.** A letting of work to be done in the carrying of goods; a contract of bailment by which goods are delivered to a person to carry for hire. 2 Kent, Comm. 597; Story, Bailm. §§ 370, 457; Hanes v. Shapiro & Smith, 84 S. E. 33, 35, 168 N. C. 24.

**LOCATIO REI.** A letting of a thing to hire. 2 Kent, Comm. 586. The bailment or letting of a thing to be used by the bailee for a compensation to be paid by him. Story, Bailm. § 370; Hanes v. Shapiro & Smith, 84 S. E. 33, 35, 168 N. C. 24.

#### LOCATION.

##### In American Land Law

The designation of the boundaries of a particular piece of land, either upon record or on the land itself. Mosby v. Carland, 1 Bibb (Ky.) 84.

The finding and marking out the bounds of a particular tract of land, upon the land itself, in conformity to a certain description contained in an entry, grant, map, etc.; such description consisting in what are termed "locative calls." Cunningham v. Browning, 1 Bland (Md.) 329.

##### In Mining Law

The act of appropriating a "mining claim" (parcel of land containing precious metal in its soil or rock) according to certain established rules. It usually consists in placing on the ground, in a conspicuous position, a notice setting forth the name of the locator, the fact that it is thus taken or located, with the requisite description of the extent and boundaries of the parcel. St. Louis Smelting, etc., Co. v. Kemp, 104 U. S. 649, 26 L. Ed. 875; Smith v. Union Oil Co., 135 P. 966, 968, 166 Cal. 217; Producers' Oil Co. v. Hanszen, 61 So. 754, 759, 132 La. 691; U. S. v. Sherman (C. C. A.) 288 F. 497, 498; Cole v. Ralph, 40 S. Ct. 321, 326, 252 U. S. 286, 64 L. Ed. 567.

In a secondary sense, the mining claim covered by a single act of appropriation or location. *Id.*

##### In Scotch Law

A contract by which the temporary use of a subject, or the work or service of a person, is given for an ascertained hire. 1 Bell, Comm. 255.

**LOCATIVE CALLS.** In a deed, patent, or other instrument containing a description of land, locative calls are specific calls, descriptions, or marks of location, referring to landmarks, physical objects, or other points by which the land can be exactly located and identified.

In harmonizing conflicting calls in a deed or survey of public lands, courts will ascertain which calls are locative and which are merely directory, and conform the lines to the locative calls; "directory calls" being those which merely direct the neighborhood where the different calls may be found,

whereas "locative calls" are those which serve to fix boundaries. Cates v. Reynolds, 143 Tenn. 667, 228 S. W. 695, 696.

#### LOCATOR.

##### In the Civil and Scotch Law

A letter; one who lets; he who, being the owner of a thing, lets it out to another for hire or compensation. Coggs v. Bernard, 2 Ld. Raym. 913.

##### In American Land Law

One who locates land, or intends or is entitled to locate. See Location.

**LOCATUM.** A hiring. See Bailment.

**LOCK-UP HOUSE.** A place used temporarily as a prison.

**LOCKMAN.** An officer in the Isle of Man, to execute the orders of the governor, much like our under-sheriff. Wharton.

**LOCMAN.** Fr. In French marine law. A local pilot whose business was to assist the pilot of the vessel in guiding her course into a harbor, or through a river or channel. Martin v. Farnsworth, 33 N. Y. Super. Ct. 260.

**LOCO PARENTIS.** See In Loco Parentis.

**LOCOCESSION.** The act of giving place.

**LOCULUS.** In old records. A coffin; a purse.

**LOCUM TENENS.** Lat. Holding the place. A deputy, substitute, lieutenant, or representative.

**LOCUPLES.** Lat. In the civil law. Able to respond in an action; good for the amount which the plaintiff might recover. Dig. 50, 16, 234, 1.

**LOCUS.** Lat. A place; the place where a thing is done.

**LOCUS CONTRACTUS.** The place of a contract; the place where a contract is made.

**Locus contractus regit actum.** The place of the contract governs the act. 2 Kent. 458; L. R. 1 Q. B. 119; Scudder v. Union Nat. Bank, 91 U. S. 406, 23 L. Ed. 245. See Lex Loci.

**LOCUS CRIMINIS.** The locality of a crime; the place where a crime was committed.

**LOCUS DELICTI.** The place of the offense; the place where an offense was committed. 2 Kent, Comm. 109.

**LOCUS IN QUO.** The place in which. The place in which the cause of action arose, or where anything is alleged, in pleadings, to have been done. The phrase is most frequently used in actions of trespass *quare clausum fregit*.



**LOCUS PARTITUS.** In old English law. A place divided. A division made between two towns or counties to make out in which the land or place in question lies. Fleta, lib. 4, c. 15, § 1; Cowell.

**LOCUS PŒNITENTIÆ.** A place for repentance; an opportunity for changing one's mind; a chance to withdraw from a contemplated bargain or contract before it results in a definite contractual liability. Also used of a chance afforded to a person, by the circumstances, of relinquishing the intention which he has formed to commit a crime, before the perpetration thereof.

**Locus pro solutione redditus aut pecuniæ secundum conditionem dimissionis aut obligationis est stricte observandus.** 4 Coke, 73. The place for the payment of rent or money, according to the condition of a lease or bond, is to be strictly observed.

**LOCUS PUBLICUS.** In the civil law. A public place. Dig. 43, 8, 1; Id. 43, 8, 2, 3.

**LOCUS REGIT ACTUM.** In private international law. The rule that, when a legal transaction complies with the formalities required by the law of the country where it is done, it is also valid in the country where it is to be given effect, although by the law of that country other formalities are required. 8 Sav. Syst. § 381; Westl. Priv. Int. Law, 159.

**LOCUS REI SITÆ.** The place where a thing is situated. In proceedings *in rem*, or the real actions of the civil law, the proper forum is the *locus rei sitæ*. The Jerusalem, 2 Gall. 191, 197, Fed. Cas. No. 7,293.

**LOCUS SIGILLI.** The place of the seal; the place occupied by the seal of written instruments. Usually abbreviated to "L. S."

**LOCUS STANDI.** A place of standing; standing in court. A right of appearance in a court of justice, or before a legislative body, on a given question.

**LODE.** This term, as used in the legislation of congress, is applicable to any zone or belt of mineralized rock lying within boundaries clearly separating it from the neighboring rock. It includes all deposits of mineral matter found through a mineralized zone or belt coming from the same source, impressed with the same forms, and appearing to have been created by the same processes. Eureka Consol. Min. Co. v. Richmond Min. Co., 4 Sawy. 312, 8 Fed. Cas. 823. And see Duggan v. Davey, 4 Dak. 110, 26 N. W. 887; Stevens v. Williams, 23 Fed. Cas. 42; Montana Cent. Ry. Co. v. Migeon (C. C.) 68 Fed. 813; Meydenbauer v. Stevens (D. C.) 78 Fed. 790; Iron Silver Min. Co. v. Cheeseman, 116 U. S. 529, 6 Sup. Ct. 481, 29 L. Ed. 712; U. S. v. Iron Silver Min. Co., 128 U. S. 673, 9 Sup. Ct. 195, 32 L. Ed. 571; Utah Consol. Mining Co. v.

Utah Apex Mining Co. (C. C. A.) 277 F. 41, 45; Myers v. Lloyd, 4 Alaska, 263, 265; Duffield v. San Francisco Chemical Co. (C. C. A.) 205 F. 480, 483; Alameda Mining Co. v. Success Mining Co., 161 P. 862, 865, 29 Idaho, 618.

**LODEMAN, or LOADSMAN.** The pilot conducts the ship up the river or into port; but the loadsmen is he that undertakes to bring a ship through the haven, after being brought thither by the pilot, to the quay or place of discharge. Jacob.

**LODEMANAGE.** The hire of a pilot for conducting a vessel from one place to another. Cowell.

**LODGER.** One who occupies hired apartments in another's house; a tenant of part of another's house. Smith v. Dorchester Hotel Co., 259 P. 1085, 1086, 145 Wash. 344; Dewar v. Minneapolis Lodge, No. 44, B. P. O. E., 192 N. W. 358, 359, 155 Minn. 98, 32 A. L. R. 1012; Fox v. Windemere Hotel Apartment Co., 157 P. 820, 821, 30 Cal. App. 162.

A tenant, with the right of exclusive possession of a part of a house, the landlord, by himself or an agent, retaining general dominion over the house itself. Wansey v. Perkins, 7 Man. & G. 155; Pullman Palace Car Co. v. Lowe, 28 Neb. 239, 44 N. W. 226, 6 L. R. A. 809, 26 Am. St. Rep. 325; Metzger v. Schnabel, 23 Misc. 698, 52 N. Y. Supp. 105; Pollock v. Landis, 36 Iowa, 652.

**LODGINGS.** Habitation in another's house; apartments in another's house, furnished or unfurnished, occupied for habitation; the occupier being termed a "lodger."

**LODS ET VENTES.** In old French and Canadian law. A fine payable by a *roturier* on every change of ownership of his land; a mutation or alienation fine. Steph. Lect. 351.

**LOG-BOOK.** A ship's journal. It contains a minute account of the ship's course, with a short history of every occurrence during the voyage. 1 Marsh. Ins. 312.

The part of the log-book relating to transactions in the harbor is termed the "harbor log;" that relating to what happens at sea, the "sea log." Young, Naut. Dict.

#### Official Log-Book

A log-book in a certain form, and containing certain specified entries required by 17 & 18 Vict. c. 104, §§ 280-282, to be kept by all British merchant ships, except those exclusively engaged in the coasting trade.

**LOG-ROLLING.** A mischievous legislative practice, of embracing in one bill several distinct matters, none of which, perhaps, could singly obtain the assent of the legislature, and then procuring its passage by a combination of the minorities in favor of each of the measures into a majority that will adopt them

all. *Walker v. Griffith*, 60 Ala. 369; *Com. v. Barnett*, 199 Pa. 161, 48 Atl. 976, 55 L. R. A. 882; *O'Leary v. Cook County*, 28 Ill. 534; *St. Louis v. Tiefel*, 42 Mo. 590.

**LOGATING.** An unlawful game mentioned in St. 33 Hen. VIII. c. 9.

**LOGIA.** A small house, lodge, or cottage. *Mon. Angl. tom. 1, p. 400.*

**LOGIC.** The science of reasoning, or of the operations of the understanding which are subservient to the estimation of evidence. The term includes both the process itself of proceeding from known truths to unknown, and all other intellectual operations, in so far as auxiliary to this.

**LOGIUM.** In old records. A lodge, hovel, or outhouse.

**LOGOGRAPHUS.** In Roman law. A public clerk, register, or book-keeper; one who wrote or kept books of accounts. *Dig. 50, 4, 18, 10; Cod. 10, 69.*

**LOGS.** Stems or trunks of trees cut into convenient lengths for the purpose of being afterwards manufactured into lumber of various kinds; not including manufactured lumber of any sort, nor timber which is squared or otherwise shaped for use without further change in form. *Kolloch v. Parcher*, 52 Wis. 393, 9 N. W. 67. And see *Haynes v. Hayward*, 40 Me. 148; *State v. Addington*, 121 N. C. 538, 27 S. E. 988; *Code W. Va. 1899, p. 1071, § 27 (Code 1906, § 2524; Code 1931, 31-3-8); Craddock Mfg. Co. v. Faison*, 123 S. E. 535, 536, 138 Va. 665, 39 A. L. R. 1309; *Cormier's Case*, 127 A. 434, 124 Me. 237; *Ladnier v. Ingram Day Lumber Co.*, 100 So. 369, 370, 135 Miss. 632.

**LOITER.** To stand around or move slowly about; to spend time idly; to saunter; to delay; to linger; to lag behind. *State v. Badda*, 125 S. E. 159, 160, 97 W. Va. 417; *Malhoit v. Burns*, 127 N. E. 333, 235 Mass. 559; *Robinson v. State*, 72 So. 592, 15 Ala. App. 29; *King v. State*, 169 S. W. 675, 676, 74 Tex. Cr. R. 658; *State v. Tobin*, 96 A. 312, 313, 90 Conn. 58; *People v. Berger* (Gen. Sess.) 169 N. Y. S. 319, 320.

**LOLLARDS.** A body of primitive Wesleyans, who assumed importance about the time of John Wycliffe, (1360,) and were very successful in disseminating evangelical truth; but, being implicated (apparently against their will) in the insurrection of the villeins in 1381, the statute *De Hæretico Comburendo* (2 Hen. IV. c. 15) was passed against them, for their suppression. However, they were not suppressed, and their representatives survive to the present day under various names and disguises. *Brown.*

**LOMBARDS.** A name given to the merchants of Italy, numbers of whom, during the twelfth

and thirteenth centuries, were established as merchants and bankers in the principal cities or Europe.

**LONDRES.** L. Fr. London. *Yearb. P. 1 Edw. II. p. 4.*

**LONG.** In various compound legal terms (see *infra*) this word carries a meaning not essentially different from its signification in the vernacular.

In the language of the stock exchange, a broker or speculator is said to be "long" on stock, or as to a particular security, when he has in his possession or control an abundant supply of it, or a supply exceeding the amount which he has contracted to deliver, or, more particularly, when he has bought a supply of such stock or other security for future delivery, speculating on a considerable future advance in the market price. See *Kent v. Miltenberger*, 13 Mo. App. 506; *Corner.*

**LONG ACCOUNT.** An account involving numerous separate items or charges, on one side or both, or the statement of various complex transactions, such as a court of equity will refer to a master or commissioner or a court of law to a referee under the codes of procedure. See *Dickinson v. Mitchell*, 19 Abb. Prac. (N. Y.) 286; *Druse v. Horter*, 57 Wis. 644, 16 N. W. 14; *Doyle v. Metropolitan El. R. Co.*, 1 Misc. 376, 20 N. Y. Supp. 865; *Craig v. McNichols Furniture Co.* (Mo. App.) 187 S. W. 793, 797; *Reed v. Young*, 154 S. W. 766, 768, 248 Mo. 606.

**LONG PARLIAMENT.** The name usually given to the parliament which met in November, 1640, under Charles I., and was dissolved by Cromwell on the 10th of April, 1653. The name "Long Parliament" is, however, also given to the parliament which met in 1661, after the restoration of the monarchy, and was dissolved on the 30th of December, 1678. This latter parliament is sometimes called, by way of distinction, the "long parliament of Charles II." *Mozley & Whitley.*

**LONG QUINTO, THE.** An expression used to denote part second of the year-book which gives reports of cases in 5 Edw. IV.

**LONG ROBE.** A metaphorical expression designating the practice of profession of the law; as, in the phrase "gentlemen of the long robe."

**LONG TON.** A measure of weight equivalent to 20 hundred-weight of 112 pounds each, or 2,240 pounds, as distinguished from the "short" ton of 2,000 pounds. See *Rev. St. U. S. § 2951 (19 USCA § 420)*. But see *Jones v. Giles*, 10 Exch. 119, as to an English custom of reckoning a ton of iron "long weight" as 2,400 pounds.

**LONG VACATION.** The recess of the English courts from August 10th to October 24th.

**Longa patientia trahitur ad consensum.** Long sufferance is construed as consent. *Fleta*, lib. 4, c. 26, § 4.

**Longa possessio est pacis jus.** Long possession is the law of peace. *Branch Princ.*; *Co. Litt.* 6.

**Longa possessio jus parit.** Long possession begets right. *Fleta*, lib. 3, c. 15, § 6.

**Longa possessio parit jus possidendi, et tollit actionem vero domino.** Long possession produces the right of possession, and takes away from the true owner his action. *Co. Litt.* 110*b*.

**LONGEVITY PAY.** Extra compensation for longevity in actual service in the army or navy. *Thornley v. U. S.*, 18 Ct. Cl. 111; *Barton v. U. S.*, 129 U. S. 249, 9 Sup. Ct. 285, 32 L. Ed. 663; *U. S. v. Alger*, 151 U. S. 362, 14 Sup. Ct. 346, 38 L. Ed. 192; *U. S. v. Stahl*, 151 U. S. 366, 14 Sup. Ct. 347, 38 L. Ed. 194.

**Longum tempus et longus usus qui excedit memoria hominum sufficit pro jure.** *Co. Litt.* 115*a*. Long time and long use, exceeding the memory of men, suffices for right.

**LOOKOUT.** A person who is specially charged with the duty of observing the lights, sounds, echoes, or any obstruction to navigation, with the thoroughness which the circumstances admit. *The Tillicum (D. C.)* 217 F. 976, 978; *The Wilbert L. Smith (D. C.)* 217 F. 981, 984.

A proper lookout on a vessel is some one in a favorable position to see, stationed near enough to the helmsman to communicate with him, and to receive communications from him, and exclusively employed in watching the movements of vessels which they are meeting or about to pass. *The Genesee Chief v. Fitzhugh*, 12 How. 462, 13 L. Ed. 1058.

**LOPWOOD.** A right in the inhabitants of a parish within a manor, in England, to lop for fuel, at certain periods of the year, the branches of trees growing upon the waste lands of the manor. *Sweet*.

**LOQUELA.** Lat. A colloquy; talk. In old English law, this term denoted the oral altercations of the parties to a suit, which led to the issue, now called the "pleadings." It also designated an "imparlance," (*q. v.*), both names evidently referring to the talking together of the parties. *Loquela sine die*, a postponement to an indefinite time.

**Loquendum ut vulgus; sentiendum ut docti.** We must speak as the common people; we must think as the learned. 7 *Coke*, 11*b*. This maxim expresses the rule that, when words are used in a technical sense, they must be understood technically; otherwise, when they may be supposed to be used in their ordinary acceptation.

## LORD.

## In English Law

A title of honor or nobility belonging properly to the degree of baron, but applied also to the whole peerage, as in the expression "the house of lords." 1 *Bl. Comm.* 396-400.

A title of office, as lord mayor, lord commissioner, etc.

## In Feudal Law

A feudal superior or proprietor; one of whom a fee or estate is held.

## In General

—**Law lords.** See *Law*.

—**Lord advocate.** The chief public prosecutor of Scotland. 2 *Alis. Crim. Pr.* 84.

—**Lord and vassal.** In the feudal system, the grantor, who retained the dominion or ultimate property, was called the "lord," and the grantee, who had only the use or possession, was called the "vassal" or "feudatory."

—**Lord chief baron.** The chief judge of the English court of exchequer, prior to the judicature acts.

—**Lord chief justice.** See *Justice*.

—**Lord high chancellor.** See *Chancellor*.

—**Lord high steward.** In England, when a person is impeached, or when a peer is tried on indictment for treason or felony before the house of lords, one of the lords is appointed lord high steward, and acts as speaker *pro tempore*. *Sweet*.

—**Lord high treasurer.** An officer formerly existing in England, who had the charge of the royal revenues and customs duties, and of leasing the crown lands. His functions are now vested in the lords commissioners of the treasury. *Mozley & Whitley*.

—**Lord in gross.** In feudal law. He who is lord, not by reason of any manor, but as the king in respect of his crown, etc. "Very lord" is he who is immediate lord to his tenant; and "very tenant," he who holds immediately of that lord. So that, where there is lord paramount, lord mesne, and tenant, the lord paramount is not very lord to the tenant. *Wharton*.

—**Lord justice clerk.** The second judicial officer in Scotland.

—**Lord keeper,** or keeper of the great seal, was originally another name for the lord chancellor. After Henry II.'s reign they were sometimes divided, but now there cannot be a lord chancellor and lord keeper at the same time, for by St. 5 Eliz. c. 18, they are declared to be the same office. *Com. Dig.* "Chancery," B. 1.

—**Lord lieutenant.** In English law. The viceroy of the crown in Ireland. The principal military officer of a county, originally ap-

pointed for the purpose of mustering the inhabitants for the defense of the country.

—**Lord mayor.** The chief officer of the corporation of the city of London is so called. The origin of the appellation of "lord," which the mayor of London enjoys, is attributed to the fourth charter of Edward III., which conferred on that officer the honor of having maces, the same as royal, carried before him by the sergeants. Pull. Laws & Cust. Lond.

—**Lord mayor's court.** In English law. This is a court of record, of law and equity, and is the chief court of justice within the corporation of London. Theoretically the lord mayor and aldermen are supposed to preside, but the recorder is in fact the acting judge. It has jurisdiction of all personal and mixed actions arising within the city and liberties without regard to the amount in controversy. See 3 Steph. Comm. 449, note l.

—**Lord of a manor.** The grantee or owner of a manor.

—**Lord ordinary** is the judge of the court of session in Scotland, who officiates for the time being as the judge of first instance. Darl. Pr. Ct. Sess.

—**Lord paramount.** A term applied to the King of England as the chief feudal proprietor, the theory of the feudal system being that all lands in the realm were held mediately or immediately from him. See *De Pyster v. Michael*, 6 N. Y. 495, 57 Am. Dec. 470; Opinion of Justices, 66 N. H. 629, 33 A. 1076.

—**Lord privy seal,** before the 30 Hen. VIII., was generally an ecclesiastic. The office has since been usually conferred on temporal peers above the degree of barons. He is appointed by letters patent. The lord privy seal, receiving a warrant from the signet office, issues the privy seal, which is an authority to the lord chancellor to pass the great seal where the nature of the grant requires it. But the privy seals for money begin in the treasury, whence the first warrant issues, countersigned by the lord treasurer. The lord privy seal is a member of the cabinet council. Enc. Lond.

—**Lord warden of Cinque Ports.** See Cinque Ports.

—**Lords appellants.** Five peers who for a time superseded Richard II. in his government, and whom, after a brief control of the government, he in turn superseded in 1397, and put the survivors of them to death. Richard II.'s eighteen commissioners (twelve peers and six commoners) took their place, as an embryo privy council acting with full powers, during the parliamentary recess. Brown.

—**Lords commissioners.** In English law. When a high public office in the state, formerly executed by an individual, is put into com-

mission, the persons charged with the commission are called "lords commissioners," or sometimes "lords" or "commissioners" simply. Thus, we have, in lieu of the lord treasurer and lord high admiral of former times, the lords commissioners of the treasury, and the lords commissioners of the admiralty; and, whenever the great seal is put into commission, the persons charged with it are called "commissioners" or "lords commissioners" of the great seal. Mozley & Whitley.

—**Lord's day.** A name sometimes given to Sunday. Co. Litt. 135.

—**Lords justices of appeal.** In English law. The title of the ordinary judges of the court of appeal, by Jud. Act 1877, § 4. Prior to the judicature acts, there were two "lords justices of appeal in chancery," to whom an appeal lay from a vice-chancellor, by 14 & 15 Vict. c. 83.

—**Lords marchers.** Those noblemen who lived on the marches of Wales or Scotland, who in times past had their laws and power of life and death, like petty kings. Abolished by 27 Hen. VIII. c. 26, and 6 Edw. VI. c. 10. Wharton.

—**Lords of appeal.** Those members of the house of lords of whom at least three must be present for the hearing and determination of appeals. They are the lord chancellor, the lords of appeal in ordinary, and such peers of parliament as hold, or have held, high judicial offices, such as ex-chancellors and judges of the superior courts in Great Britain and Ireland. App. Jur. Act 1876, §§ 5, 25.

—**Lords of appeal in ordinary.** These are appointed, with a salary of £6,000 a year, to aid the house of lords in the hearing of appeals. They rank as barons for life, but sit and vote in the house of lords during the tenure of their office only. App. Jur. Act 1876, § 6.

—**Lords of erection.** On the Reformation in Scotland, the king, as proprietor of benefices formerly held by abbots and priors, gave them out in temporal lordships to favorites, who were termed "lords of erection." Wharton.

—**Lords of parliament.** Those who have seats in the house of lords. During bankruptcy, peers are disqualified from sitting or voting in the house of lords. 34 & 35 Vict. c. 50.

—**Lords of regality.** In Scotch law. Persons to whom rights of civil and criminal jurisdiction were given by the crown.

—**Lords ordainers.** Lords appointed in 1312, in the reign of Edward II., for the control of the sovereign and the court party, and for the general reform and better government of the country. Brown.

—**Lords spiritual.** The archbishops and bishops who have seats in the house of lords.

—**Lords temporal.** Those lay peers who have seats in the house of lords.

**LORDSHIP.** In English law. Dominion, manor, seignior, domain; also a title of honor used to a nobleman not being a duke. It is also the customary titular appellation of the judges, and some other persons in authority and office.

## LOSS.

### In Insurance

The injury or damage sustained by the insured in consequence of the happening of one or more of the accidents or misfortunes against which the insurer, in consideration of the premium, has undertaken to indemnify the insured. 1 Bouv. Inst. no. 1215.

### In General

—**Actual loss.** One resulting from the real and substantial destruction of the property insured.

—**Constructive loss.** One resulting from such injuries to the property, without its destruction, as render it valueless to the assured or prevent its restoration to the original condition except at a cost exceeding its value.

—**Direct loss by fire** is one resulting immediately and proximately from the fire, and not remotely from some of the consequences or effects of the fire. *Insurance Co. v. Leader*, 121 Ga. 260, 48 S. E. 974; *Ermentrout v. Insurance Co.*, 63 Minn. 305, 65 N. W. 635, 30 L. R. A. 346, 56 Am. St. Rep. 481; *California Ins. Co. v. Union Compress Co.*, 133 U. S. 387, 10 Sup. Ct. 365, 33 L. Ed. 730.

—**Loss of consortium.** See Consortium.

—**Partial loss.** A loss of a part of a thing or of its value, or any damage not amounting (actually or constructively) to its entire destruction; as contrasted with *total* loss. Partial loss is one in which the damage done to the thing insured is not so complete as to amount to a total loss, either actual or constructive. In every such case the underwriter is liable to pay such proportion of the sum which would be payable on total loss as the damage sustained by the subject of insurance bears to the whole value at the time of insurance. 2 Steph. Comm. 132, 133; *Crump. Ins.* § 331; *Mozley & Whitley*. Partial loss implies a damage sustained by the ship or cargo, which falls upon the respective owners of the property so damaged; and, when happening from any peril insured against by the policy, the owners are to be indemnified by the underwriters, unless in cases excepted by the express terms of the policy. *Padelford v. Boardman*, 4 Mass. 548; *Globe Ins. Co. v. Sherlock*, 25 Ohio St. 65; *Willard v. Insurance Co.*, 30 Mo. 35.

—**Salvage loss.** That kind of loss which it is presumed would, but for certain services

rendered and exertions made, have become a total loss. In the language of marine underwriters, this term means the difference between the amount of salvage, after deducting the charges, and the original value of the property insured. *Devitt v. Insurance Co.*, 61 App. Div. 390, 70 N. Y. Supp. 662; *Koons v. La Fonciere Compagnie (D. C.)* 71 F. 981.

—**Total loss.** See that title.

**LOST.** An article is "lost" when the owner has lost the possession or custody of it, involuntarily and by any means, but more particularly by accident or his own negligence or forgetfulness, and when he is ignorant of its whereabouts or cannot recover it by an ordinarily diligent search. See *State Sav. Bank v. Buhl*, 129 Mich. 193, 88 N. W. 471, 56 L. R. A. 944; *Belote v. State*, 36 Miss. 120, 72 Am. Dec. 163; *Hoagland v. Amusement Co.*, 170 Mo. 335, 70 S. W. 878, 94 Am. St. Rep. 740. See, also, *Lost Property*.

As applied to ships and vessels, the term means "lost at sea," and a vessel lost is one that has totally gone from the owners against their will, so that they know nothing of it, whether it still exists or not, or one which they know is no longer within their use and control, either in consequence of capture by enemies or pirates, or an unknown foundering, or sinking by a known storm, or collision, or destruction by shipwreck. *Bennett v. Garlock*, 10 Hun (N. Y.) 338; *Collard v. Eddy*, 17 Mo. 355; *Insurance Co. v. Gossler*, 7 Fed. Cas. 406.

**LOST CORNER.** One whose location as established by the government surveyors cannot be found; but the mere fact that evidence of the physical location cannot now be seen, or that no one who saw the marked corner, is produced, does not necessarily make the corner a lost one. *Goroski v. Tawney*, 121 Minn. 189, 141 N. W. 102, 103; *Cooper v. Quade*, 191 Iowa, 461, 182 N. W. 798, 799; *Thomsen v. Keil*, 48 Nev. 1, 226 P. 309, 310; *Fellows v. Willett*, 93 Okl. 248, 224 P. 298, 300; *Simpson v. Stewart*, 281 Mo. 228, 219 S. W. 589, 590.

**LOST OR NOT LOST.** A phrase sometimes inserted in policies of marine insurance to signify that the contract is meant to relate back to the beginning of a voyage now in progress, or to some other antecedent time, and to be valid and effectual even if, at the moment of executing the policy, the vessel should have already perished by some of the perils insured against, provided that neither party has knowledge of that fact or any advantage over the other in the way of superior means of information. See *Hooper v. Robinson*, 93 U. S. 537, 25 L. Ed. 219; *Insurance Co. v. Folsom*, 18 Wall. 251, 21 L. Ed. 827.

**LOST PAPERS.** Papers which have been so mislaid that they cannot be found after diligent search.

**LOST PROPERTY.** Property which the owner has involuntarily parted with and does not know where to find or recover it, not including property which he has intentionally concealed or deposited in a secret place for safe-keeping. See *Sovern v. Yorlan*, 16 Or. 269, 20 Pac. 100, 8 Am. St. Rep. 293; *Pritchett v. State*, 2 Sneed (Tenn.) 288, 62 Am. Dec. 468; *State v. Cummings*, 33 Conn. 260, 89 Am. Dec. 208; *Loucks v. Gallogly*, 1 Misc. Rep. 22, 23 N. Y. Supp. 126; *Danielson v. Roberts*, 44 Or. 108, 74 Pac. 913, 65 L. R. A. 526, 102 Am. St. Rep. 627. But see: *Foster v. Fidelity Safe Deposit Co.*, 264 Mo. 89, 174 S. W. 376, 377, L. R. A. 1916A, 655, Ann. Cas. 1917D, 798; *First Nat. Bank v. Brown*, 117 Kan. 330, 230 P. 1038, 1040, 39 A. L. R. 1242; *Foulke v. New York Consol. R. Co.*, 228 N. Y. 269, 127 N. E. 237, 238; *State v. Courtsol*, 89 Conn. 564, 94 A. 973, 975, L. R. A. 1916A, 465.

**LOT.** The arbitration of chance; hazard. That which fortuitously determines what course shall be taken or what disposition be made of property or rights.

A share; one of several parcels into which property is divided. Used particularly of land. Any piece, division, or parcel of land.

The thirteenth dish of lead in the mines of Derbyshire, which belong to the crown.

**LOT AND SCOT.** In English law. Certain duties which must be paid by those who claim to exercise the elective franchise within certain cities and boroughs, before they are entitled to vote. It is said that the practice became uniform to refer to the poor-rate as a register of "scot and lot" voters; so that the term, when employed to define a right of election, meant only the payment by a parishioner of the sum to which he was assessed on the poor-rate. Brown.

**LOT OF LAND.** A small tract or parcel of land in a village, town, or city, suitable for building, or for a garden, or other similar uses. See *Pilz v. Killingsworth*, 20 Or. 432, 26 Pac. 305; *Wilson v. Proctor*, 28 Minn. 13, 8 N. W. 830; *Webster v. Little Rock*, 44 Ark. 551; *Diamond Mach. Co. v. Ontonagon*, 72 Mich. 261, 40 N. W. 448; *Fitzgerald v. Thomas*, 61 Mo. 500; *Phillipsburgh v. Bruch*, 37 N. J. Eq. 486.

**LOTHERWITE, or LEYERWIT.** In old English law. A liberty or privilege to take amends for lying with a bondwoman without license.

**LOTTERY.** A lottery is any scheme for the disposal or distribution of property by chance among persons who have paid, or promised or agreed to pay, any valuable consideration for the chance of obtaining such property, or a portion of it, or for any share of or interest in such property, upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a "lottery," a "raffle," or a

"gift enterprise," or by whatever name the same may be known. Pen. Code Cal. § 319; Pen. Code Dak. § 373 (Comp. Laws N. D. 1913, § 9660; Rev. Code S. D. 1919, § 3894). See, also, *Dunn v. People*, 40 Ill. 467; *Chavannah v. State*, 49 Ala. 397; *Stearnes v. State*, 21 Tex. 692; *State v. Lovell*, 39 N. J. Law, 461; *State v. Mumford*, 73 Mo. 650, 39 Am. Rep. 532; *U. S. v. Politzer* (D. C.) 59 Fed. 274; *Fleming v. Bills*, 3 Or. 289; *Com. v. Manderfield*, 8 Phila. (Pa.) 459; *Stanger v. State*, 107 Tex. Cr. R. 574, 298 S. W. 906; *National Thrift Ass'n v. Crews*, 116 Or. 352, 241 P. 72, 41 A. L. R. 1481; *Almy Mfg. Co. v. City of Chicago*, 202 Ill. App. 240, 245; *State v. Powell*, 170 Minn. 239, 212 N. W. 169; *Commonwealth v. Jenkins*, 159 Ky. 80, 166 S. W. 794, 795, Ann. Cas. 1915B, 170; *Brenard Mfg. Co. v. Jessup & Barrett Co.*, 186 Iowa, 872, 173 N. W. 101, 102; *State v. Lowe*, 178 N. C. 770, 101 S. E. 385, 386.

**Lou le ley done chose, la ceo done remedie a vener a ceo.** 2 Rolle, 17. Where the law gives a right, it gives a remedy to recover.

**LOUAGE.** Fr. This is the contract of hiring and letting in French law, and may be either of things or of labor. The varieties of each are the following:

1. Letting of things,—*bail à loyer* being the letting of houses; *bail à ferme* being the letting of lands.

2. Letting of labor,—*loyer* being the letting of personal service; *bail à cheptel* being the letting of animals. Brown.

**LOURCURDUS.** A ram or bell-wether. Cowell.

**LOVE-DAY.** In old English law. The day on which any dispute was amicably settled between neighbors; or a day on which one neighbor helps another without hire. Wharton.

**LOW JUSTICE.** In old European law, jurisdiction of petty offenses, as distinguished from "high justice," (*q. v.*)

**LOW WATER.** The furthest receding point of ebb-tide. *Howard v. Ingersoll*, 13 How. 417, 14 L. Ed. 189.

**LOW-WATER MARK.** See Water-Mark.

**LOWBOTE.** A recompense for the death of a man killed in a tumult. Cowell.

**LOWERS.** Fr. In French maritime law. Wages. Ord. Mar. liv. 1, tit. 14, art. 16.

**LOYAL.** Legal; authorized by or conforming to law. Also faithful in one's political relations; giving faithful support of one's prince or sovereign or to the existing government.

**LOYALTY.** Adherence to law. Faithfulness to one's prince or sovereign or to the existing government.

**Lubricum linguæ non facile trahendum est In pœnam.** Cro. Car. 117. A slip of the tongue ought not lightly to be subjected to punishment.

**LUCID INTERVALS.** In medical jurisprudence. Intervals occurring in the mental life of an insane person during which he is completely restored to the use of his reason, or so far restored that he has sufficient intelligence, judgment, and will to enter into contractual relations, or perform other legal acts, without disqualification by reason of his disease. In *re Miller's Will*, 3 Boyce (Del.) 477, 85 A. 803, 811; *Roberts v. Pacific Telephone & Telegraph Co.*, 93 Wash. 274, 160 P. 965, 970. See *Insanity*.

**LUCRA NUPTIALIA.** Lat. In Roman law. A term including everything which a husband or wife, as such, acquires from the estate of the other, either before the marriage, or on agreeing to it, or during its continuance, or after its dissolution, and whether the acquisition is by pure gift, or by virtue of the marriage contract, or against the will of the other party by law or statute. See *Mackeld. Rom. Law*, § 580.

**LUCRATIVA CAUSA.** Lat. In Roman law. A consideration which is voluntary; that is to say, a gratuitous gift, or such like. It was opposed to *onerosa causa*, which denoted a valuable consideration. It was a principle of the Roman law that two lucrative causes could not concur in the same person as regarded the same thing; that is to say, that, when the same thing was bequeathed to a person by two different testators, he could not have the thing (or its value) twice over. *Brown*.

**LUCRATIVA USUCAPIO.** Lat. This species of *usucapio* was permitted in Roman law only in the case of persons taking possession of property upon the decease of its late owner, and in exclusion or forfeiture of the heir, whence it was called "*usucapio pro hærede*." The adjective "*lucrativa*" denoted that property was acquired by this *usucapio* without any consideration or payment for it by way of purchase; and, as the possessor who so acquired the property was a *malâ fide* possessor, his acquisition, or *usucapio*, was called also "*improba*," (*i. e.*, dishonest;) but this dishonesty was tolerated (until abolished by *Hadrian*) as an incentive to force the *hæres* to take possession, in order that the debts might be paid and the sacrifices performed; and, as a further incentive to the *hæres*, this *usucapio* was complete in one year. *Brown*.

**LUCRATIVE.** Yielding gain or profit; profitable; bearing or yielding a revenue or salary.

**LUCRATIVE BAILMENT.** See *Bailment*.

**LUCRATIVE OFFICE.** One which yields a revenue (in the form of fees or otherwise) or

a fixed salary to the incumbent; according to some authorities, one which yields a compensation supposed to be adequate to the services rendered and in excess of the expenses incidental to the office. See *State v. Kirk*, 44 Ind. 405, 15 Am. Rep. 239; *Dailey v. State*, 8 Blackf. (Ind.) 330; *Crawford v. Dunbar*, 52 Cal. 39; *State v. De Gress*, 53 Tex. 400; *Hodge v. State*, 135 Tenn. 525, 188 S. W. 203, 206.

**LUCRATIVE SUCCESSION.** In Scotch law. A kind of passive title by which a person accepting from another, without any onerous cause, (or without paying value,) a disposition of any part of his heritage, to which the receiver would have succeeded as heir, is liable to all the grantor's debts contracted before the said disposition. 1 *Forb. Inst.* pt. 3, p. 102.

**LUCRATUS.** In Scotch law. A gainer.

**LUCRE.** Gain in money or goods; profit; usually in an ill sense, or with the sense of something base or unworthy. *Webster*.

**LUCRI CAUSA.** Lat. In criminal law. A term descriptive of the intent with which property is taken in cases of larceny, the phrase meaning "for the sake of lucre" or gain. *State v. Ryan*, 12 Nev. 403, 28 Am. Rep. 802; *State v. Slingerland*, 19 Nev. 135, 7 Pac. 280; *Groover v. State*, 82 Fla. 427, 90 So. 473, 475, 26 A. L. R. 375.

**LUCRUM.** A small slip or parcel of land.

**LUCRUM CESSANS.** Lat. In Scotch law. A ceasing gain, as distinguished from *damnum datum*, an actual loss.

**Lucrum facere ex pupilli tutela tutor non debet.** A guardian ought not to make money out of the guardianship of his ward. *Manning v. Manning's Ex'rs*, 1 Johns. Ch. (N. Y.) 527, 535.

**LUCTUOSA HÆREDITAS.** A mournful inheritance. See *Hæreditas Luctuosa*.

**LUCTUS.** In Roman law. Mourning. See *Annus Luctus*.

**LUGGAGE.** Luggage may consist of any articles intended for the use of a passenger while traveling, or for his personal equipment. *Civ. Code Cal.* § 2181.

This term is synonymous with "baggage," but is more commonly used in England than in America. See *Great Northern Ry. Co. v. Shepherd*, 8 Exch. 37; *Duffy v. Thompson*, 4 E. D. Smith (N. Y.) 180; *Choctaw, etc., R. Co. v. Zwirtz*, 13 Okl. 411, 73 P. 941.

**LUMEN.** Lat. In the civil law. Light; the light of the sun or sky; the privilege of receiving light into a house.

A light or window.

**LUMINA.** Lat. In the civil law. Lights; windows; openings to obtain light for one's building.

**LUMINARE.** A lamp or candle set burning on the altar of any church or chapel, for the maintenance whereof lands and rent-charges were frequently given to parish churches, etc. Kennett, Gloss.

**LUMPING SALE.** As applied to judicial sales, this term means a sale in mass, as where several distinct parcels of real estate, or several articles of personal property, are sold together for a "lump" or single gross sum. *Anniston Pipeworks v. Williams*, 106 Ala. 324, 18 So. 111, 54 Am. St. Rep. 51.

**LUNACY.** Lunacy is that condition or habit in which the mind is directed by the will, but is wholly or partially misguided or erroneously governed by it; or it is the impairment of any one or more of the faculties of the mind, accompanied with or inducing a defect in the comparing faculty. *Owings' Case*, 1 Bland (Md.) 386, 17 Am. Dec. 311. See *Insanity*.

#### Inquisition (or Inquest) of Lunacy

A quasi-judicial examination into the sanity or insanity of a given person, ordered by a court having jurisdiction, on a proper application and sufficient preliminary showing of facts, held by the sheriff (or marshal, or a magistrate, or the court itself, according to the local practice) with the assistance of a special jury, usually of six men, who are to hear evidence and render a verdict in accordance with the facts. This is the usual foundation for an order appointing a guardian or conservator for a person adjudged to be insane, or for committing him to an insane asylum. See *Hughes v. Jones*, 116 N. Y. 67, 22 N. E. 446, 5 L. R. A. 637, 15 Am. St. Rep. 386; *Hadaway v. Smith*, 71 Md. 319, 18 A. 589.

#### Lunacy, Commission of

A commission issuing from a court of competent jurisdiction, authorizing an inquiry to be made into the mental condition of a person who is alleged to be a lunatic.

**LUNAR.** Belonging to or measured by the revolutions of the moon.

**LUNAR MONTH.** See *Month*.

**LUNATIC.** A person of deranged or unsound mind; a person whose mental faculties are in the condition called "lunacy," (*q. v.*)

**Lunaticus, qui gaudet in lucidis intervallis.** He is a lunatic who enjoys lucid intervals. 1 Story, Cont. § 73.

**LUNDRESS.** In old English law. A silver penny, so called because it was to be coined only at London, (*à Londres*.) and not at the country mints. Lown. *Essay Coins*, 17; Cowell.

**LUPANATRIX.** A bawd or strumpet. 3 Inst. 206.

**LUPINUM CAPUT GERERE.** Lat. To be outlawed, and have one's head exposed, like a wolf's, with a reward to him who should take it. Cowell.

**LURGULARY.** Casting any corrupt or poisonous thing into the water. Wharton.

**LUSHBOROW.** In old English law. A base sort of money, coined beyond sea in the likeness of English coin, and introduced into England in the reign of Edward III. Prohibited by St. 25 Edw. III. c. 4. Spelman; Cowell.

**LUXURY.** Excess and extravagance which was formerly an offense against the public economy, but is not now punishable. Wharton.

**LYCH-GATE.** The gate into a church-yard, with a roof or awning hung on posts over it to cover the body brought for burial, when it rests underneath. Wharton.

**LYEF-GELD.** Sax. In old records. Lief silver or money; a small fine paid by the customary tenant to the lord for *leave* to plow or sow, etc. *Somm. Gavelkind*, 27.

**LYING BY.** A person who, by his presence and silence at a transaction which affects his interests, may be fairly supposed to acquiesce in it, if he afterwards propose to disturb the arrangement, is said to be prevented from doing so by reason that he has been lying by.

**LYING IN FRANCHISE.** A term descriptive of waifs, wrecks, estrays, and the like, which may be seized without suit or action.

**LYING IN GRANT.** A phrase applied to incorporeal rights, incapable of manual tradition, and which must pass by mere delivery of a deed.

**LYING IN WAIT.** Lying in ambush; lying hid or concealed for the purpose of making a sudden and unexpected attack upon a person when he shall arrive at the scene. In some jurisdictions, where there are several degrees of murder, lying in wait is made evidence of that deliberation and premeditated intent which is necessary to characterize murder in the first degree. *State v. Walker*, 170 N. C. 716, 86 S. E. 1055, 1056; *Patterson v. State*, 191 Ala. 16, 67 So. 997, 998, Ann. Cas. 1916C, 968; *Commonwealth v. Mondollo*, 247 Pa. 526, 93 A. 612.

This term is not synonymous with "concealed." If a person conceals himself for the purpose of shooting another unawares, he is lying in wait; but a person may, while concealed, shoot another without committing the crime of murder. *People v. Miles*, 55 Cal. 207.

**LYNCH LAW.** A term descriptive of the action of unofficial persons, organized bands,



or mobs, who seize persons charged with or suspected of crimes, or take them out of the custody of the law, and inflict summary punishment upon them, without legal trial, and without the warrant or authority of law. See *State v. Aler*, 39 W. Va. 549, 20 S. E. 585; Bates' Ann. St. Ohio, 1904, § 4426 (Gen. Code, § 6278).

**LYNDHURST'S (LORD) ACT.** This statute (5 & 6 Wm. IV. c. 54) renders marriages within the prohibited degrees absolutely null and void. Theretofore such marriages were voidable merely.

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**LYON KING OF ARMS.** In Scotch law. The ancient duty of this officer was to carry public messages to foreign states, and it is still the practice of the heralds to make all royal proclamations at the Cross of Edinburgh. The officers serving under him are heralds, pursuivants, and messengers. Bell.

**LYTÆ.** In old Roman law. A name given to students of the civil law in the fourth year of their course, from their being supposed capable of *solving* any difficulty in law. Tayl. Civil Law, 39.