

## G

**G.** In the Law French orthography, this letter is often substituted for the English W, particularly as an initial. Thus, "gage" for "wage," "garranty" for "warranty," "gast" for "waste."

**G. A. O.** General Accounting Office.

**G. S. A.** General Services Administration.

**GABEL.** An excise; a tax on movables; a rent, custom, or service. Co.Litt. 142a, 213.

A tax, impost, or excise duty, especially in continental Europe; formerly, in France, specifically the tax on salt, but also applied to taxes on other industrial products. "The gabels of Naples are very high on oil, wine, tobacco \* \* \*." Cent. Dict.

—**Land Gabel.** See Land Gabel.

**GABELLA.** The Law Latin form of "gabel," (q. v.).

Also, in Teutonic and early English history, the peasantry constituting a village or hamlet; the holdings of such a group of freemen and serfs, or of either. The original significance of the word seems to be in its indication of a small rent-paying community, the rents being rendered in kind or in labor. Cent. Dict. "So that *Gabella* meant all the member of a family having an interest in a certain holding, and sometimes meant the holding itself." W. K. Sullivan.

**GABLATORES.** Persons who paid *gabel*, rent, or tribute. Domesday; Cowell.

**GABLUM.** A rent; a tax. Domesday; Du Cange. The gable-end of a house. Cowell.

**GABULUS DENARIORUM.** Rent paid in money. Seld.Tit.Hon. 321.

**GADSDEN PURCHASE.** A term commonly applied to the territory acquired by the United States from Mexico by treaty of December 30, 1853, known as the Gadsden Treaty.

**GAFFOLDGILD.** The payment of custom or tribute. Scott.

**GAFFOLDLAND.** Property subject to the gaffold-gild, or liable to be taxed. Scott.

**GAFOL.** The same word as "gabel" or "gavel." Rent; tax; interest of money.

**GAGE, v.** In old English law, to pawn or pledge; to give as security for a payment or performance; to wage or wager.

**GAGE, n.**

In old English law, a pawn or pledge; something deposited as security for the performance of some act or the payment of money, and to be forfeited on failure or non-performance. Glanv. lib. 10, c. 6; Britt. c. 27.

A mortgage is a *dead-gage* or pledge; for, whatsoever profit it yields, it redeems not itself, unless the whole amount secured is paid at the appointed time. Cowell.

In French law, the contract of pledge or pawn; also the article pawned.

**Gage, estates in.** Those held *in vadio*, or pledge. They are of two kinds: (1) *Vivum vadium*, or living pledge, or vifgage; (2) *mortuum vadium*, or dead pledge, better known as "mortgage."

**GAGER DE DELIVERANCE.** In old English law, when he who has distrained, being sued, has not delivered the cattle distrained, then he shall not only avow the distress, but *gager deliverance*, i. e., put in surety or pledge that he will deliver them. Fitzh.Nat.Brev.

**GAGER DEL LEY.** Wager of law (q. v.).

**GAIN.** Profits; winnings; increment of value. Gray v. Darlington, 15 Wall. 65, 21 L.Ed. 45; Thorn v. De Breteuil, 86 App.Div. 405, 83 N.Y.S. 849. Difference between receipts and expenditures; pecuniary gain. Stanton v. Zercher, 101 Wash. 383, 172 P. 559, 562; Rooney v. City of Omaha, 105 Neb. 447, 181 N.W. 143, 145. Difference between cost and sale price. Weil v. State, 237 Ala. 293, 186 So. 467, 469.

"Gain derived from capital," is a gain, profit, or something of exchangeable value proceeding from the property, severed from the capital however invested, and received or drawn by claimant for his separate use, benefit, and disposal. Commissioner of Internal Revenue v. Simmons Gin Co., C.C.A.10, 43 F.2d 327, 328.

**GAINAGE.** The gain or profit of tilled or planted land, raised by cultivating it; and the draught, plow, and furniture for carrying on the work of tillage by the baser kind of *sokemen* or *villeins*. Bract. l. i. c. 9.

**GAINERY.** Tillage, or the profit arising from it, or from the beasts employed therein.

**GAINFUL.** Profitable, advantageous, or lucrative. Smith v. Mutual Life Ins. Co. of New York, La. App., 165 So. 498, 500.

**GAINFUL OCCUPATION.** Within disability clause of policy, term means ordinary employment of particular insured, or such other employment, if any, as insured may fairly be expected to follow. Mutual Life Ins. Co. of New York v. Barron, 198 Ga. 1, 30 S.E.2d 879, 882.

**GAINOR.** In old English law, a sokeman; one who occupied or cultivated arable land. Old Nat. Brev. fol. 12.

**GAIUS, INSTITUTES OF.** See Institutes.

**GAJUM.** A thick wood. Spelman.

**GALE.** The payment of a rent, tax, duty, or annuity.

A gale is the right to open and work a mine within the Hundred of St. Eriavel's, or a stone quarry within the open lands of the Forest of Dean.

The right is a license or interest in the nature of real estate, conditional on the due payment of rent and observ-

## GALEA

ance of the obligations imposed on the galee. It follows the ordinary rules as to the devolution and conveyance of real estate. The galee pays the crown a rent known as a "galeage rent," "royalty," or some similar name, proportionate to the quantity of minerals got from the mine or quarry. Sweet.

**GALEA.** In old records, a piratical vessel; a galley.

**GALENES.** In old Scotch law, amends or compensation for slaughter. Bell.

**GALLI-HALFPENCE.** A kind of coin which, with suskins and doitkins, was forbidden by St. 3 Hen. V. c. 1.

**GALLIVOLIUM.** A cock-shoot, or cock-glade.

**GALLON.** A liquid measure containing 231 cubic inches, or four quarts; the standard gallon of the United States. State v. Standard Oil Co. of Louisiana, 188 La. 973, 178 So. 601, 607. The imperial gallon contains about 277, and the ale gallon 282, cubic inches. Hollender v. Magone, C.C.N.Y., 38 F. 914; Nichols v. Beard, C.C.Mass., 15 F. 437.

**GALLOWS.** A scaffold; a beam laid over either one or two posts, from which malefactors are hanged.

**GAMACTA.** In old European law, a stroke or blow. Spelman.

**GAMALIS.** A child born in lawful wedlock; also one born to betrothed but unmarried parents. Spelman.

**GAMBLE.** To play, or game, for money or other stake; hence to stake money or other thing of value on an uncertain event. It involves, not only chance, but a hope of gaining something beyond the amount played. State v. Mint Vending Machine No. 195084, 85 N.H. 22, 154 A. 224, 226.

The word "gamble" is perhaps the most apt and substantial to convey the idea of unlawful play that our language affords. It is inclusive of hazarding and betting as well as playing. Bennett v. State, 2 Yerg., Tenn., 474. Allen v. Commonwealth, 178 Ky. 250, 198 S.W. 896, 897.

It is not necessary that the player shall hazard what he plays, but it is equally "gambling" if he may win by chance more than the value expended by him. Nelson v. State, 37 Okl.Cr. 90, 256 P. 939, 940; City of Moberly v. Deskin, 169 Mo.App. 672, 155 S.W. 842, 843.

To constitute "gambling," winner must either pay consideration for his chance to win, or without paying anything in advance stand chance to lose or win. R. J. Williams Furniture Co. v. McComb Chamber of Commerce, 147 Miss. 649, 112 So. 579, 580, 57 A.L.R. 421; Almy Mfg. Co. v. City of Chicago, 202 Ill.App. 240.

Commercialized gambling is such gambling as is a source of sure and steady profit. State v. Gardner, 151 La. 374, 92 So. 368, 371.

A common gambler is one who furnishes facilities for gambling, or keeps or exhibits a gambling table, establishment, device, or apparatus. People v. Sponsler, 1 Dak. 291, 46 N.W. 459, citing cases.

**GAMBLER.** One who follows or practices games of chance or skill, with the expectation and purpose of thereby winning money or other property. Buckley v. O'Neil, 113 Mass. 193, 18 Am.Rep. 466; Brannon v. State, 16 Ala.App. 259, 76 So. 991, 993.

**GAMBLING DEVICE.** Such device, apparatus, and the like, as is used and employed for gambling, in the sense that in using it, money or the like is staked, wagered, won, or lost as a direct result of its employment or operation. Commonwealth v. Mihalow, 142 Pa.Super. 433, 16 A.2d 656, 659. A machine, implement, or contrivance of any kind for the playing of an unlawful game of chance or hazard. In re Lee Tong, D.C.Or., 18 F. 257; State v. McTeer, 129 Tenn. 535, 167 S.W. 121, 122.

**GAMBLING POLICY.** In life insurance, one issued to a person, as beneficiary, who has no pecuniary interest in the life insured. Otherwise called a "wager policy." Gambs v. Covenant Mut. L. Ins. Co., 50 Mo. 47.

**GAME.** Wild birds and beasts. The word includes all game birds, game fowl, and game animals. State ex rel. Sofeico v. Heffernan, 41 N.M. 219, 67 P.2d 240, 246.

Birds and beasts of a wild nature, obtained by fowling and hunting. Bacon, Abr. Coolidge v. Choate, 11 Metc., Mass., 79. The term is said to include (in England) hares, pheasants, partridges, grouse, heath, or moor game, black game, and bustards. Brown. 1 & 2 Wm. IV. c. 32. Graves v. Dunlap, 87 Wash. 648, 152 P. 532, 533, L.R.A.1916C, 338, Ann.Cas.1917B, 944.

A sport, pastime or contest. Lasseter v. O'Neill, 162 Ga. 826, 135 S.E. 78, 80, 49 A.L.R. 1076; Everhart v. People, 54 Colo. 272, 130 P. 1076, 1077. A contrivance which has for its object to furnish sport, recreation, or amusement. Ex parte Williams, 127 Cal.App. 424, 16 P.2d 172, 173. See Gaming.

**GAME-KEEPER.** One who has the care of keeping and preserving the game on an estate, being appointed thereto by a lord of a manor.

**GAME LAWS.** Laws passed for the preservation of game, usually forbidding the killing of specified game during certain seasons, Poulos v. State, 49 Ga.App. 20, 174 S.E. 253, or by certain described means. As to English game-laws, see 2 Steph. Comm. 82; 1 & 2 Wm. IV. c. 32.

**GAME OF CHANCE.** One in which result as to success or failure depends less on skill and experience of player than on purely fortuitous or accidental circumstances incidental to game or manner of playing it or device or apparatus with which it is played, but not under control of player. People v. Cohen, 160 Misc. 10, 289 N.Y.S. 397, 400.

**GAMING.** An agreement between two or more persons to play together at a game of chance for a stake or wager which is to become the property of the winner, and to which all contribute. In re Stewart, D.C.N.J., 21 F. 398; People v. Todd, 51 Hun, 446, 4 N.Y.S. 25; Carpenter v. Beal-McDonnell & Co., D.C.Ark., 222 F. 453, 460.

"Gaming" and "gambling," in statutes, are similar in meaning, and either one comprehends the idea that, by a bet, by chance, by some exercise of skill, or by the transpiring of some event unknown until it occurs, something of value is, as the conclusion of premises agreed, to be transferred from a loser to a winner. Bish.St.Crimes, § 858. Town of Eros v. Powell, 137 La. 342, 68 So. 632, 634; Reinmiller v. State, 93 Fla. 462, 111 So. 633, 635.

"Gaming" is properly the act or engagement of the players. If by-standers or other third persons put up a stake or wager among themselves, to go to one or the other according to the result of the game, this is more correctly termed "betting."

**GAMING CONTRACTS.** See Wager.

**GAMING HOUSE.** A building, place, or room kept for use as a place to gamble, or to keep or exhibit for the purpose of gaming, any bank, table, alley, machine, wheel, or device, *Davis v. State*, Tex.Civ. App., 165 S.W.2d 757, 758; as the business of the occupants. 1 Russ.Crimes, 299; *Rosc.Crim.Ev.* 663; *People v. Jackson*, 3 Denio, N.Y., 101, 45 Am. Dec. 449.

**GAMING TABLE.** Any table that may be used for playing games of chance for money or property. *State v. Leaver*, 171 Mo.App. 371, 157 S.W. 821, 822; *Everhart v. People*, 54 Colo. 272, 130 P. 1076, 1080.

**GANANCIAL PROPERTY.** In Spanish law, a species of community in property enjoyed by husband and wife, the property being divisible between them equally on a dissolution of the marriage. 1 *Burge*, *Conf.Law*, 418. *Cartwright v. Cartwright*, 18 Tex. 634; *Cutter v. Waddingham*, 22 Mo. 254. See Community.

**GANANCIALES.** A Spanish term, used as either a noun or adjective, and applied to property acquired during marriage. Discussed in *Sanchez v. Bowers*, C.C.A.N.Y., 70 F.2d 715, 716. See *Ganancial Property*, *supra*.

**GANANCIAS.** In Spanish law, gains or profits.

**GANG.** Any company of persons who go about together or act in concert, in modern use mainly for criminal purposes. *State v. Gaynor*, 119 N.J.L. 582, 197 A. 360, 362.

**GANG-WEEK.** The time when the bounds of the parish are lustrated or gone over by the parish officers,—rogation week. *Enc.Lond.*

**GANGIATORI.** Officers in ancient times whose business it was to examine weights and measures. *Skene*.

**GANGSTER.** A member of a gang of roughs, hireling criminals, thieves, or the like. *State v. Gaynor*, 119 N.J.L. 582, 197 A. 360, 362.

**GANSER SYNDROME.** A state in which questions are given nonsensical answers from which a hidden relevancy may be inferred. This is observed in prisoners who wish to gain leniency by simulating mental clouding.

**GANTELOPE** (pronounced "gauntlett.") A military punishment, in which the criminal running between the ranks receives a lash from each man. *Enc.Lond.* This was called "running the gauntlett."

**GAOL.** A prison for temporary confinement; a jail; a place for the confinement of offenders against the law.

As distinguished from "prison," it is said to be a place for temporary or provisional confinement, or for the punishment of the lighter offenses and misdemeanors. See, also, *Jail*.

**GAOL DELIVERY.** In criminal law, the delivery or clearing of a gaol of the prisoners confined therein, by trying them.

In popular speech, the clearing of a gaol by the escape of the prisoners.

*General Gaol Delivery.* In English law, at the assizes (*q. v.*) the judges sit by virtue of five several authorities, one of which is the commission of "general gaol delivery." This empowers them to try and deliverance make of every prisoner who shall be in the gaol when the judges arrive at the circuit town, whether an indictment has been preferred at any previous assize or not. 4 *Bl.Comm.* 270. This is also a part of the title of some American criminal courts, as, in Pennsylvania, the "court of oyer and terminer and general jail delivery."

**GAOL LIBERTIES, GAOL LIMITS.** A district around a gaol, defined by limits, within which prisoners are allowed to go at large on giving security to return. It is considered a part of the gaol. *Singer v. Knott*, 237 N.Y. 110, 142 N.E. 435, 436.

**GAOLER.** A variant of "jailer" (*q. v.*).

**GARAGE.** A place in which motor vehicles are stored and cared for. *Legum v. Carlin*, 168 Md. 191, 177 A. 287, 290, 99 A.L.R. 536.

**GARANDIA, or GARANTIA.** A warranty. *Spelman*.

**GARANTIE.** In French law, this word corresponds to warranty or covenants for title in English law. In the case of a sale this *garantie* extends to two things: (1) Peaceful possession of the thing sold; and (2) absence of undisclosed defects, (*défauts cachés*.) *Brown*.

**GARATHINX.** In old Lombardic law, a gift; a free or absolute gift; a gift of the whole of a thing. *Spelman*.

**GARAUNTOR.** L. Fr. In old English law, a warrantor of land; a vouchee; one bound by a warranty to defend the title and seisin of his alienee, or, on default thereof, and on eviction of the tenant, to give him other lands of equal value. *Britt. c.* 75.

**GARBA.** In old English law, a bundle or sheaf. *Blada in garbis*, corn or grain in sheaves. *Reg. Orig.* 96; *Bract. fol.* 209.

**GARBA SAGITTARUM.** A sheaf of arrows, containing twenty-four. Otherwise called "*schaffa sagittarum*." *Skene*.

**GARBALES DECIMÆ.** In Scotch law, tithes of corn, (grain.) *Bell*.

**GARBLE.** In English statutes, to sort or cull out the good from the bad in spices, drugs, etc. *Cowell*.

**GARBLER OF SPICES.** An ancient officer in the city of London, who might enter into any shop, warehouse, etc., to view and search drugs and spices, and garble and make clean the same, or see that it be done. *Mozley & Whiteley*.

## GARCIO

**GARCIO STOLÆ.** "Groom of the stole" (*q. v.*).

**GARCIONES.** Servants who follow a camp. Wals. 242.

**GARD, or GARDE.** L. Fr. Wardship; care; custody; also the ward of a city.

**GARDEIN.** A keeper; a guardian.

**GARDEN.** A small piece of land, appropriated to the cultivation of herbs, fruits, flowers, or vegetables. People v. Greenburgh, 57 N.Y. 550; Ferry v. Livingston, 115 U.S. 542, 6 S.Ct. 175, 29 L.Ed. 489; Hubel v. McAdon, 190 Iowa 677, 180 N.W. 994, 995.

**GARDEN SEEDS.** Seeds for kitchen gardens. Ross & Co. v. U. S., 9 Ct.Cust.App. 235.

**GARDEN TOOLS.** Instruments or devices movable in character and operated by hand, or possibly by other motive power in the performance of work in the garden or on the farm. Murphy v. Continental Ins. Co., 178 Iowa 375, 157 N.W. 855, 857, L.R.A.1917B, 934.

**GARDIA.** L. Fr. Custody; wardship.

**GARDIANUS.** In old English law, a guardian, defender, or protector. In feudal law, *gardio*. Spelman.

A warden. *Gardianus ecclesie*, a churchwarden. *Gardianus quinque portuum*, warden of the Cinque Ports. Spelman.

**GARDINUM.** In old English law, a garden. Reg. Orig. 1b, 2.

**GARENE.** L. Fr. A warren; a privileged place for keeping animals.

**GARNESTURA.** In old English law, victuals, arms, and other implements of war, necessary for the defense of a town or castle. Mat.Par. 1250.

**GARNISH, n.** In English law, money paid by a prisoner to his fellow-prisoners on his entrance into prison.

**GARNISH, v.** To warn or summon.

To issue process of garnishment against a person.

**GARNISHEE.** One garnished; a person against whom process of garnishment is issued; one who has money or property in his possession belonging to a defendant, or who owes the defendant a debt, which money, property, or debt is attached in his hands, with notice to him not to deliver or pay it over until the result of the suit be ascertained. Welsh v. Blackwell, 14 N.J.L. 348; Smith v. Miln, 22 Fed.Cas. 606; Edwards v. Stein, 94 N.J.Eq. 251, 119 A. 504, 505.

**GARNISHMENT.** A warning to a person in whose hands the effects of another are attached, not to pay the money or deliver the property of the defendant in his hands to him, but to appear and answer the plaintiff's suit. Drake, Attachm. § 451; National Bank of Wilmington v. Furtick, 2 Marv.,

Del., 35, 42 A. 479, 44 L.R.A. 115, 69 Am.St.Rep. 99; Jeary v. American Exch. Bank, 2 Neb. (Unof.) 657, 89 N.W. 772.

A statutory proceeding whereby person's property, money, or credits in possession or under control of, or owing by, another are applied to payment of former's debt to third person by proper statutory process against debtor and garnishee. Beggs v. Fite, 130 Tex. 46, 106 S.W.2d 1039, 1042.

It is an incident to or an auxiliary of judgment rendered in principal action, and is resorted to as a means of obtaining satisfaction of judgment by reaching credits or property of judgment debtor in hands of garnishee. Graber v. Ft. Dearborn Casualty Underwriters of Chicago, Ill., Mo. App., 35 S.W.2d 933, 934. Or by reaching goods, moneys, or effects of debtor in possession of another, or by applying on a judgment, debts or credits due to debtor by another. Nancy v. Le Page, 341 Mo. 1039, 111 S.W.2d 25, 114 A.L.R. 259.

Also a warning to any one for his appearance, in a cause in which he is not a party, for the information of the court and explaining a cause. Cowell; Crawford State Bank of Crawford v. Murphy, 142 Neb. 795, 7 N.W.2d 762, 763.

*Equitable garnishment*, is sometimes applied to the statutory proceedings authorized in some states, upon the return of an execution unsatisfied, whereby an action something like a bill of discovery may be maintained against the judgment debtor and any third person, to compel the disclosure of any money or property or chose in action belonging to the debtor or held in trust for him by such third person, and to procure satisfaction of the judgment out of such property. Geist v. St. Louis, 156 Mo. 643, 57 S.W. 766, 79 Am.St.Rep. 545. See St. Louis v. O'Neil Lumber Co., 114 Mo. 74, 21 S.W. 484.

**Execution.** See Execution.

**GARNISTURA.** In old English law, garniture; whatever is necessary for the fortification of a city or camp, or for the ornament of a thing. 8 Rymer, 328; Du Cange; Cowell; Blount.

**GARRISON.** The permanent home of the army in time of peace, where soldiers are given proper training with a view of having them prepared for the intelligent performance of duty in event of conflict. Hines v. Mikell, C.C.A.S.C., 259 F. 28, 31.

**GARROTING.** A method of inflicting the death penalty on convicted criminals practiced in Spain, Portugal, and some Spanish-American countries, consisting in strangulation by means of an iron collar which is mechanically tightened about the neck of the sufferer, sometimes with the variation that a sharpened screw is made to advance from the back of the apparatus and pierce the base of the brain. Also, popularly, any form of strangling resorted to to overcome resistance or induce unconsciousness, especially as a concomitant to highway robbery.

**GARSUMME.** In old English law, an amercement or fine. Cowell.

**GARTER.** A string or ribbon by which the stocking is held upon the leg.

The mark of the highest order of English knighthood, ranking next after the nobility.

This military order of knighthood is said to have been first instituted by Richard I., at the siege of Acre, where he caused twenty-six knights who firmly stood by him to

wear thongs of blue leather about their legs. It is also said to have been perfected by Edward III. and to have received some alterations, which were afterwards laid aside, from Edward VI. The badge of the order is the image of St. George, called the "George," and the motto is "*Honi soit qui mal y pense.*" Wharton.

This order called "Knights of the Garter" is otherwise called "Knights of the Order of St. George." They form the highest order of knights.

**GARTH.** In English law, a yard; a little close or homestead in the north of England. Cowell; Blount.

A dam or wear in a river, for the catching of fish.

**GARYTOUR.** In old Scotch law, warder. 1 Pitc. Crim. Tr. pt. 1, p. 8.

**GAS.** An aeriform fluid. Lamar v. Iowa State Traveling Men's Ass'n, 216 Iowa 371, 249 N.W. 149, 92 A.L.R. 159. That gas used for illuminating purposes and for fuel. Birss v. Order of United Commercial Travelers of America, 109 Neb. 226, 190 N.W. 486, 487.

*Casing-head gas* is gas which flows from oil wells, coming between casing and tubing. Humble Oil & Refining Co. v. Poe, Tex.Com.App., 29 S.W.2d 1019, 1020.

*Natural gas* is the gas obtained from wells in coal and oil regions, and used for lighting and heating. Dry natural gas is natural gas which does not contain an appreciable amount of readily condensable gasoline; it is usually not intimately associated with petroleum. Wet natural gas is natural gas from which a gasoline can be extracted in sufficient quantities to warrant the installation of a plant, or natural gas which contains readily condensable gasoline. Musselmen v. Magnolia Petroleum Co., 107 Okl. 183, 231 P. 526, 530.

It is a colorless inflammable fluid, the first and highest distillant of crude petroleum. Being the most volatile component of petroleum, it readily separates from it, and, in the process of distillation, is the oil drawn off at the lowest temperature. Locke v. Russell, 75 W.Va. 602, 84 S.E. 948, 949; Hammett Oil Co. v. Gypsy Oil Co., 95 Okl. 235, 218 P. 501, 504, 34 A.L.R. 275.

**GASOLINE.** A volatile, inflammable hydrocarbon mixture used as a fuel, especially for internal combustion engines. Coleman v. United States, Ct.Cl., 37 F.Supp. 273, 277.

**GAST.** L. Fr. Waste. See the letter "G," *supra*.

**GASTALDUS.** A temporary governor of the country. Blount. A bailiff or steward. Spelman.

**GASTEL.** L. Fr. Wastel; wastel bread; the finest sort of wheat bread. Britt. c. 30: Kelham.

**GASTINE.** L. Fr. Waste or uncultivated ground. Britt. c. 57.

**GATE** (Sax. *geat*), at the end of names of places, signifies way or path. Cunningham, Law Dict.

In the words *beast-gate* and *cattle-gate*, it means a right of pasture.

In modern railroad practice, movable barriers which close entrance through which public is permitted to enter upon, pass over, and leave property of railway company inclosed within its right of way fences. Jeffery v. Kewaunee, G. B. & W. Ry. Co., 189 Wis. 207, 207 N.W. 283, 284.

These rights are local to Suffolk and Yorkshire respectively; they are considered as corporeal hereditaments, for

which ejectment will lie; 2 Stra. 1084, 1 Term 137; and are entirely distinct from right of common. The right is sometimes connected with the duty of repairing the *gates* of the pasture; and perhaps the name comes from this.

**GAUDIES.** A term used in the English universities to denote double commons.

**GAUGE.** The measure of width of a railway, fixed, with some exceptions, at 4 feet 8½ inches in Great Britain and America, and 5 feet 3 inches in Ireland.

**GAUGEATOR.** A gauger. Lowell.

**GAUGER.** A surveying officer under the customs, excise, and internal revenue laws, appointed to examine all tuns, pipes, hogsheads, barrels and tierces of wine, oil, and other liquids, and to give them a mark of allowance, as containing lawful measure. There are also private gaugers in large seaport towns, who are licensed by government to perform the same duties. Rapal. & L.

**GAUGETUM.** A gauge or gauging; a measure of the contents of any vessel.

**GAVEL.** In English law, custom; tribute; toll; yearly rent; payment of revenue; of which there were anciently several sorts; as *gavel-corn*, *gavel-malt*, *oat-gavel*, *gavel-fodder*, etc. Termes de la Ley; Cowell; Co.Litt. 142a.

**GAVEL-MAN.** A tenant liable to the payment of gavel or tribute. Somn. Gavelkind, 23.

**GAVELBRED.** Rent reserved in bread, corn, or provision; rent payable in kind. Cowell.

**GAVELCESTER.** A certain measure of rent-ale. Cowell.

**GAVELET.** An obsolete writ. An ancient and special kind of *cessavit*, used in Kent and London for the recovery of rent. The statute of gavelet is 10 Edw. II. 2 Reeve, Eng.Law, c. 12, p. 298. See Emig v. Cunningham, 62 Md. 460.

**GAVELGELD.** That which yields annual profit or toll. The tribute or toll itself. Cowell; Du Cange.

**GAVELHERTE.** A service of plowing performed by a customary tenant. Cowell; Du Cange.

**GAVELING MEN.** Tenants who paid a reserved rent, besides some customary duties to be done by them. Cowell.

**GAVELKIND.** A species of socage tenure common in Kent, in England, where the lands descend to all the sons, or heirs of the nearest degree, together; may be disposed of by will; do not escheat for felony; may be aliened by the heir at the age of fifteen; and dower and curtesy is given of half the land. Stim.Law Gloss.

**GAVELLA.** See Gabella.

**GAVELLER.** An officer of the English crown having the general management of the mines, pits, and quarries in the Forest of Dean and Hundred of St. Briavel's, subject, in some respects, to the con-

## GAVELMED

trol of the commissioners of woods and forests. He grants gales to free miners in their proper order, accepts surrenders of gales, and keeps the registers required by the acts. There is a deputy-gaveller, who appears to exercise most of the gaveller's functions. Sweet.

**GAVELMED.** A customary service of mowing meadow-land or cutting grass (*consuetudo falcandi*). Blount.

**GAVELREP.** Bedreap or bidreap; the duty of reaping at the bid or command of the lord. Somn. Gavelkind, 19, 21; Cowell.

**GAVELWERK.** A customary service, either *manuopera*, by the person of the tenant, or *carropera*, by his carts or carriages. Blount; Somn. Gavelkind, 24; Du Cange.

**GAZETTE.** The official publication of the English government, also called the "London Gazette."

It is evidence of acts of state, and of everything done by the king in his political capacity. Orders of adjudication in bankruptcy are required to be published therein; and the production of a copy of the "Gazette," containing a copy of the order of adjudication, is evidence of the fact. Mozley & Whitley.

**GDN.** Equivalent to guardian. National Surety Co. v. McNeill's Guardian, 251 Ky. 509, 65 S.W.2d 721.

**GBOCCED.** An Anglo-Saxon term, meaning "conveyed."

**GBOCIAN.** In Saxon law, to convey; to transfer *boc* land, (book-land or land held by charter.) The grantor was said to *gebocian* the alienee. See 1 Reeve, Eng.Law, 10.

**GEBRAUCHSMUSTER.** Issued in accordance with law of Germany, it is a patent. Permutt Co. v. Graver Corporation, D.C.Ill., 37 F.2d 385, 390.

**GEBUR (Sax.).** A boor.

His services varied in different places—to work for his lord two or more days a week; to pay gafols in money, barley, etc.; to pay hearth money, etc. He was a tenant with a house and a yard land or virgate or two oxen. Maitl. Domesday and Beyond 37.

**GEBURSCRIPT.** In old English law, neighborhood or adjoining district. Cowell.

**GEBURUS.** In old English law, a country neighbor; an inhabitant of the same *geburscript*, or village. Cowell.

**GELD.** In Saxon law, money or tribute. A mulct, compensation, value, price.

*Angeld* was the single value of a thing; *twigeld*, double value, etc. So, *weregeld* was the value of a man slain; *orfgeld*, that of a beast. Brown. A land tax of so much per hide or carucate. Maitl. Domesday Book 120. The compensation for a crime.

**GELDABILIS.** In old English law, taxable; geldable.

**GELDABLE.** Liable to pay geld; liable to be taxed. Kelham.

**GELDING.** A horse that has been castrated, and which is thus distinguished from the horse in his natural and unaltered condition. A "ridgling" (a half-castrated horse) is not a gelding, but a horse, within the denomination of animals in the statutes. *Brisco v. State*, 4 Tex.App. 219, 30 Am.Rep. 162.

**GELT.** As a verb, an alternative form of the past tense of "geld," commonly "gelded." See Gelding.

As a noun, used incorrectly for *geld* (q. v.). Webster, New Int. Dict.

**GEMMA.** Lat. In the civil law, a gem; a precious stone. Gems were distinguished by their transparency; such as emeralds, chrysolites, amethysts. Dig. 34, 2, 19, 17.

**GEMOT.** In Saxon law, a meeting or moot; a convention; a public assemblage.

These were of several sorts, such as the *witena-gemot*, or meeting of the wise men; the *folc-gemot*, or general assembly of the people; the *shire-gemot*, or county court; the *burg-gemot*, or borough court; the *hundred-gemot*, or hundred court; the *half-gemot*, or court-baron; the *hal-mote*, a convention of citizens in their public hall; the *holy-mote*, or holy court; the *swein-gemote*, or forest court; the *ward-mote*, or ward court. Wharton; Cunningham.

**GENEALOGY.** The summary history or table of a family, showing how the persons there named are connected together.

**GENEARCH.** The head of a family.

**GENEATH.** In Saxon law, a villein, or agricultural tenant, (*villanus villicus*;) a hind or farmer, (*firmarius rusticus*.) Spelman.

**GENER.** Lat. In the civil law, a son-in-law; a daughter's husband. (*Filiæ vir*.) Dig. 38, 10, 4, 6.

**GENERAL.** From Latin word *genus*. It relates to the whole kind, class, or order. *Leuthold v. Brandjord*, 100 Mont. 96, 47 P.2d 41, 45. Pertaining to or designating the genus or class, as distinguished from that which characterizes the species or individual; universal, not particularized, as opposed to special; principal or central, as opposed to local; open or available to all, as opposed to select; obtaining commonly, or recognized universally, as opposed to particular; universal or unbounded, as opposed to limited; comprehending the whole or directed to the whole, as distinguished from anything applying to or designed for a portion only. *Board of Sup'rs of Attala County v. Illinois Cent. R. Co.*, 186 Miss. 294, 190 So. 241. Extensive or common to many. *Record v. Ellis*, 97 Kan. 754, 156 P. 712, 713, L.R.A.1916E, 654, Ann. Cas.1917C, 822; *McNeill v. McNeill*, 166 Iowa, 680, 148 N.W. 643, 651.

As a noun, the word is the title of a principal officer in the army, usually one who commands a whole army, division, corps, or brigade. In the United States army, the rank of "general" is one of the highest, next to the commander in chief, and is only occasionally created. The officers next

in rank are lieutenant general, major general, and brigadier general.

As to general "Acceptance," "Administration of Estates," "Agent," "Appearance," "Assignment," "Average," "Benefit," "Challenge," "Character," "Charge," "Covenant," "Creditor," "Custom," "Damages," "Demurrer," "Denial," "Deposit," "Device," "Election," "Finding," "Franchise," "Fund," "Gaol Delivery," "Guardian," "Guaranty," "Impar lance," "Insurance," "Intent," "Issue," "Legacy," "Letter of Credit," "Malice," "Meeting," "Monition," "Mortgage," "Occupant," "Orders," "Owner," "Partnership," "Power," "Property," "Replication," "Restraint of Trade," "Retainer," "Return Day," "Rules," "Sessions," "Ship," "Statute," "Tail," "Tenancy," "Term," "Traverse," "Usage," "Verdict," "Warrant," and "Warranty," see those titles.

**GENERAL AGENCY BUSINESS.** One engaged in such general agency business is one not engaged as agent for single firm or person, but holding himself out to public as being engaged in business of being agent. *Comer v. State Tax Commission of New Mexico*, 41 N.M. 403, 69 P.2d 936, 939.

**GENERAL ASSEMBLY.** State Senate and House of Representatives. *Pirtle v. Brown*, C.C.A.Tenn., 118 F.2d 218, 220.

The policy making body of the United Nations. It is composed of from one to five delegates from each member nation, although each member nation has but one vote.

The highest "judicatory" of the Presbyterian church, representing in one body all of the particular churches of the denomination. *Trustees of Pencader Presbyterian Church in Pencader Hundred v. Gibson*, 26 Del.Ch. 375, 22 A.2d 782, 788.

**GENERAL ASSIGNMENT FOR BENEFIT OF CREDITORS.** A transfer of legal and equitable title to all debtor's property to trustee, with authority to liquidate debtor's affairs and distribute proceeds equitably to creditors. *Central Fibre Products Co. v. Hardin*, C.C.A.Tex., 82 F.2d 692, 694.

**GENERAL ASSUMPSIT.** An action of assumpsit brought upon the promise or contract implied by law in certain cases. *Holcomb v. Kentucky Union Co.*, 262 Ky. 192, 90 S.W.2d 25, 28.

**GENERAL AVERAGE CONTRIBUTION.** A contribution by all parties in a sea adventure to make good loss sustained by one of their number on account of sacrifices voluntarily made of part of ship or cargo to save residue and lives of those on board from an impending peril or for extraordinary expenses necessarily incurred by one or more of the parties for the general benefit of all the interests embarked in the enterprise. *Pacific Freighters Co. v. St. Paul Fire & Marine Ins. Co.*, C.C.A.Cal., 109 F.2d 310, 312.

**GENERAL AVERAGE STATEMENT.** Statement of account and admission on shipowner's part as to amount due cargo owner. *Kohler &*

*Chase v. United American Lines*, D.C.N.Y., 60 F.2d 530, 533.

**GENERAL BEQUEST.** One not segregated or withdrawn from estate under terms of will but to be paid in money or property as latter directs. *In re McDougald's Estate*, 149 Fla. 468, 6 So.2d 274.

**GENERAL BOARD OF THE NAVY.** A general advisory board to the Secretary of the Navy as to the preparation, maintenance and distribution of the fleet, plans of campaign, number and types of vessels, etc., number and ranks of officers and number and ratings of enlisted men, etc.

**GENERAL BUILDING SCHEME.** One under which owner of large tract of land divides it into building lots, to be sold to different persons for separate occupancy by deeds which contain uniform covenants restricting the use which the several grantees may make of their premises. *Besch v. Hyman*, 221 App.Div. 455, 223 N.Y.S. 231, 233.

**GENERAL CIRCULATION.** That of a general newspaper only, as distinguished from one of a special or limited character; 1 Lack.Leg.N., Pa., 114. It is not determined by number of subscribers but by the diversity of subscribers. *Eisenberg v. Wabash*, 355 Ill. 495, 189 N.E. 301, 302.

**GENERAL COUNCIL.** (1) A council consisting of members of the Roman Catholic Church from most parts of the world, but not from every part, as an ecumenical council. (2) One of the names of the English parliament.

**GENERAL COURT.** The name given to the legislature of Massachusetts and of New Hampshire, in colonial times, and subsequently by their constitutions; so called because the colonial legislature of Massachusetts grew out of the general court or meeting of the Massachusetts Company. *Cent.Dict.* See *Citizens' Sav. & Loan Ass'n v. Topeka*, 20 Wall. 666, 22 L.Ed. 455.

**GENERAL CREDIT.** The character of a witness as one generally worthy of credit. A distinction is sometimes insisted upon between this and "particular credit," which may be affected by proof of particular facts relating to the particular action. See *Bemis v. Kyle*, 5 Abb.Prac., N.S., N.Y., 233.

**GENERAL ESTATE.** Customarily, the entire estate held by a person in his individual capacity. *In re Shipley's Estate*, 337 Pa. 580, 12 A.2d 347, 348.

In will requiring estate taxes to be paid out of general estate, "general estate" referred to "residuary estate" remaining after gift of personalty and use of realty to testator's wife, and hence gift to wife was exempt from contribution to estate taxes and interest thereon. *In re Chambers' Estate*, Sur., 54 N.Y.S.2d 88, 90.

**GENERAL EXCEPTION.** General exception is an objection to a pleading, or any part thereof, for want of substance, while a special exception is an objection to the form in which a cause of action is stated. *Cochran v. People's Nat. Bank*, Tex.Civ.App., 271 S.W. 433, 434.

## GENERAL EXECUTION

**GENERAL EXECUTION.** A writ commanding an officer to satisfy a judgment out of any personal property of the defendant. If authorizing him to levy only on certain specified property, the writ is sometimes called a "special" execution. *Pracht v. Pister*, 30 Kan. 568, 1 P. 638.

**GENERAL EXECUTOR.** One whose power is not limited either territorially or as to the duration or subject of his trust. One who is to have charge of the whole estate, wherever found, and administer it to a final settlement.

**GENERAL FEE CONDITIONAL.** A grant to a person and heirs of his body. *Blume v. Pearcy*, 204 S.C. 409, 29 S.E.2d 673, 674.

**GENERAL FIELD.** Several distinct lots or pieces of land inclosed and fenced in as one common field. *Mansfield v. Hawkes*, 14 Mass. 440.

**GENERAL IMPROVEMENT.** Where primary purpose and effect of improvement is to benefit public generally, though it may incidentally benefit property owners in particular locality. *Hinman v. Temple*, 133 Neb. 268, 274 N.W. 605, 608, 111 A.L.R. 1217.

**GENERAL INCLOSURE ACT.** The statute 41 Geo. III, c. 109, which consolidates a number of regulations as to the inclosure of common fields and waste lands.

**GENERAL INSTRUCTION.** An explanation of legal terms specifically provided for by statute. *Humble Oil & Refining Co. v. Owings*, Tex.Civ. App., 128 S.W.2d 67, 76.

**GENERAL INTEREST.** In regard to admissibility of hearsay evidence, a distinction has been taken between "public" and "general" interest, the term "public" being strictly applied to that which concerns every member of the state, and the term "general" being confined to a lesser, though still a considerable, portion of the community. *Taylor v. Ev.* § 609.

**GENERAL JURISDICTION.** Such as extends to all controversies that may be brought before a court within the legal bounds of rights and remedies; as opposed to *special* or *limited* jurisdiction, which covers only a particular class of cases, or cases where the amount in controversy is below a prescribed sum, or which is subject to specific exceptions. The terms "general" and "special," applied to jurisdiction, indicate the difference between a legal authority extending to the whole of a particular subject and one limited to a part; and, when applied to the terms of court, the occasion upon which these powers can be respectively exercised. *Gracie v. Freeland*, 1 N.Y. 232.

**GENERAL LAND OFFICE.** Formerly 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; originally constituted by Act of

Congress in 1812. The General Land Office and the U. S. Grazing Service were consolidated into the Bureau of Land Management under the Department of the Interior by 1946 Reorganization Plan No. 3, § 403. See notes to 43 U.S.C.A. § 1.

**GENERAL LAW.** A law that affects the community at large. 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.

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. *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.L. 123, 29 Am.Rep. 210.

**GENERAL LIEN.** 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.

**GENERAL MANAGER.** One having general direction and control of corporation's affairs, and who may do everything which corporation could do in transaction of its business. *Continental Supply Co. v. Forrest E. Gilmore Co. of Texas*, Tex. Civ.App., 55 S.W.2d 622. A manager for all general purposes of the corporation. *Phoenix Finance Corporation v. Iowa-Wisconsin Bridge Co.*, 2 Terry 130, 16 A.2d 789, 793.

**GENERAL POWER OF APPOINTMENT.** One exercisable in favor of any person the donee may select. *Johnstone v. Commissioner of Internal Revenue*, C.C.A.9, 76 F.2d 55, 57.

**GENERAL TAXES.** Those imposed by and paid to state as a state which return taxpayer no special benefit other than the protection afforded him and his property by government, and promotion of schemes which have for their benefit the welfare of all. *Pacific Gas & Electric Co. v. Sacramento Municipal Utility Dist.*, D.C.Cal., 17 F.Supp. 685, 686. A tax, imposed solely or primarily for purpose of raising revenue and merely granting person taxed right to conduct business or profession. *American Can Co. v. City of Tampa*, 152 Fla. 798, 14 So.2d 203, 210.

**GENERAL WORDS.** Such words of a descriptive character as are used in conveyances in order to convey, not only the specific property described,



but also all kinds of easements, privileges, and appurtenances which may possibly belong to the property conveyed.

Such words are in general unnecessary; but are properly used when there are any easements or privileges reputed to belong to the property not legally appurtenant to it.

Such words are rendered unnecessary by the English conveyancing act of 1881, under which they are presumed to be included.

See, as to the effect of such words in deeds, 4 M. & S. 423; in a will; 1 P.Wms. 302; in a lease; 2 Moo. 592; in a release; 3 Mod. 277; in a covenant; 3 Moo. 703; in a statute; 1 Bla.Com. 88; 2 Co. 46.

**GENERALE.** The usual commons in a religious house, distinguished from *pietantie*, which on extraordinary occasions were allowed beyond the commons. Cowell.

**GENERALE DICTUM GENERALITER EST INTERPRETANDUM.** A general expression is to be interpreted generally. 8 Coke, 116a.

**GENERALE NIHIL CERTUM IMPLICAT.** A general expression implies nothing certain. 2 Coke, 34b. A general recital in a deed has not the effect of an estoppel. Best, Ev. p. 408, § 370.

**GENERALE TANTUM VALET IN GENERALIBUS, QUANTUM SINGULARE IN SINGULIS.** What is general is of as much force among general things as what is particular is among things particular. 11 Coke, 59b.

**GENERALIA PRÆCEDUNT, SPECIALIA SEQUUNTUR.** Things general precede, things special follow. Reg.Brev.; Branch, Princ.

**GENERALIA SPECIALIBUS NON DEROGANT.** Jenk.Cent. 120, cited L.R. 4 Exch. 226. General words do not derogate from special.

**GENERALIA SUNT PRÆPONENDA SINGULARIBUS.** Branch, Princ. General things are to precede particular things.

**GENERALIA VERBA SUNT GENERALITER INTELLIGENDA.** General words are to be understood generally, or in a general sense. 3 Inst. 76; Broom, Max. 647.

**GENERALIBUS SPECIALIA DEROGANT.** Special things take from generals. Halk.Lat.Max. 51.

**GENERALIS CLAUSULA NON PORRIGITUR AD EA QUÆANTEA SPECIALITER SUNT COMPREHENSÆ.** A general clause does not extend to those things which are previously provided for specially. 8 Coke, 154b. Therefore, where a deed at the first contains special words, and afterwards concludes in general words, both words, as well general as special, shall stand.

**GENERALIS REGULA GENERALITER EST INTELLIGENDA.** A general rule is to be understood generally. 6 Coke, 65.

**GENERALS OF ORDERS.** Chiefs of the several orders of monks, friars, and other religious societies.

**GENERATIO.** The issue or offspring of a mother-monastery. Cowell.

**GENERATION.** May mean either a degree of removal in computing descents, or a single succession of living beings in natural descent. McMillan v. School Committee, 107 N.C. 609, 12 S.E. 330, 10 L.R.A. 823.

**GENEROSA.** Gentlewoman. Cowell; 2 Inst. 668.

**GENEROSI FILIUS.** The son of a gentleman. Generally abbreviated "*gen. fil.*"

**GENEROSUS.** Lat. Gentleman; a gentleman. Spelman.

**GENICULUM.** A degree of consanguinity. Spelman.

**GENOESE LOTTERY.** Also known as the "numerical" lottery. As distinguished from the "class" lottery (see the title Dutch Lottery), it is a scheme by which, out of 90 consecutive numbers, five are to be selected or drawn by lot. The players have fixed on certain numbers, wagering that one, two, or more of them will be drawn among the five, or that they will appear in a certain order. Fleming v. Bills, 3 Or. 286.

**GENS.** Lat. In Roman law, a tribe or clan; a group of families, connected by common descent and bearing the same name, being all free-born and of free ancestors, and in possession of full civic rights.

**GENS DE JUSTICE.** In French law, officers of a court.

**GENTES.** Lat. People. *Contra omnes gentes*, against all people. Bract. fol. 37b. Words used in the clause of warranty in old deed.

**GENTILES.** In Roman law, the members of a *gens* or common tribe.

**GENTLEMAN.** Refers to a man of birth, but not noble; a man raised above the vulgar by his character or past. Bramblett v. Trust Co. of Georgia, 182 Ga. 87, 185 S.E. 72, 76. In English law. A person of superior birth.

Under the denomination of "gentlemen" are comprised all above yeoman; whereby noblemen are truly called "gentlemen." Smith de Rep. Ang. lib. 1, cc. 20, 21.

A "gentleman" is defined to be one who, without any title, bears a coat of arms, or whose ancestors have been freemen; and, by the coat that a gentleman giveth, he is known to be, or not to be, descended from those of his name that lived many hundred years since. Jacob. See Cressen v. Cresson, 6 Fed.Cas. 809.

**GENTLEMAN USHER.** One who holds a post at court to usher others to the presence, etc.

**GENTLEWOMAN.** The word is a relative one without any legal significance. It refers to a woman of the same rank or status as that of a "gentleman." Bramblett v. Trust Co. of Georgia, 182 Ga. 87, 185 S.E. 72, 76. A woman of birth above the common, or equal to that of a gentleman; an addition of a woman's state or degree.

**GENTOO LAW.** See Hindu Law.

## GENUINE

**GENUINE.** As applied to notes, bonds, and other written instruments, this term means that they are truly what they purport to be, and that they are not false, forged, fictitious, simulated, spurious, or counterfeit. *Baldwin v. Van Deusen*, 37 N.Y. 492; *Smeltzer v. White*, 92 U.S. 392, 23 L.Ed. 508; *Krug v. Sinclair*, 57 Cal.App. 563, 207 P. 696, 697. A will that has been revoked by later instrument and not revived by republication is not "genuine," within Surrogate's Court Act, § 144. In re *Kiltz's Will*, 125 Misc. 475, 211 N.Y.S. 450, 461.

**GENUS.** In the civil law, a general class or division, comprising several species. *In toto jure generi per speciem derogatur, et illud potissimum habetur quod ad speciem directum est*, throughout the law, the species takes from the genus, and that is most particularly regarded which refers to the species. Dig. 50, 17, 80.

A man's lineage, or direct descendants.

In logic, it is the first of the universal ideas, and is when the idea is so common that it extends to other ideas which are also universal; *e. g.*, incorporeal hereditament is *genus* with respect to a *rent*, which is *species*. *Woolley*, *Introd. Log.* 45; 1 *Mill*, *Log.* 133.

**GEORGE-NOBLE.** An English gold coin, value 6s. 8d.

**GERECHTSBODE.** In old New York law, a court messenger or constable. *O'Callaghan*, *New Neth.* 322.

**GEREFA.** In Saxon law, greve, reve, or reeve; a ministerial officer of high antiquity in England; answering to the *grave* or *graf* (*grafio*) of the early continental nations. The term was applied to various grades of officers, from the *scyre-gerefa*, *shire-greffe*, or *shire-reve*, who had charge of the county, (and, whose title and office have been perpetuated in the modern "sheriff,") down to the *tungerefa*, or town-reeve, and lower. *Burrill*.

**GERENS.** Bearing. *Gerens datum*, bearing date. 1 *Ld. Raym.* 336; *Hob.* 19.

**GERMAN.** Whole, full, or own, in respect to relationship or descent. Brothers-german, as opposed to half-brothers, are those who have both the same father and mother. Cousins-german are "first" cousins; that is, children of brothers or sisters.

**GERMANE.** In close relationship, appropriate, relative, pertinent. *State ex rel. Riley v. District Court of Second Judicial Dist. in and for Silver Bow County*, 103 *Mont.* 576, 64 *P.2d* 115, 119.

**GERMANUS.** Lat. Descended of the same stock, or from the same couple of ancestors; of the whole or full blood. *Mackeld.Rom.Law*, § 145.

**GERMEN TERRÆ.** Lat. A sprout of the earth. A young tree, so called.

**GERONTOCOMI.** In the civil law, officers appointed to manage hospitals for the aged poor.

**GERONTOCOMIUM.** In the civil law, an institution or hospital for taking care of the old. *Cod.* 1, 3, 46, 1; *Calvin*.

**GERRYMANDER.** A name given to the process of dividing a state or other territory into the authorized civil or political divisions, but with such a geographical arrangement as to accomplish a sinister or unlawful purpose, as, for instance, to secure a majority for a given political party in districts where the result would be otherwise if they were divided according to obvious natural lines, or to arrange school districts so that children of certain religions or nationalities shall be brought within the district and those of a different religion or nationality in another district. *State v. Whitford*, 54 *Wis.* 150, 11 *N.W.* 424.

**GERSUMARIUS.** In old English law, finable; liable to be amerced at the discretion of the lord of a manor. *Cowell*.

**GERSUME.** In old English law, expense; reward; compensation; wealth. It is also used for a fine or compensation for an offense. 2 *Mon.Angl.* 973.

**GEST.** In Saxon law, a guest. A name given to a stranger on the *second night* of his entertainment in another's house. *Twanight gest*.

**GESTATION.** The time during which a woman carries a fetus in her womb, from conception to birth. But, as used in all medical authorities, this phrase does not mean the actual number of days from conception to birth. *Dazey v. Dazey*, 50 *Cal. App.2d* 15, 122 *P.2d* 308, 309.

**GESTIO.** In the civil law, behavior or conduct. Management or transaction. *Negotiorum gestio*, the doing of another's business; an interference in the affairs of another in his absence, from benevolence or friendship, and without authority. Dig. 3, 5, 45; *Id.* 46, 3, 12, 4; 2 *Kent*, *Comm.* 616, note.

**GESTIO PRO HÆREDE.** Behavior as heir.

This expression was used in the Roman law, and adopted in the civil law and Scotch law, to denote conduct on the part of a person appointed heir to a deceased person, or otherwise entitled to succeed as heir, which indicates an intention to enter upon the inheritance, and to hold himself out as heir to creditors of the deceased; as by receiving the rents due to the deceased, or by taking possession of his title-deeds, etc. Such acts will render the heir liable to the debts of his ancestor. *Mozley & Whitley*.

**GESTOR.** In the civil law, one who acts for another, or transacts another's business. *Calvin*.

**GESTU ET FAMA.** An ancient and obsolete writ resorted to when a person's good behavior was impeached. *Lamb.Eir.* 1, 4, c. 14.

**GESTUM.** Lat. In Roman law, a deed or act; a thing done. Some writers affected to make a distinction between "*gestum*" and "*factum*." But the best authorities pronounced this subtle and indefensible. Dig. 50, 16, 58.

**GET, n.** Under Hebraic law, evidence of the granting of a divorce. *Kopit v. Zilberszmidt*, *Sup.* 35 *N.Y.S.2d* 558, 560. A bill of divorce among the

Jews which is drawn in the Aramaic language, uniformly worded and carefully written by a proper scribe, and after proper ceremonies and questionings by the rabbi, especially as to whether both parties agree to the divorce, the husband hands to the wife in the presence of ten witnesses. *Shilman v. Shilman*, 105 Misc. 461, 174 N.Y.S. 385, 386.

**GEVILLOURIS.** In old Scotch law. Gaolers. 1 *Pitc.Crim.Tr.* pt. 2, p. 234.

**GEWINEDA.** In Saxon law, the ancient convention of the people to decide a cause.

**GEWITNESSA.** In Saxon and old English law, the giving of evidence.

**GEWRITE.** In Saxon law, deeds or charters; writings. 1 *Reeve, Eng.Law* 10.

**GIBBET.** A gallows; the post on which malefactors are hanged, or on which their bodies are exposed. It differs from a common gallows, in that it consists of one perpendicular post, from the top of which proceeds one arm, except it be a double gibbet, which is formed in the shape of the Roman capital T. *Enc.Lond.*

**GIBBET LAW.** Lynch law; in particular a custom anciently prevailing in the parish of Halifax, England, by which the free burghers held a summary trial of any one accused of petit larceny, and, if they found him guilty, ordered him to be decapitated.

**GIFT.** A voluntary transfer of personal property without consideration. *Gordon v. Barr*, Cal.App., 82 P.2d 955, 956, 957. A parting by owner with property without pecuniary consideration. *Hays' Adm'rs v. Patrick*, 266 Ky. 713, 99 S.W.2d 805, 809. A voluntary conveyance of land, or transfer of goods, from one person to another, made gratuitously, and not upon any consideration of blood or money. 2 *Bl.Comm.* 440; 2 *Steph.Comm.* 102; 2 *Kent, Comm.* 437. *Ingram v. Colgan*, 106 Cal. 113, 38 P. 315, 28 L.R.A. 187, 46 *Am.St.Rep.* 221; *Gray v. Barton*, 55 N.Y. 72, 14 *Am.Rep.* 181; *Hynes v. White*, 47 Cal.App. 549, 190 P. 836, 838; *In re Van Alstyne*, 207 N.Y. 298, 100 N.E. 802, 804.

Essential requisites of "gift" are capacity of donor, intention of donor to make gift, completed delivery to or for donee, and acceptance of gift by donee. *In re Greenberg's Will*, 286 N.Y.S. 56, 58, 158 *Misc.* 446.

In popular language, a voluntary conveyance or assignment is called a "deed of gift."

An "advancement" is a gift made with the intention that it shall be charged to the donee in the distribution of the donor's estate, while a "gift" is made without any purpose that it shall be thereafter accounted for. *Hon v. Connelly*, 253 Ky. 181, 69 S.W.2d 23.

An *absolute gift*, or gift *inter vivos*, as distinguished from a testamentary gift, or one made in contemplation of death, is one by which the donee becomes in the lifetime of the donor the absolute owner of the thing given, whereas a *donatio mortis causa* leaves the whole title in the donor, unless the event occurs (the death of the donor) which is to divest him. *Buecker v. Carr*, 60 N.J.Eq. 300, 47 A. 34; *Goodan v. Goodan*, 184 Ky. 79, 211 S.W. 423, 424; *Baker v. Baker*, 123 Md. 32, 90 A. 776, 779; *McCoy v. Shawnee Building & Loan Ass'n*, 122 Kan. 38, 251 P. 194, 195, 49 A.L.R. 1441; *First Nat. Bank v. Liberty Trust Co.*, 151

Md. 241, 134 A. 210, 213, 47 A.L.R. 730; *Starks v. Lincoln*, 316 Mo. 483, 291 S.W. 132, 134.

As distinguished from a gift in trust, it is one where not only the legal title but the beneficial ownership as well is vested in the donee. *Watkins v. Bigelow*, 93 Minn. 210, 100 N.W. 1104; *Allen v. Hendrick*, 104 Or. 202, 206 P. 733, 740.

The only important difference between a "gift" and a "voluntary trust" is that in the case of a gift the thing itself passes to the donee, while in the case of a trust the actual, beneficial, or equitable title passes to the *cestui que trust*, while the legal title is transferred to a third person, or retained by the person creating it. *In re Alberts' Estate*, 38 Cal.App.2d 42, 100 P.2d 538, 540.

In English law, a conveyance of lands in tail; a conveyance of an estate tail in which the operative words are "I give," or "I have given." 2 *Bl.Comm.* 316; 1 *Steph.Comm.* 473.

—**Gift in Default of Appointment.** One implied on failure of donee to exercise a power of appointment where it was his duty to do so or where donor expresses an intention to make a legal gift to members of class in default of appointment. *Restatement, Real Property*, vol. 3, Topic 9, § 367.

**GIFT CAUSA MORTIS.** A gift of personalty made in expectation of death, then imminent, on an essential condition that property shall belong fully to donee in case donor dies as anticipated, leaving donee surviving him, and gift is not in meantime revoked. *Flint v. Varney*, 220 Iowa 1241, 264 N.W. 277, 278, 279.

**GIFT DEED.** A deed for a nominal sum. *Bertelsen v. Bertelson*, 49 Cal.App.2d 479, 122 P.2d 130, 133.

**GIFT ENTERPRISE.** A scheme for the division or distribution of articles to be determined by chance amongst those who have taken shares in the scheme. *City of Oxford v. Ritz Theatre, Miss.*, 180 So. 88, 89; *State v. Shugart*, 138 Ala. 86, 35 So. 28, 100 *Am.St.Rep.* 17; *Winston v. Beeson*, 135 N.C. 271, 47 S.E. 457, 65 L.R.A. 167.

A sporting artifice by which, for example, a merchant or tradesman sells his wares for their market value, but, by way of inducement, gives to such purchaser a ticket which entitles him to a chance to win certain prizes to be determined after the manner of a lottery. Code 1933, § 26-6501. *Barker v. State*, 56 Ga.App. 705, 193 S.E. 605, 607, 609.

**GIFTS INTER VIVOS.** Gifts between the living, which are perfected and become absolute during lifetime of donor and donee. *Neal v. Neal*, 194 Ark. 226, 106 S.W.2d 595, 600.

**GIFT OVER.** A gift to one for life, and from and after his deceased to another, created a "gift over." *In re Feeney's Estate*, 293 Pa. 273, 142 A. 284, 289.

**GIFT TO A CLASS.** A gift of aggregate sum to body of persons uncertain in number at time of gift, to be ascertained at future time, who are all to take in equal shares, or some other definite proportion; share of each being dependent for its amount upon ultimate number taking. *In re Murphy's Estate*, 99 Mont. 114, 43 P.2d 233, 236; *Wessborg v. Merrill*, 195 Mich. 556, 162 N.W. 102, 106, L.R.A.1918E, 1074; *Blackstone v. Althouse*, 278 Ill. 481, 116 N.E. 154, 157, L.R.A.1918B, 230.

## GIFTA

**GIFTA AQUÆ.** The stream of water to a mill. Mon.Angl. tom. 3.

**GIFTOMAN.** In Swedish law, the right to dispose of a woman in marriage, or the person possessing such right,—her father, if living, or, if he be dead, the mother.

**GILD.** In Saxon law, a tax or tribute. Spelman.

A fine, mulct, or amerciament; a satisfaction or compensation for an injury.

A fraternity, society, or company of persons combined together, under certain regulations, and with the king's license, and so called because its expenses were defrayed by the *contributions* (*geld*, *gild*) of its members. Spelman. In other words, a corporation; called, in Latin, "*societas*," "*collegium*," "*fratria*," "*fraternitas*," "*sodalitium*," "*adunatio*;" and, in foreign law, "*gildonia*." Spelman. There were various kinds of these *gilds*, as merchant or commercial *gilds*, religious *gilds*, and others. 3 Turn.Anglo Sax. 98; 3 Steph.Comm. 173, note *u*. See *Gilda Mercatoria*.

A friborg, or decennary; called, by the Saxons, "*gyldscipes*," and its members, "*gildones*" and "*congildones*." Spelman.

**GILD-HALL.** See Guildhall.

**GILD-RENT.** Certain payments to the crown from any gild or fraternity.

**GILDA MERCATORIA.** A gild merchant, or merchant gild; a gild, corporation, or company of merchants. 10 Coke, 30.

**GILDABLE.** In old English law, taxable, tributary, or contributory; liable to pay tax or tribute. Cowell; Blount.

**GILDO.** In Saxon law, members of a *gild* or decennary. Oftener spelled "*congildo*." Du Cange; Spelman.

**GILL.** A measure of capacity, equal to one-fourth of a pint.

**GILOUR.** L. Fr. A cheat or deceiver. Applied in Britton to those who sold false or spurious things for good, as pewter for silver or laton for gold. Britt. c. 15.

**GILT EDGE.** As applied to commercial paper, a colloquialism, meaning of the best quality or highest price, first class, and not implying that a note which is not gilt edge is not collectible, or that the maker is irresponsible. *Martin v. Moreland*, 93 Or. 61, 180 P. 933, 934.

**GIN MEN.** In mining. Men employed in coal mines who have no specific work to do, but are hired to do general work, or any kind of work they are directed to do. The word "gin" in this expression is apparently a contraction of the word "general." *Smith v. North Jellico Coal Co.*, 114 S.W. 785, 786, 131 Ky. 196, 28 L.R.A.N.S. 1266.

**GINNING ADVANCES.** Include cost to grower of picking crop, wages of weigher, rent of sleeping tents for pickers, and cost of trucking cotton from

field to gin and other such expenses. *Schumann v. California Cotton Credit Corporation*, 105 Cal. App. 136, 286 P. 1068, 1070.

**GIRANTE.** An Italian word, which signifies the drawer of a bill. It is derived from "*girare*," to draw.

**GIRDLE, v.** To "girdle" a tree for the purpose of obtaining crude turpentine is to cut off a ring of bark around the trunk. *Howard v. State*, 17 Ala.App. 9, 81 So. 345, 346.

**GIRTH.** In Saxon and old English law, a measure of length, equal to one yard, derived from the girth or circumference of a man's body.

**GIRTH AND SANCTUARY.** In old Scotch law, an asylum given to murderers, where the murder was committed without any previous design, and in *chaude mella*, or heat of passion. Bell.

**GISEMENT.** L. Fr. Agistment; cattle taken in to graze at a certain price; also the money received for grazing cattle.

**GISER.** L. Fr. To lie. *Gist en le bouche*, it lies in the mouth. *Le action bien gist*, the action well lies. *Gisant*, lying.

**GISETAKER.** An agister; a person who takes cattle to graze.

**GISLE.** In Saxon law, a pledge. *Fredgisle*, a pledge of peace. *Gislebert*, an illustrious pledge.

**GIST.** In pleading, the essential ground or object of the action in point of law, without which there would be no cause of action. Gould, Pl. c. 4, § 12.

The cause for which an action will lie, the ground or foundation of a suit, without which it would not be maintainable, the essential ground or object of the suit without which there is no cause of action. *Casavalo v. D'Auria*, 12 N.J. Misc. 81, 169 A. 520.

**GIVE.** To transfer ownership or possession without compensation. *University of Vermont v. Wilbur's Estate*, 105 Vt. 147, 163 A. 572, 575. To bestow upon another gratuitously or without consideration. *Neblett v. Smith*, 142 Va. 840, 128 S.E. 247, 251.

To transfer or yield to, or bestow upon, another. One of the operative words in deeds of conveyance of real property, importing at common law, a warranty or covenant for quiet enjoyment during the lifetime of the grantor. *Mack v. Patchin*, 29 How.Prac., N.Y., 23; *Young v. Hargrave*, 7 Ohio, 69, pt. 2; *Dow v. Lewis*, 4 Gray, Mass., 473.

**GIVE AND BEQUEATH.** These words, in a will, import a benefit in point of right, to take effect upon the decease of the testator and proof of the will, unless it is made in terms to depend upon some contingency or condition precedent. *Eldridge v. Eldridge*, 9 Cush., Mass., 519.

**GIVE BAIL.** To furnish or put in bail or security for one's appearance.

**GIVE COLOR.** To admit an apparent or colorable right in the opposite party.

Under the ancient system a plea of confession and avoidance must give color to the affirmative averments of the complaint, or it would be fatally defective. The "giving color" was simply the absence of any denials, and the express or silent admission that the declaration, as far as it went, told the truth. *Smith v. Marley*, 39 Idaho, 779, 230 P. 769, 770. See *Color*.

**GIVE JUDGMENT.** To render, pronounce, or declare the judgment of the court in an action at law; not spoken of a judgment obtained by confession. *Schuster v. Rader*, 13 Colo. 329, 22 P. 505.

**GIVE NOTICE.** To communicate to another, in any proper or permissible legal manner, information or warning of an existing fact or state of facts or (more usually) of some intended future action. *O'Neil v. Dickson*, 11 Ind. 254; *In re Devlin*, 7 Fed.Cas. 564; *St. Louis, B. & M. Ry. Co. v. Hicks*, Tex.Civ.App., 158 S.W. 192, 194.

**GIVE TIME.** Extending the period at which, by the contract between them, the principal debtor was originally liable to pay the creditor. *Buffalo Forge Co. v. Fidelity & Casualty Co. of New York*, 142 Misc. 647, 256 N.Y.S. 329, 334.

**GIVE WAY.** In the rules of navigation, one vessel is said to "give way" to another when she deviates from her course in such a manner and to such an extent as to allow the other to pass without altering her course. See *Lockwood v. Lashell*, 19 Pa. 350.

**GIVER.** A donor; he who makes a gift.

**GIVING IN PAYMENT.** In Louisiana law, a phrase (translating the Fr. "*dation en paiement*") which signifies the delivery and acceptance of real or personal property in satisfaction of a debt, instead of a payment in money. See Civil Code La. art. 265.

**GIVING RINGS.** A ceremony anciently performed in England by serjeants at law at the time of their appointment. The rings were inscribed with a motto, generally in Latin.

**GLADIOLUS.** A little sword or dagger; a kind of sedge. *Mat. Paris*.

**GLADIUS.** Lat. A sword. An ancient emblem of defense. Hence the ancient earls or *comites* (the king's attendants, advisers, and associates in his government) were made by being girt with swords, (*gladio succincti*.)

The emblem of the executory power of the law in punishing crimes. 4 Bl.Comm. 177.

In old Latin authors, and in the Norman laws, this word was used to signify supreme jurisdiction, (*jus gladii*.)

**GLAIVE.** A sword, lance, or horseman's staff. One of the weapons allowed in a trial by combat.

**GLANS.** In the civil law, acorns or nuts of the oak or other trees. In a larger sense, all fruits of trees.

**GLASS-MEN.** A term used in St. 1 Jac. I, c. 7, for wandering rogues or vagrants.

**GLAVEA.** A hand dart. *Cowell*.

**GLEANING.** The gathering of grain after reapers, or of grain left ungathered by reapers. Held not to be a right at common law. 1 H.Bl. 51.

**GLEBA.** A turf, sod, or clod of earth. The soil or ground; cultivated land in general. Church land (*solum et dos ecclesiae*). *Spelman*. See *Glebe*.

**GLEBÆ ASCRIPTITII.** Villein-socmen, who could not be removed from the land while they did the service due. *Bract. c. 7*; 1 *Reeve, Eng. Law*, 269.

**GLEBARIÆ.** Turfs dug out of the ground. *Cowell*.

**GLEBE.** In Ecclesiastical law, the land possessed as part of the endowment or revenue of a church or ecclesiastical benefice.

In Roman law, a clod; turf; soil. Hence, the soil of an inheritance; an agrarian estate. *Servi addicti glebæ* were serfs attached to and passing with the estate. *Cod. 11, 47, 7, 21*; *Nov. 54, 1*.

**GLIDER.** A form of aircraft similar to an airplane but without any engine. *Spychala v. Metropolitan Life Ins. Co.*, 339 Pa. 237, 13 A.2d 32, 33.

**GLIDING.** Art of flying a glider. *Spychala v. Metropolitan Life Ins. Co.*, 339 Pa. 237, 13 A.2d 32, 33.

**GLISCYWA.** In Saxon law, a fraternity.

**GLOBE DOCTRINE.** That where the National Labor Relations Board could conclude that either a craft or a plant unit would be appropriate for collective bargaining purposes and where either contention if unopposed would be adopted by the Board, it normally gives paramount weight to the wishes of the employees within the craft unit. *International Ass'n of Machinists, Tool and Die Makers' Lodge No. 35 v. National Labor Relations Board*, 71 App.D.C. 175, 110 F.2d 29, 45.

**GLOMERELLS.** Commissioners appointed to determine differences between scholars in a school or university and the townsmen of the place. *Jacob*.

**GLOS.** Lat. In the civil law, a husband's sister. *Dig. 38, 10, 4, 6*.

**GLOSS.** An interpretation, consisting of one or more words, interlinear or marginal; an annotation, explanation, or comment on any passage in the text of a work, for purposes of elucidation or amplification. Particularly applied to the comments on the *Corpus Juris*.

**GLOSSA.** Lat. A gloss, explanation, or interpretation.

The *glossæ* of the Roman law are brief illustrative comments or annotations on the text of Justinian's collections, made by the professors who taught or lectured on them about the twelfth century, (especially at the law school of Bologna,) and were hence called "*glossators*." These glosses were at first inserted in the text with the words to which they referred, and were called "*glossæ interline-*

## GLOSSA

*ares*," but afterwards they were placed in the margin, partly at the side, and partly under the text, and called "*glossæ marginales*." A selection of them was made by Accursius, between A. D. 1220 and 1260, under the title of "*glossa Ordinaria*," which is of the greatest authority. Mackeld. Rom. Law, § 90.

**GLOSSA VIPERINA EST QUÆ CORRODIT VICERA TEXTUS.** 11 Coke, 34. It is a poisonous gloss which corrupts the essence of the text.

**GLOSSATOR.** In the civil law, a commentator or annotator. A term applied to the professors and teachers of the Roman law in the twelfth century, at the head of whom was Irnerius. Mackeld. Rom. Law, § 90.

**GLOUCESTER, STATUTE OF.** The statute is the 6 Edw. I, c. 1, A.D. 1278. It takes its name from the place of its enactment, and was the first statute giving costs in actions.

**GLOVE SILVER.** Extraordinary rewards formerly given to officers of courts, etc.; money formerly given by the sheriff of a county in which no offenders are left for execution to the clerk of assize and judges' officers. Jacob.

**GLOVES.** It was an ancient custom on a maiden assize, when there was no offender to be tried, for the sheriff to present the judge with a pair of white gloves. It is an immemorial custom to remove the glove from the right hand on taking oath. Wharton.

**GLYN.** A hollow between two mountains; a valley or glen. Co.Litt. 5b.

**GO.** To be dismissed from a court. To issue from a court. "The court said a *mandamus* must go." 1 W.Bl. 50. "Let a *supersedeas* go." 5 Mod. 421. "The writ may go." 18 C.B. 35.

**GO BAIL.** To assume the responsibility of a surety on a bail-bond.

**GO FIFTY-FIFTY.** Division into halves of something under discussion by the parties at the time. Boyer v. Bowles, 310 Mass. 134, 37 N.E.2d 489, 493.

**GO HENCE.** To depart from the court; with the further implication that a suitor who is directed to "go hence" is dismissed from further attendance upon the court in respect to the suit or proceeding which brought him there, and that he is finally denied the relief which he sought, or, as the case may be, absolved from the liability sought to be imposed upon him. See Hiatt v. Kinkaid, 40 Neb. 178, 58 N.W. 700.

**GO TO.** In a statute, will, or other instrument, a direction that property shall "go to" a designated person means that it shall pass or proceed to such person, vest in and belong to him. In re Hitchens' Estate, 43 Misc. 485, 89 N.Y.S. 472; Plass v. Plass, 121 Cal. 131, 53 P. 448.

**GO TO PROTEST.** Commercial paper is said to "go to protest" when it is dishonored by non-payment or non-acceptance and is handed to a notary for protest.

**GO WITHOUT DAY.** Words used to denote that a party is dismissed the court. He is said to go without day, because there is no day appointed for him to appear again.

**GOAF.** In coal mining a space from which material has been removed or the waste left in old work. Harlan Ridgeway Mining Co. v. Jackson, 278 Ky. 767, 129 S.W.2d 585, 586.

**GOAT, GOTE.** In old English law, a contrivance or structure for draining waters out of the land into the sea. Callis describes *goats* as "usual engines erected and built with portcullises and doors of timber and stone or brick, invented first in Lower Germany." Callis, Sewers, (91), 112, 113. Cowell defines "gote," a ditch, sewer, or gutter.

**GOB.** In coal mining a space from which material has been removed or the waste left in old work. Harlan Ridgeway Mining Co. v. Jackson, 278 Ky. 767, 129 S.W.2d 585, 586. Space between face of coal and where props had been set by machine operators on previous trip. New Union Coal Co. v. Sult, 172 Ark. 753, 290 S.W. 580, 581.

**GOD AND MY COUNTRY.** The answer made by a prisoner, when arraigned, in answer to the question, "How will you be tried?"

In the ancient practice he had the choice (as appears by the question) whether to submit to the trial by ordeal (by God) or to be tried by a jury, (by the country;) and it is probable that the original form of the answer was, "By God or my country," whereby the prisoner averred his innocence by declining neither of the modes of trial.

**GOD-BOTE.** An ecclesiastical or church fine paid for crimes and offenses committed against God. Cowell.

**GOD-GILD.** That which is offered to God or his service. Jacob.

**GOD'S PENNY.** In old English law, earnest-money; money given as evidence of the completion of a bargain. This name is probably derived from the fact that such money was given to the church or distributed in alms.

**GOGING-STOLE.** An old form of the word "cucking-stool" (q. v.). Cowell.

**GOING.** In various compound phrases (as those which follow) this term implies either motion, progress, active operation, or present and continuous validity and efficacy.

**GOING AND COMING RULE.** Declares that employees while going to or returning from their places of employment are not within the scope of their employment. Robinson v. George, 16 Cal. 2d 238, 105 P.2d 914, 917, 918.

**GOING BEFORE THE WIND.** In the language of mariners and in the rules of navigation, a vessel is said to be going "before the wind" when the wind is free as respects her course, that is, comes from behind the vessel or over the stern, so that her yards may be braced square across. She is said to be "going off large" when she has the wind free on either tack, that is, when it blows from

some point abaft the beam or from the quarter. *Hall v. The Buffalo*, 11 Fed.Cas. 216; *Ward v. The Fashion*, 29 Fed.Cas. 188.

**GOING CONCERN.** An enterprise which is being carried on as a whole, and with some particular object in view. The term refers to an existing solvent business, which is being conducted in the usual and ordinary way for which it was organized. When applied to a corporation, it means that it continues to transact its ordinary business. *State ex rel. Sorensen v. Lincoln Hail Ins. Co.*, 133 Neb. 496, 276 N.W. 169, 174. A firm or corporation which, though embarrassed or even insolvent, continues to transact its ordinary business. *White, etc., Mfg. Co. v. Pettes Importing Co.*, C.C.Mo., 30 F. 865; *Corey v. Wadsworth*, 99 Ala. 68, 11 So. 350, 23 L.R.A. 618, 42 Am.St.Rep. 55; *Pioneer Telephone & Telegraph Co. v. State*, 64 Okl. 304, 167 P. 995, 1000, L.R.A.1918C, 138; *City and County of Denver v. Denver Union Water Co.*, 246 U.S. 178, 38 S.Ct. 278, 62 L.Ed. 649.

**GOING CONCERN VALUE.** The value which inheres in a plant where its business is established, as distinguished from one which has yet to establish its business. *East Bay Water Co. v. McLaughlin*, D.C.Cal., 24 F.Supp. 222, 226.

**GOING INTO EFFECT OF ACT.** Becoming operative as a law. *State ex rel. Bishop v. Board of Education of Mt. Orab Village School Dist.*, Brown County, 139 Ohio St. 427, 40 N.E.2d 913, 919.

**GOING OFF LARGE.** See "Going Before the Wind," *supra*.

**GOING PRICE.** The prevalent price; the current market value of the article in question at the time and place of sale. *Kelsea v. Haines*, 41 N.H. 254; *Hoff v. Lodi Canning Co.*, 51 Cal.App. 299, 196 P. 779, 780.

**GOING THROUGH THE BAR.** The act of the chief of an English common-law court in demanding of every member of the bar, in order of seniority, if he has anything to move.

This was done at the sitting of the court each day in term, except special paper days, crown paper days in the queen's bench, and revenue paper days in the exchequer. On the last day of term this order is reversed, the first and second time round. In the exchequer the postman and tubman are first called on. Wharton.

**GOING TO THE COUNTRY.** When a party, under the common-law system of pleading, finished his pleading by the words "and of this he puts himself upon the country," this was called "going to the country." It was the essential termination of a pleading which took issue upon a material fact in the preceding pleading. Wharton.

**GOING VALUE.** A value or asset which arises from having an established or going business. *Southern Bell Telephone & Telegraph Co. v. Louisiana Public Service Commission*, 187 La. 137, 174 So. 180, 195. *Oshkosh Waterworks Co. v. Railroad Commission of Wisconsin*, 161 Wis. 122, 152 N.W. 859, 861, L.R.A.1916F, 592; *Public Service Gas Co. v. Board of Public Utility Com'rs*, 84 N.J.L. 463, 87 A. 651, 657, L.R.A.1918A, 421.

**GOING WITNESS.** One who is about to take his departure from the jurisdiction of the court, although only into a state or country under the general sovereignty; as from one to another of the United States, or from England to Scotland.

**GOLD BOND.** One payable in gold coin or its equivalent, which means any money acceptable to United States government in payment of debts due it. *Huron Lodge No. 444, B. P. O. E. v. McNamara*, 53 S.D. 153, 220 N.W. 468, 470.

**GOLDA.** A mine. Blount. A sink or passage for water. Cowell.

**GOLDSMITHS' NOTES.** Bankers' cash notes (*i. e.*, promissory notes given by a banker to his customers as acknowledgments of the receipt of money) were originally called in London "goldsmiths' notes," from the circumstance that all the banking business in England was originally transacted by goldsmiths. Wharton.

**GOLDWIT.** A mulct or fine in gold.

**GOLIARDUS.** L. Lat. A jester, buffoon, or juggler. Spelman, *voc. "Goliardensis."*

**GOMASHTAH.** In Hindu law, an agent; a steward; a confidential factor; a representative.

**GONORRHOEA.** In medical jurisprudence, a venereal disease, characterized by a purulent inflammation of the urethra in the male and the vagina in the female. Vulgarly called "clap." *Sally v. Brown*, 220 Ky. 576, 295 S.W. 890, 891.

**GOOD.** Valid; sufficient in law; effectual; unobjectionable; sound. *Morrison v. Farmers' & Traders' State Bank*, 70 Mont. 146, 225 P. 123, 125; *McNabb v. Juergens* (Iowa) 180 N.W. 758, 761; *Raney & Hamon v. Hamilton & White*, Tex.Civ. App., 234 S.W. 229, 230.

Responsible; solvent; able to pay an amount specified.

Of a value corresponding with its terms; collectible. A note is said to be "good" when the payment of it at maturity may be relied on. *Curtis v. Smallman*, 14 Wend., N.Y., 232; *Cooke v. Nathan*, 16 Barb., N.Y., 344; *In re Parker Bros. & Johnson*, D.C.N.C., 279 F. 425, 428.

Writing the word "Good" across the face of a check is the customary mode in which bankers at the present day certify that the drawer has funds to meet it, and that it will be paid on presentation for that purpose. *Merchants' Nat. Bank v. State Nat. Bank*, 10 Wall. 645, 19 L.Ed. 1008; *Irving Bank v. Wetherald*, 36 N.Y. 335.

*Public good.* Under a statute providing that the Public Service Commission shall make an order permitting a transfer of the property of a public utility, when it is for the public good, such transfer is for the public good whenever it is not contrary to law and is reasonable, since it is not for the public good that such utilities be unreasonably restrained of their liberties. *Grafton County Electric Light & Power Co. v. State*, 77 N.H. 539, 94 A. 193, 194.

**GOOD ABEARING.** See Abearance.

**GOOD AND CLEAR RECORD TITLE, FREE FROM ALL INCUMBRANCES.** A title which on the record itself can be again sold as free from obvious defects and substantial doubts, and differs

## GOOD

from a "good, marketable title," which is an actual title, but which may be established by evidence independently of the record. *O'Meara v. Gleason*, 246 Mass. 136, 140 N.E. 426, 427.

**GOOD AND LAWFUL MEN.** Those qualified for service on juries. *Bonds v. State, Mart. & Y.*, Tenn. 146, 17 Am.Dec. 795; *Turner v. State*, 128 Tenn. 27, 157 S.W. 67, 68, Ann.Cas.1914D, 693.

**GOOD AND SUBSTANTIAL DEPOT.** A depot suitable to take care of both passenger and freight business. *Louisville & N. R. Co. v. Letcher County Coal & Improvement Co.*, 195 Ky. 29, 243 S.W. 45, 48.

**GOOD AND SUFFICIENT BRAKES.** Brakes adequate to promptly check and slacken speed of motor vehicle and bring it to complete stop (Comp. St.1922, § 8395). *Ziskovsky v. Miller*, 120 Neb. 255, 231 N.W. 809, 811.

**GOOD AND VALID.** Reliable, sufficient, and unimpeachable in law; adequate; responsible.

**GOOD AND WORKMANLIKE MANNER.** In a manner generally considered skillful by those capable of judging such work in the community of the performance. *Burnett & Bean v. Miller*, 205 Ala. 606, 88 So. 871, 872; *Morris v. Fox*, 79 Ind. App. 389, 135 N.E. 663, 664.

**GOOD BEHAVIOR.** Orderly and lawful conduct; behavior such as is proper for a peaceable and law-abiding citizen. *Huysen v. Com.*, 25 Ky.L. Rep. 608, 76 S.W. 175; *In re Spenser*, 22 Fed.Cas. 921. "Good behavior," as used in an order suspending sentence upon a defendant during good behavior, means merely conduct conformable to law, or to the particular law theretofore breached. *Ex parte Hamm*, 24 N.M. 33, 172 P. 190, 191, L.R. A.1918D, 694; *Baker v. Commonwealth*, 181 Ky. 437, 205 S.W. 399, 401.

**GOOD CAUSE.** Substantial reason, one that affords a legal excuse. *Pines v. District Court in and for Woodbury County*, 233 Iowa 1284, 10 N. W.2d 574, 580, 583. Legally sufficient ground or reason. *Jackson v. U. S.*, C.C.A.Ariz., 295 F. 620, 622; *Lockwood v. Lockwood*, 19 Ariz. 215, 168 P. 501, 502.

As respects discharging employees in classified service, "good cause" includes any ground which is put forward by authorities in good faith and which is not arbitrary, irrational, unreasonable or irrelevant to the duties with which such authorities are charged, and is not limited to some form of inefficiency or of misconduct on the part of the person dismissed. *Nephew v. Wills*, 298 Mich. 187, 298 N.W. 376, 377, 135 A.L.R. 1340.

As respects Industrial Accident Commission's rescinding its decision, "good cause" included a mistake of law, unless the award had been sustained on appeal. *Stearns Coal & Lumber Co. v. Vanover*, 262 Ky. 808, 91 S.W.2d 518.

"Good cause" for extension of time in which to serve bill of exceptions exists if delay was for good reason, or that there was justification or excuse for the delay. *Kisten v. Kisten*, 229 Wis. 479, 282 N.W. 629, 632.

**GOOD CONSIDERATION.** "Good consideration" and "valuable consideration" are synonymous terms, although technically "good consideration" was defined as consideration of blood, or natural

love and affection; that founded on motives of generosity, prudence, and natural duty. *Belknap v. Northwestern Mut. Life Ins. Co.*, 108 Vt. 421, 188 A. 897, 899.

**GOOD COUNTRY.** In Scotch law, good men of the country. A name given to a jury.

**GOOD FAITH.** Honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry. *Siano v. Helvering*, D.C.N.J., 13 F.Supp. 776, 780. An honest intention to abstain from taking any unconscientious advantage of another, even through technicalities of law, together with absence of all information, notice, or benefit or belief of facts which render transaction unconscientious. *Warfield Natural Gas Co. v. Allen*, 248 Ky. 646, 59 S. W.2d 534, 91 A.L.R. 890; *Crouch v. First Nat. Bank*, 156 Ill. 342, 40 N.E. 974; *Waugh v. Prince*, 121 Me. 67, 115 A. 612, 614.

**GOOD HEALTH.** "Good health," as employed in insurance contract, ordinarily means a reasonably good state of health. *Kroon v. Travelers' Ins. Co.*, 290 Ill.App. 35, 7 N.E.2d 935, 937. It means that the applicant has no grave, important, or serious disease, and is free from any ailment that seriously affects the general soundness and healthfulness of the system. *Mincy v. Washington Nat. Ins. Co.*, 130 Pa.Super. 285, 196 A. 893, 897. Not mere temporary indisposition not tending to weaken or undermine constitution. *Zogg v. Bankers' Life Co. of Des Moines, Iowa*, C.C.A.W.Va., 62 F. 2d 575, 578. It does not mean a condition of perfect health. *White v. Sovereign Camp, W. O. W.*, 184 S.C. 215, 192 S.E. 161, 165.

**GOOD JURY.** A jury of which the members are selected from the list of special jurors. See L.R. 5 C.P. 155.

**GOOD, MERCHANTABLE ABSTRACT OF TITLE.** An abstract showing a good title, clear from incumbrances, and not merely an abstract of matters of record affecting the title, made by one engaged in the business of making abstracts in such form as is customary, as passing current among persons buying and selling real estate and examining titles. *Geithman v. Eichler*, 265 Ill. 579, 107 N.E. 180, 182.

**GOOD OF SERVICE.** Discharge of a civil service employee for "good of the service" or "for cause" implies some personal misconduct, or fact, rendering incumbent's further tenure harmful to the public interest. *State ex rel. Eckles v. Kansas City, Mo.App.*, 257 S.W. 197, 200.

**GOOD RECORD TITLE.** A "good record title," without words of limitation, means that the proper records shall show an unincumbered, fee-simple title, the legal estate in fee, free and clear of all valid claims, liens, and incumbrances. *Riggins v. Post, Tex.Civ.App.*, 172 S.W. 210, 211.

**GOOD REPUTE.** An expression, synonymous with and meaning only "of good reputation." *State v. Wheeler*, 108 Mo. 658, 665, 18 S.W. 924.



**GOOD SAMARITAN DOCTRINE.** One who sees a person in imminent and serious peril through negligence of another cannot be charged with contributory negligence, as a matter of law, in risking his own life or serious injury in attempting to effect a rescue, provided the attempt is not recklessly or rashly made. *Jobst v. Butler Well Servicing, Inc.*, 372 P.2d 55, 59, 190 Kan. 86. Under doctrine, negligence of a volunteer rescuer must worsen position of person in distress before liability will be imposed. *U. S. v. DeVane, C.A. Fla.*, 306 F.2d 182, 186.

**GOOD TITLE.** One free from reasonable doubt, that is, not only a valid title in fact, but one that can again be sold to a reasonable purchaser or mortgaged to a person of reasonable prudence. *Langford v. Berry*, 68 Ga.App. 193, 22 S.E.2d 349, 351, a title free from litigation, palpable defects and grave doubts. *Collins v. Martin, Tex.Civ. App.*, 6 S.W.2d 126, 128; *Williams v. Hefner*, 89 Mont. 361, 297 P. 492, 496.

**GOOD WILL.** The favor which the management of a business wins from the public. *Seneca Hotel Co. v. U. S.*, Ct.Cl., 42 F.2d 343, 344. The fixed and favorable consideration of customers arising from established and well-conducted business. *Colton v. Duvall*, 254 Mich. 346, 237 S.W.2d 48, 49. The favorable consideration shown by the purchasing public to goods known to emanate from a particular source. *White Tower System v. White Castle System of Eating Houses Corporation, C.C.A.Mich.*, 90 F.2d 67, 69. Something in business which gives reasonable expectancy of preference in race of competition. *In re Witkind's Estate*, 167 Misc. 885, 4 N.Y.S.2d 933, 947. The custom or patronage of any established trade or business; the benefit or advantage of having established a business and secured its patronage by the public. The advantage or benefit which is acquired by an establishment, beyond the mere value of the capital, stocks, funds, or property employed therein, in consequence of the general public patronage and encouragement which it receives from constant or habitual customers, on account of its local position, or common celebrity, or reputation for skill or affluence or punctuality, or from other accidental circumstances or necessities, or even from ancient partialities or prejudices. *Story, Partn. § 99; Haverly v. Elliott*, 39 Neb. 201, 57 N.W. 1010. And as property incident to business sold, favor vendor has won from public, and probability that all customers will continue their patronage. *Nye Odorless Incinerator Corporation v. Felton*, 5 W.W.Harr. 236, 162 A. 504, 511. It means every advantage, every positive advantage, that has been acquired by a proprietor in carrying on his business, whether connected with the premises in which the business is conducted, or with the name under which it is managed, or with any other matter carrying with it the benefit of the business. *Glen & Hall Mfg. Co. v. Hall*, 61 N.Y. 226, 19 Am.Rep. 278; *In re Ball's Estate*, 161 App.Div. 79, 146 N.Y.S. 499, 501; *Whittle v. Davie*, 116 Va. 575, 82 S.E. 724.

726; *Acme, Palmers & De Mooy Foundry Co. v. Weiss, D.C.Ohio*, 21 F.2d 492, 493.

**GOODRIGHT, GOODTITLE.** The fictitious plaintiff in the old action of ejectment, most frequently called "John Doe," was sometimes called "Goodright" or "Goodtitle."

**GOODS.** A term of variable content. It may include every species of personal property or it may be given a very restricted meaning. *Cate v. Merrill*, 116 Me. 235, 102 A. 235, 236, 237; *Canales v. Earl, Mun.Ct.N.Y.*, 168 N.Y.S. 726, 727.

In contracts, the term "goods" is not so wide as "chattels," for it applies to inanimate objects, and does not include animals or chattels real, as a lease for years of house or land, which "chattels" does include. *Co. Litt. 118; St. Joseph Hydraulic Co. v. Wilson*, 133 Ind. 465, 33 N.E. 113; *Putnam v. Westcott*, 19 Johns, N.Y., 76.

In wills, "goods" is *nomen generalissimum*, and, if there is nothing to limit it, will comprehend all the personal estate of the testator, as stocks, bonds, notes, money, plate, furniture, etc. *Kendall v. Kendall*, 4 Russ. 370; *Chamberlain v. Western Transp. Co.*, 44 N.Y. 310, 4 Am.Rep. 681; *Keyser v. School Dist.*, 35 N.H. 483.

**GOODS AND CHATTELS.** This phrase is a general denomination of personal property, as distinguished from real property; the term "chattels" having the effect of extending its scope to any objects of that nature which would not properly be included by the term "goods" alone, *e. g.*, living animals, emblements, and fruits, and terms under leases for years. *Larson v. Judd*, 200 Ill. App. 420. The general phrase also embraces choses in action, as well as personalty in possession. In wills. The term "goods and chattels" will, unless restrained by the context, pass all the personal estate, including leases for years, cattle, corn, debts, and the like. *Ward, Leg. 208, 211.*

**GOODS SOLD AND DELIVERED.** A phrase frequently used in the action of *assumpsit*, when the sale and delivery of goods furnish the cause.

**GOODS, WARES, AND MERCHANDISE.** A general and comprehensive designation of such chattels as are ordinarily the subject of traffic and sale. The phrase is used in the statute of frauds, and is frequently found in pleadings and other instruments. As to its scope, see *State v. Brooks*, 4 Conn. 449; *French v. Schoonmaker*, 69 N.J.L. 6, 54 A. 225; *Sewall v. Allen*, 6 Wend., N.Y., 355; *Smith v. Wilcox*, 24 N.Y. 358, 82 Am.Dec. 302; *Banta v. Chicago*, 172 Ill. 204, 50 N.E. 233, 40 L. R.A. 611; *Basset v. City of Boston*, 226 Mass. 64, 114 N.E. 1035; *Culp v. Holbrook*, 76 Ind.App. 272, 129 N.E. 278, 280.

**GOOLE.** In old English law, a breach in a bank or sea wall, or a passage worn by the flux and reflux of the sea. *St. 16 & 17 Car. II. c. 11.*

**GOPHER HOLING.** The "gopher hole" method of blasting" consists in boring holes, horizontally into the bank of earth and inserting therein charg-

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es of powder, the explosion of which dislodges the bank. *Bartnes v. Pittsburg Iron Ore Co.*, 123 Minn. 131, 143 N.W. 117.

**GORCE, or GORS.** A wear, pool, or pit of water. *Termes de la Ley*.

**GOBE.** In old English law, a small, narrow slip of ground. Cowell. In modern land law, a small triangular piece of land, such as may be left between surveys which do not close. In some of the New England states (as Maine and Vermont) the term is applied to a subdivision of a county, having a scanty population and for that reason not organized as a town.

**GORGE.** A defile between hills or mountains, that is a narrow throat or outlet from a region of country. *Gibbs v. Williams*, 25 Kan. 214, 37 Am.Rep. 241.

**GOSSIPRED.** In canon law, compaternity; spiritual affinity.

**GOUT.** In medical jurisprudence, an inflammation of the fibrous and ligamentous parts of the joints, characterized or caused by an excess of uric acid in the blood; usually, but not invariably, occurring in the joints of the feet, and then specifically called "podagra."

**GOVERN.** To direct and control the actions or conduct of, either by established laws or by arbitrary will; to direct and control, rule, or regulate, by authority. *Tucker v. State*, 218 Ind. 614, 35 N.E.2d 270, 291. To be a rule, precedent, law or deciding principle for. *Asnon v. Foley*, 105 Cal.App. 624, 283 P. 792, 795.

**GOVERNMENT.** From the Latin *gubernaculum*. Signifies the instrument, the helm, whereby the ship to which the state was compared, was guided on its course by the "gubernator" or helmsman, and in that view, the government is but an agency of the state, distinguished as it must be in accurate thought from its scheme and machinery of government. *State v. Chase*, 175 Minn. 259, 220 N.W. 951, 953.

The system of polity in a state; that form of fundamental rules and principles by which a nation or state is governed, or by which individual members of a body politic are to regulate their social actions; a constitution, either written or unwritten, by which the rights and duties of citizens and public officers are prescribed and defined, as a monarchical government, a republican government, etc. Webster.

An empire, kingdom, state or independent political community; as in the phrase, "Compacts between independent governments."

The sovereign or supreme power in a state or nation.

The machinery by which the sovereign power in a state expresses its will and exercises its functions; or the framework of political institutions, departments, and offices, by means of which the executive, judicial, legislative, and administrative business of the state is carried on.

The whole class or body of office-holders or functionaries considered in the aggregate, upon whom devolves the executive, judicial, legislative, and administrative business of the state. *Stokes v. United States*, C.C.A.Mo., 264 F. 18, 22.

In a colloquial sense, the United States or its representatives, considered as the prosecutor in a criminal action; as in the phrase, "the government objects to the witness."

The regulation, restraint, supervision, or control which is exercised upon the individual members of an organized jural society by those invested with authority; or the act of exercising supreme political power or control. *Chicago, B. & Q. R. Co. v. School Dist. No. 1 in Yuma County*, 63 Colo. 159, 165 P. 260, 263.

**Federal government.** The government of the United States of America, as distinguished from the governments of the several states.

**Local government.** The government or administration of a particular locality; especially, the governmental authority of a municipal corporation, as a city or county, over its local and individual affairs, exercised in virtue of power delegated to it for that purpose by the general government of the state or nation.

**Mixed government.** A form of government combining some of the features of two or all of the three primary forms, viz., monarchy, aristocracy, and democracy.

**Republican government.** One in which the powers of sovereignty are vested in the people and are exercised by the people, either directly, or through representatives chosen by the people, to whom those powers are specially delegated. *Black, Const. Law* (3d Ed.) 309; *In re Duncan*, 139 U.S. 449, 11 S.Ct. 573, 35 L.Ed. 219; *Minor v. Happersett*, 21 Wall. 175, 22 L.Ed. 627.

**GOVERNMENT ANNUITIES SOCIETIES.** Societies formed in England under 3 & 4 Wm. IV. c. 14, 7 & 8 Vict. c. 83, 16 & 17 Vict. c. 45, and 27 & 28 Vict. c. 43, to enable the industrious classes to make provisions for themselves by purchasing, on advantageous terms, a government annuity for life or term of years. Wharton.

**GOVERNMENT DE FACTO.** A government of fact. A government actually exercising power and control in the state, as opposed to the true and lawful government; a government not established according to the constitution of the state, or not lawfully entitled to recognition or supremacy, but which has nevertheless supplanted or displaced the government *de jure*. A government deemed unlawful, or deemed wrongful or unjust, which, nevertheless, receives presently habitual obedience from the bulk of the community. *Aust. Jur.* 324.

There are several degrees of what is called "*de facto* government." Such a government, in its highest degree, assumes a character very closely resembling that of a lawful government. This is when the usurping government expels the regular authorities from their customary seats and functions, and establishes itself in their place, and so

becomes the actual government of a country. The distinguishing characteristic of such a government is that adherents to it in war against the government *de jure* do not incur the penalties of treason; and, under certain limitations, obligations assumed by it in behalf of the country or otherwise will, in general, be respected by the government *de jure* when restored.

Such a government might be more aptly denominated a "government of paramount force," being maintained by active military power against the rightful authority of an established and lawful government; and obeyed in civil matters by private citizens. They are usually administered directly by military authority, but they may be administered, also, by civil authority, supported more or less by military force. *Thorington v. Smith*, 8 Wall. 8, 9, 19 L.Ed. 361.

**GOVERNMENT DE JURE.** A government of right; the true and lawful government; a government established according to the constitution of the state, and lawfully entitled to recognition and supremacy and the administration of the state, but which is actually cut off from power or control. A government deemed lawful, or deemed rightful or just, which, nevertheless, has been supplanted or displaced; that is to say, which receives not presently (although it received formerly) habitual obedience from the bulk of the community. *Aust. Jur.* 324.

**GOVERNMENT INSTRUMENTALITY DOCTRINE.** The doctrine that government instrumentalities are tax exempt.

The dominion exercised over the estate of deceased full-blood restricted Creek Indian, would not vest in the government a control sufficient to exempt the estate from estate taxes under the "government instrumentality doctrine". *Landman v. Commissioner of Internal Revenue*, C.C.A.10, 123 F.2d 787, 789.

One owning and operating trucks under contract with federal government for transportation of mail held not entitled to have trucks exempted from state motor vehicle registration tax, on ground that trucks were immune from state taxation as agencies and instrumentalities of United States government. *Moody v. Louwein*, *Tex.Civ.App.*, 300 S.W. 957, 958.

**GOVERNMENTAL.** Of, pertaining to, or proceeding from government.

Generally, what are purely governmental duties of a city can be settled only by the particular facts. *City of Waco v. Thompson*, *Tex.Civ.App.*, 127 S.W.2d 223, 225.

**GOVERNMENTAL ACT.** An act in exercise of police power or in exercise of legislative, discretionary, or judicial powers conferred on municipality for benefit of public. *Broome v. City of Charlotte*, 208 N.C. 729, 182 S.E. 325. Any act a state may lawfully perform or authorize and, as applied to the federal government, it is its every action within its constitutional power. *Orme v. Atlas Gas & Oil Co.*, 217 Minn. 27, 13 N.W.2d 757, 762. A step physically taken by persons capable of exercising the sovereign authority of the foreign nation. *Banco de Espana v. Federal Reserve Bank of New York*, C.C.A.N.Y., 114 F.2d 438, 444.

**GOVERNMENTAL ACTION.** Any action of the federal government within its constitutional power. *Graves v. People of State of New York* ex rel. O'Keefe, N.Y., 306 U.S. 466, 59 S.Ct. 595, 83 L.Ed. 927, 120 A.L.R. 1466; *Chapman v. State*, 179 Miss. 507, 176 So. 391, 392.

**GOVERNMENTAL ACTIVITY.** A function of government in providing for its own support or in providing services to the public. For example taxation and the collection of taxes, *Goble v. Zolot*, 144 Neb. 70, 12 N.W.2d 311, 312; maintenance of firehouse property, *Haynes v. City of New York*, 259 App.Div. 837, 19 N.Y.S.2d 164, 165.

Generally when a municipality's activity is for advantage of state as a whole, or is in performance of a duty imposed by sovereign power, activity is "public" and "governmental." *Department of Treasury v. City of Evansville, Ind.*, 223 Ind. 435, 60 N.E.2d 952, 955.

**GOVERNMENTAL AGENCY.** A subordinate creature of the sovereign created to carry out a governmental function. Frequently, a political subdivision or corporation. Hence a charitable hospital which cared for free patients, sent to it by city, *Jewish Hospital of Brooklyn v. Doe*, 252 App.Div. 581, 300 N.Y.S. 1111, 1117; city fire department, *Ring v. Minneapolis St. Ry. Co.*, 173 Minn. 265, 217 N.W. 130, 131; county, *Jefferson County ex rel. Grauman v. Jefferson County Fiscal Court*, 274 Ky. 91, 118 S.W.2d 181, 184; county water district, *Laguna Beach County Water Dist. v. Orange County*, 30 Cal.App.2d 740, 87 P.2d 46, 48; irrigation district, *Outlook Irr. Dist. v. Fels*, 176 Wash. 211, 28 P.2d 996, 998; municipal corporation, *Town of Falls Church v. Arlington County Board*, 166 Va. 192, 184 S.E. 459, 463; *Miller v. Town of Wilson*, 222 N.C. 340, 23 S.E.2d 42, 44; *National Guard, Lind v. Nebraska National Guard*, 144 Neb. 122, 12 N.W.2d 652, 656, 150 A.L.R. 1449; poor district, *Managers for Relief and Employment of Poor of Germantown Tp. v. Witkin*, 329 Pa. 410, 196 A. 837, 840; school district, *State ex rel. Klimek v. School Dist. No. 70, Otter Tail County*, 204 Minn. 279, 283 N.W. 397, 399; *Tennessee Valley Authority, Posey v. Tennessee Valley Authority*, C.C.A.Ala., 93 F.2d 726, 727; and every agency which Congress can constitutionally create. *Graves v. People of State of New York* ex rel. O'Keefe, N.Y., 306 U.S. 466, 59 S.Ct. 595, 83 L.Ed. 927, 120 A.L.R. 1466.

**GOVERNMENTAL AGENTS.** Those performing duties of a public character for benefit of all citizens of community. The term includes firemen and policemen. *Miller v. City of Albany*, 158 Misc. 720, 287 N.Y.S. 889, 891.

**GOVERNMENTAL BODY.** See Governmental Agency.

**GOVERNMENTAL CAPACITY.** In its "governmental capacity," a municipality acts mainly as an arm of the state for convenient administration of government in incorporated territory, for public good on behalf of the state rather than for itself. *Public Service Co. of Oklahoma v. City of Tulsa*, 174 Okl. 58, 50 P.2d 166, 168; *Oklahoma Natural Gas Corporation v. City of Enid*, 179 Okl. 283, 65 P.2d 440, 442.

**GOVERNMENTAL CHARACTER.** See Governmental Capacity.

**GOVERNMENTAL DUTIES.** Those duties of a municipality have reference to some part or ele-

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ment of the state's sovereignty granted it to be exercised for the benefit of the public, and all other duties are "proprietary". *City of Miami v. Oates*, 152 Fla. 21, 10 So.2d 721, 723.

Those duties that the framers of the Constitution intended each member of the union of states would assume in order adequately to function under the form of government guaranteed by the Constitution. *First State Bank of Gainesville v. Thomas*, D.C.Tex., 38 F.Supp. 849, 851.

**GOVERNMENTAL ENTERPRISE.** A project or undertaking by the government of a more or less permanent nature, such as a drainage district. *Rorick v. United States Sugar Corporation*, C.C.A. Fla., 120 F.2d 418, 421.

**GOVERNMENTAL EXPENDITURE OR EXPENSE.** One made in preserving health, good order, and peace of community (Const. art. 8, § 10). *Town of Amherst v. Erie County*, 236 App. Div. 58, 258 N.Y.S. 76, 81; keeping and dieting of prisoners and taking care of jail, *Breathitt County v. Cockrell*, 250 Ky. 743, 63 S.W.2d 920, 92 A.L.R. 626.

**GOVERNMENTAL FACILITY.** A building or institution provided by the government to care for a specified need, such as a court house or county jail. *Haney v. Town of Rainelle*, 125 W.Va. 397, 25 S.E.2d 207, 211.

**GOVERNMENTAL FUNCTION.** Duties imposed by state on municipal corporation, which latter must perform at peril. *Seafeldt v. Port of Astoria*, 141 Or. 418, 16 P.2d 943, 945. Where duty involves general public benefit not in nature of corporate or business undertaking for corporate benefit and interest of municipality, function is "governmental," whether duty be directly imposed or voluntarily assumed. *Gebhardt v. Village of La Grange Park*, 354 Ill. 234, 188 N.E. 372, 374. Those conferred upon municipality as local agency of prescribed and limited jurisdiction to be employed in administering the affairs of the state and promoting the public welfare generally. *State ex rel. Gebhardt v. City Council of Helena*, 102 Mont. 27, 55 P.2d 671, 673, 675.

**GOVERNMENTAL IMMUNITY.** A doctrine of implied limitation of the power of the federal government to tax a state or any of its instrumentalities, and of power of state to tax federal government or any of its instrumentalities, and is applicable only to taxing relations of federal and state governments, and does not apply to state and municipalities therein. *Marson v. City of Philadelphia*, 342 Pa. 369, 21 A.2d 228, 229, 230. See, also, *Sovereign Immunity of State from Liability*.

**GOVERNMENTAL INSTRUMENTALITY.** Any agency constitutionally created by Congress. *Unemployment Compensation Commission of North Carolina v. Wachovia Bank & Trust Co.*, 215 N.C. 491, 2 S.E.2d 592, 595, 596; *Home Owners' Loan Corporation v. Hardie & Caudle*, 171 Tenn. 43, 100 S.W.2d 238, 239, 108 A.L.R. 702; *Indian oil lease, Barnsdall Refineries v. Oklahoma Tax Commis-*

*sion*, 171 Okl. 140, 41 P.2d 918; *liquor control commission, Pacific Fruit & Produce Co. v. Oregon Liquor Control Commission*, D.C.Or., 41 F.Supp. 175, 179.

**GOVERNMENTAL POWERS.** Those pertaining to making and enforcing by a city of police regulations to prevent crime, preserve public health, prevent fires, care for the poor, and educate the young. *Huffman v. City of Columbus*, Ohio App., 51 N.E.2d 410, 412.

Powers exercised by city as agency of state. *State ex rel. Gebhardt v. City Council of Helena*, 102 Mont. 27, 55 P.2d 671, 673.

**GOVERNMENTAL PURPOSE.** One which has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity and contentment of the inhabitants of a given political division. *Green v. Frazier*, 44 N.D. 395, 176 N.W. 11, 17.

It has been held that, if an electric plant is used by a city for furnishing light and power for its own use and the use of its inhabitants, it is a "governmental purpose". *Chadwick v. City of Crawfordsville*, 216 Ind. 399, 24 N.E.2d 937, 941, 129 A.L.R. 469; *State v. Lincoln County Power Dist. No. 1*, 60 Nev. 401, 111 P.2d 528, 531.

A lot purchased for jail but actually used to store cordwood used in county buildings and to store county road machinery, was prima facie used for "governmental purposes". *Security State Bank v. Dent County*, 345 Mo. 1050, 137 S.W.2d 960, 964.

Some courts distinguish between public purpose and governmental purpose. *Spalding v. United States*, D.C.Cal., 17 F.Supp. 957, 961.

**GOVERNMENTAL SUBDIVISION.** An agency created to carry out a governmental purpose or function. It has been held to include a public corporation authorized to use waters of natural stream for irrigation and for development of electric power, *Platte Valley Public Power and Irrigation Dist. v. Lincoln County*, 144 Neb. 584, 14 N.W.2d 202, 206, 155 A.L.R. 412; and a housing authority, *Lennox v. Housing Authority of City of Omaha*, 137 Neb. 582, 290 N.W. 451, 459; but not to include the Mortgage Commission Service Corporation, *In re Batter*, 257 App.Div. 546, 14 N.Y.S. 2d 42, 44; or a receiver operating for the account of the United States. *The Southern Cross*, C.C.A. N.Y., 120 F.2d 466, 468.

**GOVERNOR.** The chief executive official of a state in the United States, *State ex rel. Martin v. Heil*, 242 Wis. 41, 7 N.W.2d 375, 380; and territories of the United States; and also of the chief magistrate of some colonies, provinces, and dependencies of other nations.

**GRABBOTS.** Oilmill motes, composed of small particles of refuse cotton, detached from, but left with, the seed in the first ginning process and generally separated and recovered by a process of reginning. *Chicago, R. I. & P. Ry. Co. v. Cleveland*, 61 Okl. 64, 160 P. 328, 330.

**GRACE.** A favor or indulgence as distinguished from a right. *State v. Boston*, Iowa, 234 Iowa 1047, 14 N.W.2d 676, 679. Thus, in *St. 22 Edw. III.*, the lord chancellor was instructed to take cogniz-

ance of matters of grace, being such subjects of equity jurisdiction as were exclusively matters of equity. Brown.

A faculty, license, or dispensation; also general and free pardon by act of parliament. See Act of Grace.

For Of Grace, see that title.

**GRACE, DAYS OF.** Time of indulgence granted to an acceptor or maker for the payment of his bill of exchange or note. It was originally a gratuitous favor, (hence the name,) but custom has rendered it a legal right.

**GRACE PERIOD.** In Insurance Law. A period beyond the due date of premium during which insurance is continued in force and during which payment may be made to keep policy in good standing. The grace period for payment of premium does not contemplate free insurance or operate to continue the policy in force after it expires by agreement of the parties. *Miller v. Travelers Ins. Co.*, 143 Pa.Super. 270, 17 A.2d 907, 909.

**GRADATIM.** In old English law, by degrees or steps; step by step; from one degree to another. Bract. fol. 64.

**GRADE, v.** To establish a level by mathematical points and lines, and then to bring the surface of the street or highway to the level by the elevation or depression of the natural surface to the line fixed. *Gas & Electric Securities Co. v. Manhattan & Queens Traction Corporation*, C.C.A.N.Y., 266 F. 625, 639; *Louisville & N. R. Co. v. State*, 137 Tenn. 341, 193 S.W. 113; *Giles v. City of Olympia*, 115 Wash. 428, 197 P. 631, 633, 16 A.L.R. 493. To bring property to the level of an abutting highway. *Nassau County v. O'Connell*, Sup., 37 N.Y.S. 2d 1009, 1012.

**GRADE, n.** Used in reference to streets: (1) The line of the street's inclination from the horizontal; (2) a part of a street inclined from the horizontal. Cent. Dict. The hypothetical line to which the work is to be constructed. *Musto-Keenan Co. v. City of Los Angeles*, 139 Cal.App. 506, 34 P.2d 506, 509. The street wrought to the line; *Little Rock v. Ry. Co.*, 56 Ark. 28, 19 S.W. 17; *Austin v. Tillamook City*, 121 Or. 385, 254 P. 819, 824.

"Grades of crime" in legal parlance are understood as higher or lower in grade or degree, according to the measure of punishment attached and meted out on conviction and the consequences resulting to the party convicted. *State v. Doucet*, 202 La. 1074, 13 So.2d 353, 361.

Quality, value, relative position, rank, status, or standing. *Mossman v. Chicago & Southern Air Lines*, 236 Mo.App. 282, 153 S.W.2d 799, 801, 802.

**GRADE CROSSING.** A place where a railroad is crossed at grade by a public or private road, or by another railroad, or where one highway crosses another. *Armour & Co. v. New York, N. H. & H. R. Co.*, 41 R.I. 361, 103 A. 1031, 1033.

**GRADED OFFENSE.** One for which offender is subject to a more severe penalty for a higher grade than for a lower grade of offense according to terms of statute. *State v. Doucet*, 202 La. 1074, 13 So.2d 353, 361.

**GRADUATE.** One who has taken a degree in a college or university. *State v. Ins. Co.*, 40 La. Ann. 463, 4 So. 504; *Valentine v. Independent School District of Casey*, 191 Iowa 1100, 183 N.W. 434, 437.

**GRADUS.** In the civil and old English law, a measure of space. A degree of relationship.

A step or degree generally; *e. g.*, *gradus honorum*, degrees of honor. Vicat. A pulpit; a year; a generation. Du Cange.

A port; any place where a vessel can be brought to land. Du Cange.

**GRADUS PARENTELÆ.** A pedigree; a table of relationship.

**GRAFFARIUS.** In old English law, a graffer, notary, or scrivener. St. 5 Hen. VIII. c. 1.

**GRAFFER.** A notary or scrivener. See St. 5 Hen. VIII. c. 1. The word is a corruption of the French "*greffier*," (*q. v.*)

**GRAFFIUM.** A writing-book, register, or cartulary of deeds and evidences. Cowell.

**GRAFIO.** A baron, inferior to a count. A fiscal judge. An advocate. Spelman; Cowell.

**GRAFT.** The popular meaning is the fraudulent obtaining of public money unlawfully by the corruption of public officers. *Smith v. Pure Oil Co.*, 278 Ky. 430, 128 S.W.2d 931, 933.

A term used in equity to denote the confirmation, by relation back, of the right of a mortgagee in premises to which, at the making of the mortgage, the mortgagor had only an imperfect title, but to which the latter has since acquired a good title.

Advantage or personal gain received because of peculiar position or superior influence of one holding position of trust and confidence without rendering compensatory services, or dishonest transaction in relation to public or official acts, and sometimes implies theft, corruption, dishonesty, fraud, or swindle, and always want of integrity. *Mount v. Welsh*, 118 Or. 568, 247 P. 815, 822; *Cooper v. Romney*, 49 Mont. 119, 141 P. 289, 291; *Gill v. Ruggles*, 95 S.C. 90, 78 S.E. 536, 540.

**GRAIN.** In Troy weight, the twenty-fourth part of a pennyweight. Any kind of corn sown in the ground.

**GRAIN RENT.** A payment for the use of land in grain or other crops; the return to the landlord paid by croppers or persons working the land on shares. *Railroad Co. v. Bates*, 40 Neb. 381, 58 N.W. 963.

**GRAINAGE.** An ancient duty in London under which the twentieth part of salt imported by aliens was taken.

**GRAMMAR SCHOOL.** In England, this term designates a school in which such instruction is giv-

## GRAMMATICA

en as will prepare the student to enter a college or university, and in this sense the phrase was used in the Massachusetts colonial act of 1647, requiring every town containing a hundred householders to set up a "grammar school." Jenkins v. Andover, 103 Mass. 97. But in modern American usage the term denotes a school, intermediate between the primary school and the high school, in which English grammar and other studies of that grade are taught.

**GRAMMATICA FALSA NON VITIAT CHARACTERAM.** 9 Coke, 48. False grammar does not vitiate a deed.

**GRAMMATOPHYLACIUM.** (Græco-Lat.) In the civil law, a place for keeping writings or records. Dig. 48, 19, 9, 6.

**GRAMME.** The unit of weight in the metric system. The gramme is the weight of a cubic centimeter of distilled water at the temperature of 4° C. It is equal to 15.4341 grains troy, or 5.6481 drachms avoirdupois.

**GRANATARIUS.** In old English law, an officer having charge of a granary. Fleta, lib. 2, c. 82, § 1; Id. c. 84.

**GRAND, n.** In cant of gangsters, thieves, and underworld, one thousand dollars.

As to grand "Assize," "Bill of Sale," "Cape," "Distress," "Jury," "Larceny," and "Serjeanty," see those titles.

**GRAND COUTUMIER.** A collection of customs, laws, and forms of procedure in use in early times in France. See Coutumier.

**GRAND DAYS.** In English practice, certain days in the terms, which are solemnly kept in the inns of court and chancery, viz., Candlemas day in Hilary term, Ascension day in Easter, St. John the Baptist day in Trinity, and All Saints in Michaelmas; which are *dies non juridici*. Termes de la Ley; Cowell; Blount. They are days set apart for peculiar festivity; the members of the respective inns being on such occasions regaled at their dinner in the hall, with more than usual sumptuousness. Holthouse.

**GRAND REMONSTRANCE.** A constitutional document passed by the British House of Commons in November, 1641.

It was in the nature of an appeal to the country, setting forth political grievances. It consisted of a preamble of 20 clauses and the body of the remonstrance with 206 clauses, each of which was voted separately. Its first remedial measure was against papists; its second demanded that all illegal grievances and exactions should be presented and punished at the sessions and assizes and that judges and justices should be sworn to the due execution of the Petition of Rights and other laws. The third was a series of precautions to prevent the employment of evil councillors. See Taswell-Langmead, Engl.Const.Hist. 464; Forsher, Grand Remonstrance. The text will be found in History for Ready Reference, II, 833.

**GRAND-STAND PLAY.** In baseball, etc., a play made more showily than necessary in order to draw the applause of those in the grand stand;

hence, figuratively, an act done to draw applause. Webster, Dict.

**GRANDCHILD.** Generally, child of one's child. Rieck v. Richards, 40 Ohio App. 201, 178 N.E. 276, 278. Descendant of second degree. Spencer v. Title Guarantee Loan & Trust Co., 222 Ala. 221, 132 So. 32, 34. The word may, however, be enlarged by context. Ball v. Weightman, 273 Pa. 120, 116 A. 653, 654; Davidson v. Blackwell, 152 Ga. 48, 108 S.E. 469, 471; Splittdorf Electrical Co. v. King, 90 N.J.Law, 421, 103 A. 674.

**GRANDFATHER.** The father of either of one's parents.

**GRANDFATHER CLAUSE.** A clause introduced into several of the constitutions of the southern states, limiting the right to vote to those who can read and write any article of the constitution of the United States, and have worked or been regularly employed in some lawful employment for the greater part of the year next preceding the time they offer to register unless prevented from labor or ability to read or write by physical disability, or who own property assessed at three hundred dollars upon which the taxes have been paid; but excepting those who have served in the army or navy of the United States or in the Confederate States in time of war, their lawful descendants in every degree, and persons of good character who understand the duties and obligations of citizenship under a republican form of government.

One of the original purposes of the "grandfather" clause of the Motor Carrier Act was to permit the operation of carrier businesses already established. Transamerican Freight Lines v. United States, D.C.Del., 51 F.Supp. 405, 409.

**GRANDMOTHER.** The mother of either of one's parents.

**GRANGE.** A farm furnished with barns, granaries, stables, and all conveniences for husbandry. Co. Litt. 5a.

**GRANGEARIUS.** A keeper of a grange or farm.

**GRANGER CASES.** A name applied to six cases decided by the supreme court of the United States in 1876, which are reported in Munn v. Illinois, 94 U.S. 113, 24 L.Ed. 77; Chicago, B. & Q. R. Co. v. Iowa, 94 U.S. 155, 24 L.Ed. 94; Peik v. Ry. Co., 94 U.S. 165, 24 L.Ed. 97; Chicago, M. & St. P. R. Co. v. Ackley, 94 U.S. 179, 24 L.Ed. 99; Winona & St. Peter R. Co. v. Blake, 94 U.S. 180, 24 L.Ed. 99; those most frequently cited being Munn v. Illinois, and C., B. & Q. R. Co. v. Iowa. They are so called because they arose out of an agitation commenced by the grangers which resulted in the enactment of statutes for the regulation of the tolls and charges of common carriers, warehousemen, and the proprietors of elevators.

The enforcement of these acts was resisted and their constitutionality questioned. The supreme court affirmed the common-law doctrine that private property appropriated by the owner to a public use is thereby subjected to public regulation. They also held that the right of regulation was not restrained by the prohibition of the fourteenth amend-

ment of the federal constitution against the taking by the states of private property without due process of law. A text writer, who was at that time a member of the court, says of these cases: "But these decisions left undecided the question how far this legislative power of regulation belonged to the States, and how far it was in the congress of the United States"; Miller, Const.U.S. 397.

**GRANGIA.** A grange. Co. Litt. 5a.

**GRANT.** To bestow; to confer, Traylor v. State, 117 Tex.Cr.R. 323, 36 S.W.2d 506, 507; upon some one other than the person or entity which makes the grant. Porto Rico Ry., Light & Power Co. v. Colom, C.C.A.Puerto Rico, 106 F.2d 345, 354.

Deed. Walker v. Deppe, 346 Mo. 354, 141 S.W. 2d 783, 785. A conveyance. Dearing v. Brush Creek Coal Co., 182 Tenn. 302, 186 S.W.2d 329, 331. Transfer of property real or personal by deed or writing. Commissioner of Internal Revenue v. Plestcheeff, C.C.A.9, 100 F.2d 62, 64, 65.

A generic term applicable to all transfers of real property, 3 Washb. Real Prop. 181, 353; including transfers by operation of law as well as voluntary transfers. White v. Rosenthal, 140 Cal. App. 184, 35 P.2d 154, 155.

A transfer by deed of that which cannot be passed by livery. Williams, Real Prop. 147, 149; Jordan v. Indianapolis Water Co., 159 Ind. 337, 64 N.E. 680.

An act evidenced by letters patent under the great seal, granting something from the king to a subject. Cruise, Dig. tit. 33, 34; Downs v. United States, C.C.A.Md., 113 F. 147, 51 C.C.A. 100.

A technical term made use of in deeds of conveyance of lands to import a transfer. 3 Washb. Real Prop. 378-380.

As distinguished from a mere license, a grant passes some estate or interest, corporeal or incorporeal, in the lands which it embraces. Jamieson v. Millemann, 3 Duer, N.Y., 255, 258.

The term "grant," in Scotland, is used in reference (1) to original dispositions of land, as when a lord makes grants of land among tenants; (2) to gratuitous deeds. Paterson. In such case, the superior or donor is said to grant the deed; an expression totally unknown in English law. Mozley & Whitley.

By the word "grant," in a treaty, is meant not only a formal grant, but any concession, warrant, order, or permission to survey, possess, or settle, whether written or parol, express, or presumed from possession. Such a grant may be made by law, as well as by a patent pursuant to a law. Strother v. Lucas, 12 Pet. 436, 9 L.Ed. 1137; Bryan v. Kennett, 113 U.S. 179, 5 S.Ct. 413, 28 L.Ed. 908; Hastings v. Turnpike Co., 9 Pick., Mass., 80; Dudley v. Sumner, 5 Mass. 470.

For office grant, see Office.

**Private land grant.** A grant by a public authority vesting title to public land in a private (natural) person. United Land Ass'n v. Knight, 85 Cal. 448, 24 P. 818.

**Public grant.** A grant from the public; a grant of a power, license, privilege, or property, from the state or government to one or more individuals, contained in or shown by a record, conveyance, patent, charter, etc.

**GRANT AND DEMISE.** In a lease for years these words create an implied warranty of title

and a covenant for quiet enjoyment; Stott v. Rutherford, 92 U.S. 107, 23 L.Ed. 486.

**GRANT AND TO FREIGHT LET.** Operative words in a charter party, implying the placing of the vessel at the disposition of the charterer for the purposes of the intended voyage, and generally, transferring the possession. See Christie v. Lewis, 2 Brod. & B. 441.

**GRANT, BARGAIN, AND SELL.** Operative words in conveyances of real estate. Muller v. Boggs, 25 Cal. 187; Hawk v. McCullough, 21 Ill. 221.

**GRANT OF PERSONAL PROPERTY.** A method of transferring personal property, distinguished from a gift by being always founded on some consideration or equivalent. 2 Bl. Comm. 440, 441. Its proper legal designation is an "assignment," or "bargain and sale." 2 Steph. Comm. 102.

**GRANT TO USES.** The common grant with uses superadded, which has become the favorite mode of transferring realty in England. Wharton.

**GRANTEE.** One to whom a grant is made. Commissioner of Internal Revenue v. Plestcheeff, C.C. A.9, 100 F.2d 62, 65.

**GRANTOR.** The person by whom a grant is made.

**GRANTOR'S LIEN.** Lien which exists for payment of purchase money when title is transferred. Kosters v. Hoover, 69 App.D.C. 66, 98 F.2d 595, 596.

**GRANTZ.** In old English law, noblemen or grandees. Jacob.

**GRASS HEARTH.** In old records, the grazing or turning up the earth with a plow. The name of a customary service for inferior tenants to bring their plows, and do one day's work for their lords. Cowell.

**GRASS WEEK.** Rogation week, so called anciently in the inns of court and chancery.

**GRASS WIDOW.** A slang term for a woman separated from her husband by abandonment or prolonged absence; a woman living apart from her husband. Webster. A divorcee.

**GRASSON, or GRASSUM.** A fine paid upon the transfer of a copyhold estate. See Gressume.

**GRATIFICATION.** A gratuity; a recompense or reward for services or benefits, given voluntarily, without solicitation or promise.

**GRATIS.** Without reward or consideration. Highway Department of Georgia v. Bass, 197 Ga. 356, 29 S.E.2d 161, 169. Freely; gratuitously.

**GRATIS DICTUM.** A voluntary assertion; a statement which a party is not legally bound to make, or in which he is not held to precise accuracy. 2 Kent, Comm. 486; Medbury v. Watson, 6 Metc., Mass., 260, 39 Am.Dec. 726.

## GRATUITOUS

**GRATUITOUS.** Without valuable or legal consideration. A term applied to deeds of conveyance and to bailments and other contracts.

In old English law, voluntary; without force, fear, or favor. Bract. fols. 11, 17.

As to gratuitous "Bailment," "Contract," and "Deposit," see those titles.

**GRATUITOUS ALLOWANCE.** A pension. Moran v. Firemen's and Policemen's Pension Fund Commission of Jersey City, 20 N.J.Misc. 479, 28 A. 2d 885, 887. State ex rel. Parker v. Board of Education of City of Topeka, 155 Kan. 754, 129 P.2d 265, 267.

**GRATUITOUS GUEST.** In automobile law. A person riding at invitation of owner or authorized agent without payment of a consideration or fare. McLain v. Atlantic Ice & Coal Corporation, 54 Ga. App. 103, 187 S.E. 153; Hart v. Hogan, 173 Wash. 598, 24 P.2d 99; Blashfield, Cyc. of Automobile Law and Prac., Perm. Ed., § 2292.

**GRATUITOUS LICENSEE.** Any licensee other than a business visitor. Smith v. Southwest Missouri R. Co., 333 Mo. 314, 62 S.W.2d 761.

**GRATUITOUS PASSENGER.** See Gratuitous Guest.

**GRATUITY.** Something acquired without bargain or inducement. State ex rel. Stafford v. Fox-Great Falls Theatre Corporation, 114 Mont. 52, 132 P.2d 689, 697. Something given freely or without recompense; a gift; something voluntarily given in return for a favor or especially a service, hence, a bounty; a tip; a bribe. McCook v. Long, 193 Ga. 299, 18 S.E.2d 488, 490.

**GRAVA.** In old English law, a grove; a small wood; a coppice or thicket. Co. Litt. 4b.

A thick wood of high trees. Blount.

**GRAVAMEN.** The material part of a grievance, charge, etc. Williamson v. Pacific Greyhound Lines, 67 Cal.App.2d 250, 153 P.2d 990, 991. The burden or gist of a charge; the grievance or injury specially complained of.

In English Ecclesiastical law, a grievance complained of by the clergy before the bishops in convocation.

**GRAVATIO.** In old English law, an accusation or impeachment. Leg. Ethel. c. 19.

**GRAVE.** An excavation in earth in which a dead body is or is to be buried, or place for interment of a corpse, such as a tomb, or a sepulcher. Leapheart v. Harmon, 186 S.C. 362, 195 S.E. 628, 629.

**GRAVEL.** Small stones, or fragments of stone often intermixed with particles of sand. Fellows v. Dorsey, 171 Mo.App. 289, 157 S.W. 995, 1000.

**GRAVEL PIT.** An excavation from which gravel is removed. Walker v. Dwelle, 187 Iowa 1384, 175 N.W. 957, 964.

**GRAVEN DOCK.** A "graven dock" is distinguished from a "floating dock," in that it is permanently attached to, and in that manner is, a part of land. Butler v. Robins Dry Dock & Repair Co., 240 N.Y. 23, 147 N.E. 235; Manufacturers' Liability Ins. Co. v. Hamilton, 129 Misc. 665, 222 N.Y.S. 394.

**GRAVEYARD.** A cemetery; a place for the interment of dead bodies; sometimes defined in statutes as a place where a minimum number of persons (as "six or more") are buried. See Stockton v. Weber, 98 Cal. 433, 33 P. 332; Gray v. Craig, 103 Kan. 100, 172 P. 1004, 1005.

**GRAVEYARD INSURANCE.** A term applied to insurances fraudulently obtained (as, by false personation or other means) on the lives of infants, very aged persons, or those in the last stages of disease. Also occasionally applied to an insurance company which writes wager policies, takes extra-hazardous risks, or otherwise exceeds the limits of prudent and legitimate business. See McCarty's Appeal, 110 Pa. 379, 4 A. 925.

**GRAVIS.** Grievous; great. *Ad grave damnum*, to the grievous damage. 11 Coke, 40.

**GRAVIUS.** A graf; a chief magistrate or officer. A term derived from the more ancient "*grafio*," and used in combination with various other words, as an official title in Germany; as *Margravius*, *Rheingravius*, *Landgravius*, etc. Spelman.

**GRAVIUS EST DIVINAM QUAM TEMPORALEM LÆDERE MAJESTATEM.** It is more serious to hurt divine than temporal majesty. 11 Coke, 29.

**GRAY'S INN.** An inn of court. See Inns of Court.

**GREAT.** Considerable in magnitude, power, intensity or degree. Thompson v. Anderson, 107 Utah 331, 153 P.2d 665, 666. As used in various compound legal terms, this word generally means extraordinary, that is, exceeding the common or ordinary measure or standard, in respect to physical size, or importance, dignity, etc. Gulf, etc., R. Co. v. Smith, 87 Tex. 348, 28 S.W. 520; San Christina Inv. Co. v. City and County of San Francisco, 167 Cal. 762, 141 P. 384, 388, 52 L.R.A., N.S., 676; American Express Co. v. Terry, 126 Md. 254, 94 A. 1026, 1030, Ann.Cas.1917C, 650.

For *presumption great*, see Proof.

As to great "Care," "Ponds," "Seal," "Tithes," see those titles.

**GREAT CATTLE.** All manner of beasts except sheep and yearlings. 2 Rolle, 173.

**GREAT CHARTER.** *Magna Charta (q. v.)*.

**GREAT-GRANDCHILDREN.** Children of one's grandchildren. Jenkins v. Harris, 135 Miss. 457, 100 So. 280.

**GREAT LAW, THE,** or "The Body of Laws of the Province of Pennsylvania and Territories thereunto belonging, Past at an Assembly held at Chester *alias* Upland, the 7th day of the tenth month, called 'December,' 1682." This was the first code of laws established in Pennsylvania, and



is justly celebrated for the provision in its first chapter for liberty of conscience.

**GREAT TITHES.** In ecclesiastical law, the more valuable tithes: as, corn, hay, and wood. 3 Burn, Eccl. Law, 680, 681; 3 Steph. Comm. 127. See Tithes.

**GREAT WRIT OF LIBERTY.** The writ of "habeas corpus and subjiciendum", issuing at common law out of courts of Chancery, King's Bench, Common Pleas, and Exchequer. Ex parte Kelly, 123 N.J.Eq. 489, 198 A. 203, 207.

**GREE.** Satisfaction for an offense committed or injury done. Cowell.

**GREEK CROSS.** See Cross.

**GREEK KALENDS.** A colloquial expression to signify a time indefinitely remote, there being no such division of time known to the Greeks.

**GREEN CLOTH.** In English law, a board or court of justice held in the countinghouse of the king's (or queen's) household, and composed of the lord steward and inferior officers. It takes its name from the green cloth spread over the board at which it is held. Wharton; Cowell.

**GREEN SILVER.** A feudal custom in the manor of Writtel, in Essex, where every tenant whose front door opens to Greenbury shall pay a half-penny yearly to the lord, by the name of "green silver" or "rent." Cowell.

**GREEN WAX.** In English law, the name of the estreats in the exchequer, delivered to the sheriff under the seal of that court which was impressed upon green wax.

**GREENBACK.** The popular and almost exclusive name applied to all United States treasury issues. Hickey v. State, 23 Ind. 23; U. S. v. Howell, D.C. Cal., 64 F. 114.

**GREENHEW.** In forest law, the same as *vert* (*q. v.*). Termes de la Ley.

**GREFFIERS.** In French law, registrars, or clerks of the courts.

They are officials attached to the courts to assist the judges in their duties. They keep the minutes, write out the judgments, orders, and other decisions given by the tribunals, and deliver copies thereof to applicants.

**GREGORIAN CODE.** The code or collection of constitutions made by the Roman jurist Gregorius. See Codex Gregorianus.

**GREGORIAN EPOCH.** The time from which the Gregorian calendar or computation dates; *i. e.*, from the year 1582.

**GREMIO.** In Spanish law, a guild; an association of workmen, artificers, or merchants following the same trade or business; designed to protect and further the interests of their craft.

**GREMIUM.** Lat. The bosom or breast; hence, derivatively, safeguard or protection. In English law, an estate which is in abeyance is said to

be in *gremio legis*; that is, in the protection or keeping of the law.

**GRENVILLE ACT.** The statute 10 Geo. III. c. 16, by which the jurisdiction over parliamentary election petitions was transferred from the whole house of commons to select committees. Repealed by 9 Geo. IV. c. 22, § 1.

**GRESSUME.** In English law, a customary fine due from a copyhold tenant on the death of the lord. 1 Strange, 654; 1 Crabb, Real Prop. p. 615, § 778. Spelled also "*grassum*," "*grossome*," and "*gressame*."

In Scotland *grassum* is a fine paid for the making or renewing of a lease. Paterson.

**GRETNA GREEN MARRIAGE.** A marriage celebrated at Gretna, in Dumfries, (bordering on the county of Cumberland,) in Scotland.

By the law of Scotland a valid marriage may be contracted by consent alone, without any other formality. When the marriage act (26 Geo. II. c. 33) rendered the publication of banns, or a license, necessary in England, it became usual for persons who wished to marry clandestinely to go to Gretna Green, the nearest part of Scotland, and marry according to the Scotch law; so a sort of chapel was built at Gretna Green, in which the English marriage service was performed by the village blacksmith. Wharton.

**GREVA.** In old records, the sea shore, sand, or beach. 2 Mon. Angl. 625; Cowell.

**GREVE.** A word of power or authority. Cowell.

**GRIEVANCE.** An injury, injustice or wrong which gives ground for complaint because it is unjust and oppressive. In re Borough of North Braddock, 126 Pa.Super. 53, 190 A. 357, 361.

**GRIEVED.** Aggrieved. 3 East, 22.

**GRIEVOUS.** Causing grief or sorrow, painful, afflictive, hard to bear, offensive, harmful. State v. Bowers, 178 Minn. 589, 228 N.W. 164, 165.

**GRIFF.** A word said to have a definite meaning in Louisiana, indicating the offspring of a Negro and a mulatto; a person too black to be a mulatto and too pale in color to be readily identified as a Negro. State v. Treadaway, 52 So. 500, 508, 126 La. 300, 139 Am.St.Rep. 514, 20 Ann.Cas. 1297. Also spelled *griffe*, and applied to a person of mixed Negro and American Indian blood. Webster, New Int. Dict.

**GRITH.** In Saxon law, peace; protection.

**GRITHBRECH, or GRITHBRECHE.** Breach of the peace. Cowell.

**GRITHSTOLE.** A place of sanctuary. Cowell.

**GROAT.** An English silver coin (value four pence) issued from the fourteenth to the seventeenth century. See Reg. v. Connell, 1 Car. & K. 191.

**GROCER.** In old English law, a merchant or trader who *engrossed* all vendible merchandise; an engrosser. St. 37 Edw. III. c. 5. See Engrosser.

## GROG-SHOP

**GROG-SHOP.** A liquor saloon, barroom, or dram-shop; a place where intoxicating liquor is sold to be drunk on the premises. See *Leesburg v. Putnam*, 103 Ga. 110, 29 S.E. 602.

**GRONNA.** In old records, a deep hollow or pit; a bog or miry place. Cowell.

**GROOM OF THE STOLE.** In England, an officer of the royal household, who has charge of the king's wardrobe.

**GROOM PORTER.** Formerly an officer belonging to the royal household. Jacob.

**GROSS.** Great; culpable. General. Absolute. A thing *in gross* exists in its own right, and not as an appendage to another thing. Before or without diminution or deduction. *Standard Chemical Co. v. Curtis*, 77 Colo. 10, 233 P. 1112, 1113; *Smith v. Toth*, 61 Ind.App. 42, 111 N.E. 442, 444; *Klafter v. State Board of Examiners of Architects*, 259 Ill. 15, 102 N.E. 193, 195, 46 L.R.A., N.S., 532, Ann.Cas.1914B, 1221. Whole; entire; total; as the gross sum, amount, weight—opposed to net. *State v. Hallenberg-Wagner Motor Co.*, 341 Mo. 771, 108 S.W.2d 398, 401.

Out of all measure; beyond allowance; not to be excused; flagrant; shameful; as a gross dereliction of duty; a gross injustice; gross carelessness. *State Board of Dental Examiners v. Saville*, 90 Colo. 177, 8 P.2d 693, 697.

As to gross "Adventure," "Average," "Earnings," "Fault," "Negligence," and "Weight," see those titles.

**GROSS INADEQUACY.** In compensation cases. Compensation so unreasonably small as to shock sense of justice and evince lack of fair and intelligent consideration. *Albertsen v. Swift & Co.*, 117 Kan. 337, 230 P. 1057, 1058.

**GROSS INCOME.** The term may mean the "gross receipts" of a business before deduction or expenditures for any purpose being equivalent to "gross proceeds" or "gross receipts" as distinguished from "net income," which is that portion of the receipts which remain after paying wages and paying for materials, or, in the narrower sense, profits over and above interest on capital invested. *First Trust Co. of St. Paul v. Commonwealth Co.*, C.C.A.S.D., 98 F.2d 27, 31, 32.

**GROSS PREMIUM.** Net premium plus loading for expenses and contingencies; i. e., the net premium represents the cost of insurance. *Fox v. Mutual Ben. Life Ins. Co.*, C.C.A.Mo., 107 F.2d 715, 719.

**GROSS PROFIT.** Excess of price received over price paid for goods before deductions are made for cost of operation. *Hill v. City of Richmond*, 181 Va. 744, 26 S.E.2d 48, 54.

**GROSS WEIGHT.** The total weight of goods or merchandise, with the chests, bags, and the like, from which are to be deducted tare and tret.

**GROSSE AVENTURE.** Fr. In French marine law, the contract of bottomry. Ord. Mar. liv. 3, tit. 5.

**GROSSE BOIS.** Timber. Cowell.

**GROSSEMENT.** L. Fr. Largely, greatly. *Grossement enseint*, big with child. Plowd. 76.

**GROSSOME.** In old English law, a fine, or sum of money paid for a lease. Plowd. 270, 271. Supposed to be a corruption of *gersuma* (q. v.). See *Gressume*.

**GROUND.** Soil; earth; the earth's surface appropriated to private use and under cultivation or susceptible of cultivation.

Though this term is sometimes used as equivalent to "land," it is properly of a more limited signification, because it applies strictly only to the surface, and always means dry land. See *Wood v. Carter*, 70 Ill App. 218; *State v. Jersey City*, 25 N.J.L. 529; *Com. v. Roxbury*, 9 Gray, Mass., 491.

A foundation or basis; points relied on. *People v. Wilkins*, 67 Cal.App. 758, 228 P. 367; *People v. Preciado*, 31 Cal.App. 519, 160 P. 1090, 1091; *In re Egan*, 36 S.D. 228, 154 N.W. 521, 522.

**GROUND ANNUAL.** In Scotch law, an annual rent of two kinds: *First*, the feu duties payable to the lords of erection and their successors; *second*, the rents reserved for building lots in a city, where *sub-feus* are prohibited. This rent is in the nature of a perpetual annuity. Bell; Ersk. Inst. 11, 3, 52.

**GROUND LANDLORD.** The grantor of an estate on which a ground-rent is reserved.

**GROUND OF ACTION.** The basis of a suit; the foundation or fundamental state of facts on which an action rests; the real object of the plaintiff in bringing his suit. *Nash v. Adams*, 24 Conn. 39; *Appeal of Huntington*, 73 Conn. 582, 48 A. 766.

**GROUND RENT.** A perpetual rent reserved to himself and his heirs, by the grantor of land in fee-simple, out of the land conveyed. It is in the nature of an emphyteutic rent. Also, in English law, rent paid on a building lease. *Hart v. Anderson*, 48 A. 636, 198 Pa. 558; *Sturgeon v. Ely*, 6 Pa. 406; *Franciscus v. Reigart*, 4 Watts., Pa., 116.

**GROUND WRIT.** Prior to the English common-law procedure act, 1852, c. 121 a *ca. sa.* or *fi. fa.* could not be issued into a county different from that in which the venue in the action was laid, without first issuing a writ, called a "ground writ," into the latter county, and then another writ, which was called a "testatum writ," into the former. Wharton.

**GROUNDAGE.** A custom or tribute paid for the standing of shipping in port. Jacob.

**GROUP INSURANCE.** A contract of "group insurance" is one between insurer and employer for benefit of employees. *Crawford v. Metropolitan Life Ins. Co.*, Mo.App., 167 S.W.2d 915, 924. In its nature group insurance is similar, if not identical

with that form of insurance known as term insurance. *Watkins v. Metropolitan Life Ins. Co.*, La.App., 174 So. 885, 888.

**GROWING CROP.** A crop must be considered and treated as a *growing* crop from the time the seed is deposited in the ground, as at that time the seed loses the qualities of a chattel, and becomes a part of the freehold, and passes with a sale of it. *Wilkinson v. Ketler*, 69 Ala. 435. Things commonly planted, cultivated, and harvested for use or profit of husbandman. *Pelham v. State*, 20 Ala.App. 359, 102 So. 462, 463.

**GROWTH HALF-PENNY.** A rate paid in some places for the title of every fat beast, ox, or other unfruitful cattle. *Clayt*, 92.

**GRUARIL.** The principal officers of a forest.

**GRUB STAKE.** In mining law, a contract between two parties by which one undertakes to furnish the necessary provisions, tools, and other supplies, and the other to prospect for and locate mineral lands and stake out mining claims thereon, the interest in the property thus acquired inuring to the benefit of both parties, either equally or in such proportion as their agreement may fix. *Berry v. Woodburn*, 107 Cal. 512, 40 P. 804; *Hartney v. Gosling*, 10 Wyo. 346, 68 P. 1118, 98 Am.St. Rep. 1005; *Mattocks v. Gibbons*, 94 Wash. 44, 162 P. 19, 22.

**GUADALUPE HIDALGO, TREATY OF.** A treaty between the United States and Mexico, terminating the Mexican War, dated February 2, 1848. See *Gadsden Purchase*.

**GUADIA.** In old European law, a pledge. *Spelman*; *Calvin*. A custom. *Spelman*. Spelled also "wadia."

**GUARANTEE.** One to whom a guaranty is made. *Dallas v. Wagner*, 204 N.C. 517, 168 S.E. 838, 839. This word is also used, as a noun, to denote the contract of guaranty or the obligation of a guarantor, and, as a verb, to denote the action of assuming the responsibilities of a guarantor.

**GUARANTEE STOCK.** "Guarantee stock" of a building and loan association is a fixed non-withdrawal investment which guarantees to all other investors in the association a fixed rate of dividend or interest. *Stumph v. Wheat Belt Building & Loan Ass'n of Pratt*, 148 Kan. 25, 79 P.2d 896, 899.

**GUARANTIED STOCK.** See *Stock*.

**GUARANTOR.** He who makes a guaranty. In *Ford*, D.C.Wash., 14 F.2d 848, 849.

**GUARANTY, v.** To undertake collaterally to answer for the payment of another's debt or the performance of another's duty, liability, or obligation; to assume the responsibility of a guarantor; to warrant. See *Guaranty, n.*

**GUARANTY, n.** A collateral agreement for performance of another's undertaking. *Kelly-Springfield Tire Co. v. Hamilton*, 230 Mo.App. 430, 91

S.W.2d 193. A promise to answer for payment of debt or performance of obligation if person liable in first instance fails to make payment or perform obligation. *McGee v. F. W. Poe Mfg. Co.*, 176 S.C. 288, 180 S.E. 48, 51, 99 A.L.R. 1468. An undertaking by one person to be answerable for the payment of some debt, or the due performance of some contract or duty, by another person, who himself remains liable to pay or perform the same. *Story*, *Prom. Notes*, § 457. A promise to answer for the debt, default, or miscarriage of another person. *Civil Code Cal.* § 2787.

A guaranty is a contract that some particular thing shall be done exactly as it is agreed to be done, whether it is to be done by one person or another, and whether there be a prior or principal contractor or not. *Redfield v. Haight*, 27 Conn. 31.

The definition of a "guaranty," by text-writers, is an undertaking by one person that another shall perform his contract or fulfill his obligation, or that, if he does not, the guarantor will do it for him. A guarantor of a bill or note is said to be one who engages that the note shall be paid, but is not an indorser or surety. *Gridley v. Capen*, 72 Ill. 13.

*Synonyms*

The terms *guaranty* and *suretyship* are sometimes used interchangeably; but they should not be confounded. The contract of a guarantor is his own separate contract. It is in the nature of a warranty by him that the thing guaranteed to be done by the principal shall be done, not merely an engagement jointly with the principal to do the thing. The original contract of the principal is not his contract, and he is not bound to take notice of its non-performance. *Durham v. Manrow*, 2 N.Y. 548; *Nading v. McGregor*, 121 Ind. 465, 23 N.E. 283, 6 L.R.A. 686; *Hoosier Brick Co. v. Floyd County Bank*, 64 Ind.App. 445, 116 N.E. 87, 90; *W. T. Rawleigh Co. v. Salter*, 31 Ga.App. 329, 120 S.E. 679, 681.

*Guaranty* and *warranty* are derived from the same root, and are in fact etymologically the same word, the "g" of the Norman French being interchangeable with the English "w." They are often used colloquially and in commercial transactions as having the same signification, as where a piece of machinery or the produce of an estate is "guaranteed" for a term of years, "warranted" being the more appropriate term in such a case. *Accumulator Co. v. Dubuque St. R. Co.*, Iowa, 64 F. 70, 12 C.C.A. 37; *Martinez v. Earnshaw*, 36 Wkly.Notes Cas., Pa., 502. A distinction is also sometimes made in commercial usage, by which the term "guaranty" is understood as a collateral warranty (often a conditional one) against some default or event in the future, while the term "warranty" is taken as meaning an absolute undertaking *in presenti*, against the defect, or for the quantity or quality contemplated by the parties in the subject-matter of the contract. *Sturges v. Bank of Circleville*, 11 Ohio St. 169, 78 Am.Dec. 296. But in strict legal usage the two terms are widely distinguished in this, that a warranty is an absolute undertaking or liability on the part of the warrantor, and the contract is void unless it is strictly and literally performed, while a guaranty is a promise, entirely collateral to the original contract, and not imposing any primary liability on the guarantor, but binding him to be answerable for the failure or default of another. *Masons' Union L. Ins. Ass'n v. Brockman*, 20 Ind. App. 206, 50 N.E. 493.

*Absolute guaranty.* An unconditional undertaking by a guarantor that debtor will pay debt or perform the obligation. An unconditional promise of payment or performance of principal contract on default of principal debtor or obligor. *Robey v. Walton Lumber Co.*, 17 Wash.2d 242, 135 P.2d 95, 102, 145 A.L.R. 924.

*Collateral guaranty.* A contract by which the guarantor undertakes, in case the principal fails to do what he has promised or undertaken to do, to pay damages for such failure; distinguished from an engagement of suretyship in this respect, that a surety undertakes to do the very thing which the principal has promised to do, in case the latter defaults. *Woody v. Haworth*, 24 Ind.App. 634, 57 N.E. 272; *Nading v. McGregor*, 121 Ind. 470, 23 N.E. 283, 6 L.R.A. 686.

## GUARANTY

**Conditional guaranty.** One which depends upon some extraneous event, beyond the mere default of the principal, and generally upon notice of the guaranty, notice of the principal's default, and reasonable diligence in exhausting proper remedies against the principal. *Yager v. Title Co.*, 112 Ky. 932, 66 S.W. 1027; *Tobacco Co. v. Heid*, D.C. Alaska, 62 F. 962; *Wall v. Eccles*, 61 Utah, 247, 211 P. 702, 703.

**Continuing guaranty.** One relating to a future liability of the principal, under successive transactions, which either continue his liability or from time to time renew it after it has been satisfied. *Sewing Mach. Co. v. Courtney*, 141 Cal. 674, 75 P. 296; *Buck v. Burk*, 18 N.Y. 340; *German Sav. Bank v. Drake*, Iowa, 79 N.W. 121; *Glaser, Kohn & Co. v. U. S.*, C.C.A.III., 224 F. 84, 86; *Hirning v. Jacobsen*, 51 S.D. 270, 213 N.W. 505, 507.

**Special guaranty.** A guaranty which is available only to the particular person to whom it is offered or addressed; as distinguished from a *general* guaranty, which will operate in favor of any person who may accept it. *Everson v. Gere*, 40 Hun, N.Y., 250; *Tidoute Sav. Bank v. Libbey*, 101 Wis. 193, 77 N.W. 182, 70 Am.St.Rep. 907; *Jobes v. Miller*, 201 Mo.App. 45, 209 S.W. 549, 550.

**Guaranty company.** A corporation authorized to transact the business of entering into contracts of guaranty and suretyship; as, one which, for fixed premiums, becomes surety on judicial bonds, fidelity bonds, and the like. See *Ætna L. Ins. Co. v. Coulter*, 25 Ky.L.Rep. 193, 74 S.W. 1050.

**GUARANTY FUND.** Statutes have made provision for depositors' guaranty funds to be raised, in whole or in part, by assessments on banks and to be used to pay the depositors of an insolvent bank. *Noble State Bank v. Haskell*, 219 U.S. 104, 31 S.Ct. 186, 55 L.Ed. 112, 32 L.R.A., N.S., 1062, Ann. Cas.1912A, 487; *Shallenberger v. Bank*, 219 U.S. 114, 31 S.Ct. 189, 55 L.Ed. 117; *Assaria State Bank v. Dolley*, 219 U.S. 121, 31 S.Ct. 189, 55 L.Ed. 123; *Abilene Nat. Bank v. Dolley*, 228 U.S. 1, 33 S.Ct. 409, 57 L.Ed. 707.

**GUARANTY INSURANCE.** See Insurance.

**GUARDAGE.** A state of wardship.

**GUARDIAN.** A guardian is a person lawfully invested with the power, and charged with the duty, of taking care of the person and managing the property and rights of another person, who, for some peculiarity of *status*, or defect of age, understanding, or self-control, is considered incapable of administering his own affairs. *Bass v. Cook*, 4 Port., Ala., 392; *Sparhawk v. Allen*, 21 N.H. 27; *Burger v. Frakes*, 67 Iowa, 460, 23 N.W. 746; *Fleming v. Leibe*, 95 N.J.Eq. 129, 122 A. 616.

One who legally has the care and management of the person, or the estate, or both, of a child during its minority. *Reeve, Dom. Rel.* 311.

This term might be appropriately used to designate the person charged with the care and control of idiots, lunatics, habitual drunkards, spendthrifts, and the like; but such person is, under many of the statutory systems authorizing the appointment, styled "committee," and in common usage the name "guardian" is applied only to one having the care and management of a minor.

### Classification

A *testamentary* guardian is one appointed by the deed or last will of the child's father; while a guardian *by election* is one chosen by the infant himself in a case where he would otherwise be without one.

A *general* guardian is one who has the general care and control of the person and estate of his ward; while a *special* guardian is one who has special or limited powers and duties with respect to his ward, *e. g.*, a guardian who

has the custody of the estate but not of the person, or vice versa, or a guardian *ad litem*.

A *domestic* guardian is one appointed at the place where the ward is legally domiciled; while a *foreign* guardian derives his authority from appointment by the courts of another state, and generally has charge only of such property as may be located within the jurisdiction of the power appointing him.

A *guardian ad litem* is a guardian appointed by a court of justice to prosecute or defend for an infant in any suit to which he may be a party. 2 Steph.Comm. 342; *Crawford v. Amusement Syndicate Co.*, Mo., 37 S.W.2d 581, 584. Most commonly appointed for infant *defendants*, infant plaintiffs generally suing by *next friend*. This kind of guardian has no right to interfere with the infant's person or property. 2 Steph.Comm. 343; *Richter v. Leiby*, 107 Wis. 404, 83 N.W. 694; *Morris v. Standard Oil Co.*, 192 Cal. 343, 219 P. 998, 1000, 30 A.L.R. 1103.

A *guardian by appointment of court* has custody of the infant until the attainment of full age. 2 Steph.Comm. 341; 2 Kent, Comm. 226.

A *guardian by nature* is the father, and, on his death, the mother, of a child. 1 Bl.Comm. 461; 2 Kent, Comm. 219; *Daniels v. Metropolitan Life Ins. Co.*, 135 Pa.Super. 450, 5 A.2d 608, 611. This guardianship extends only to the custody of the person of the child to the age of twenty-one years. Sometimes called "natural guardian," but this is rather a popular than a technical mode of expression. 2 Steph.Comm. 337; *Kilne v. Beebe*, 6 Conn. 500; *Mauro v. Ritchie*, 16 Fed.Cas. 1171.

A *guardian by statute* is a guardian appointed for a child by the deed or last will of the father, and who has the custody both of his person and estate until the attainment of full age. This kind of guardianship is founded on the statute of 12 Car. II. c. 24, and has been pretty extensively adopted in this country. 1 Bl.Comm. 462; 2 Steph. Comm. 339, 340; 2 Kent, Comm. 224-226; *Huson v. Green*, 88 Ga. 722, 16 S.E. 255.

A *guardian for nurture* is the father, or, at his decease, the mother, of a child. This kind of guardianship extends only to the person, and determines when the infant arrives at the age of fourteen. 2 Kent, Comm. 221; 1 Bl.Comm. 461; 2 Steph.Comm. 338; *Mauro v. Ritchie*, 16 Fed.Cas. 1171; *Arthurs' Appeal*, 1 Grant Cas., Pa., 56.

*Guardian in chivalry.* In the tenure by knight's service, in the feudal law, if the heir of the feud was under the age of twenty-one, being a male, or fourteen, being a female, the lord was entitled to the wardship (and marriage) of the heir, and was called the "guardian in chivalry." This wardship consisted in having the custody of the body and lands of such heir, without any account of the profits. 2 Bl.Comm. 67.

*Guardian in socage.* At the common law, this was a species of guardian who had the custody of lands coming to the infant by descent, as also of the infant's person, until the latter reached the age of fourteen. Such guardian was always "the next of kin to whom the inheritance cannot possibly descend." 1 Bl.Comm. 461; 2 Steph.Comm. 338; *Byrne v. Van Hoesen*, 5 Johns., N.Y., 67; *Combs v. Jackson*, 2 Wend., N.Y., 157, 19 Am.Dec. 568.

*Natural guardian.* The father of a child, or the mother if the father be dead.

"Guardian de son tort," sometimes described as "quasi guardian" or "guardian by estoppel," is one who assumes to act as guardian without valid authority. *Rear v. Olson*, 219 Wis. 322, 263 N.W. 357.

**GUARDIAN DE L'ÉGLISE.** A church-warden.

**GUARDIAN DE L'ESTEMARY.** The warden of the stannaries or mines in Cornwall, etc.

**GUARDIAN OF THE PEACE.** A warden or conservator of the peace.

**GUARDIAN OF THE POOR.** In English law, a person elected by the ratepayers of a parish to have the charge and management of the parish work-house or union. See 3 Steph. Comm. 203, 215.

**GUARDIAN OF THE SPIRITUALITIES.** The person to whom the spiritual jurisdiction of any diocese is committed during the vacancy of the see.

**GUARDIAN OF THE TEMPORALITIES.** The person to whose custody a vacant see or abbey was committed by the crown.

**GUARDIAN OR WARDEN, OF THE CINQUE PORTS.** A magistrate who has the jurisdiction of the ports or havens which are called the "Cinque Ports," (*q. v.*). This office was first created in England, in imitation of the Roman policy, to strengthen the sea-coasts against enemies, etc.

**GUARDIANSHIP.** The office, duty, or authority of a guardian. Also the relation subsisting between guardian and ward.

**GUARDIANUS.** A guardian, warden, or keeper. Spelman.

**GUARENTIGIO.** In Spanish law, a written authorization to a court to enforce the performance of an agreement in the same manner as if it had been decreed upon regular legal proceedings.

**GUARNIMENTUM.** In old European law, a provision of necessary things. Spelman. A furnishing or garnishment.

**GUASTALD.** One who had the custody of the royal mansions.

**GUBERNATOR.** Lat. In Roman law, the pilot or steersman of a ship.

**GUERRILLA PARTY.** In military law, an independent body of marauders or armed men, not regularly or organically connected with the armies of either belligerent, who carry on a species of irregular war, chiefly by depredation and massacre.

**GUERPI, GUERPY.** L. Fr. Abandoned; left; deserted. Britt. c. 33.

**GUERRA, GUERRE.** War. Spelman.

**GUEST.** A person entertained for pay at inn, tavern, or hotel on general undertaking of keeper thereof. *Murray v. Hagens*, La.App., 143 So. 505, 506, 507. A traveler who lodges at an inn or tavern with the consent of the keeper. *Bac. Abr. "Inns,"* C, 5; 8 Coke, 32; *McDaniels v. Robinson*, 26 Vt. 316, 62 Am.Dec. 574.

A guest, as distinguished from a boarder, is bound for no stipulated time. He stops at the inn for a short or as long time as he pleases, paying, while he remains, the customary charge. *Stewart v. McCready*, 24 How.Prac. N.Y. 62; *McIntosh v. Schops*, 92 Or. 307, 180 P. 593, 595; *Goodyear Tire & Rubber Co. v. Altamont Springs Hotel Co.*, 206 Ky. 494, 267 S.W. 555, 557.

A "guest" in an automobile is one who takes ride in automobile driven by another person, merely for his own pleasure or on his own business, and without making any return or conferring any benefit on automobile driver. *Elliott v. Camper*, 8 W.W.Harr. 504, 194 A. 130, 133; *Blashfield, Cyc. of Automobile Law and Prac.*, Perm. Ed., § 2291.

**GUEST-TAKER.** An agister; one who took cattle in to feed in the royal forests. Cowell.

**GUET.** In old French law, watch. Ord. Mar. liv. 4, tit. 6.

**GUIA.** In Spanish law, a right of way for narrow carts. White, *New Recop.* l. 2, c. 6, § 1.

**GUIDAGE.** In old English law, that which was given for safe conduct through a strange territory, or another's territory. Cowell.

The office of guiding of travelers through dangerous and unknown ways. 2 Inst. 526.

**GUIDE-PLATE.** An iron or steel plate to be attached to a rail for the purpose of guiding to their place on the rail wheels thrown off the track. *Pub. St. Mass.* 1882, p. 1291.

**GUIDON DE LA MER.** The name of a treatise on maritime law, by an unknown author, supposed to have been written about 1671 at Rouen, and considered, in continental Europe, as a work of high authority.

**GUILD.** A voluntary association of persons pursuing the same trade, art, profession, or business, such as printers, goldsmiths, wool merchants, etc., united under a distinct organization of their own, analogous to that of a corporation, regulating the affairs of their trade or business by their own laws and rules, and aiming, by co-operation and organization, to protect and promote the interests of their common vocation.

In medieval history these fraternities or guilds played an important part in the government of some states; as at Florence, in the thirteenth and following centuries, where they chose the council of government of the city. The word is said to be derived from the Anglo-Saxon "*gild*" or "*geld*," a tax or tribute, because each member of the society was required to pay a tax towards its support.

**GUILD RENTS.** Rents payable to the crown by any guild, or such as formerly belonged to religious guilds, and came to the crown at the general dissolution of the monasteries. Tomlins.

**GUILDHALL.** The hall or place of meeting of a guild, or gild.

The place of meeting of a municipal corporation. 3 Steph. Comm. 173, note. The mercantile or commercial guilds of the Saxons are supposed to have given rise to the present municipal corporations of England, whose place of meeting is still called the "Guildhall."

**GUILDHALL SITTINGS.** The sittings held in the Guildhall of the city of London for city of London causes.

**GUILLOTINE.** An instrument for decapitation, used in France for the infliction of the death penalty on convicted criminals, consisting, essentially, of a heavy and weighted knife-blade moving perpendicularly between grooved posts, which is made to fall from a considerable height upon the neck of the sufferer, immovably fixed in position to receive the impact.

## GUILT

**GUILT.** In criminal law, that quality which imparts criminality to a motive or act, and renders the person amenable to punishment by the law.

That disposition to violate the law which has manifested itself by some act already done. The opposite of innocence. See *Ruth. Inst. b. 1, c. 18, § 10.*

**GUILTY.** Having committed a crime or tort; the word used by a prisoner in pleading to an indictment when he confesses the crime of which he is charged, and by the jury in convicting. *Com. v. Walter, 83 Pa. 108, 24 Am.Rep. 154; Jessie v. State, 28 Miss. 103; State v. White, 25 Wis. 359.* Responsible for a delinquency, crime, or sin, and the connotation of such word is "evil", "wrong-doing", or "culpability". *Hilkert v. Canning, 58 Ariz. 290, 119 P.2d 233, 236.*

**GUINEA.** A coin formerly issued by the English mint, but all these coins were called in the time of Wm. IV. The word now means only the sum of £1 1s., in which denomination the fees of counsel are always given.

**GULA-THING.** A collection of Scandinavian customs in force in the southern part of Norway. The *Frosta-thing* was in force in the more northerly division of Dronheim. They are said to help to an understanding of the law prevailing in the northern part of England, where the Danish influence was strongest. *2 Holdsw. Hist. E. L. 23.*

**GULE OF AUGUST.** The first of August, being the day of *S. Peter ad Vincula.*

**GULES.** The heraldic name of the color usually called "red." The word is derived from the Arabic word "*gule*," a rose, and was probably introduced by the Crusaders. Gules is denoted in engravings by numerous perpendicular lines. Heralds who blazoned by planets and jewels called it "Mars," and "ruby." *Wharton.*

**GUN.** A firearm for throwing a projectile with gunpowder. *Highsaw v. Creech, 17 Tenn.App. 573, 69 S.W.2d 249.* A portable firearm such as a rifle, shotgun, carbine, etc. *Henderson v. State, 75 Fla. 464, 78 So. 427, 428.* A pistol or revolver. *State v. Christ, 189 Iowa, 474, 177 N.W. 54, 57.*

**GURGES.** Lat. Properly a whirlpool, but in old English law and conveyancing, a deep pit filled with water, distinguished from "stagnum," which was a shallow pool or pond. *Co. Litt. 5; Johnson v. Rayner, 6 Gray, Mass., 107.*

**GURGITES.** Wears. *Jacob.*

**GUST.** See *Gest.*

**GUTI.** Jutes; one of the three nations who migrated from Germany to Britain at an early period. According to *Spelman*, they established themselves chiefly in Kent and the Isle of Wight.

**GUTTER.** The diminutive of a sewer. *Callis, Sew. (80,) 100.* In modern law, an open ditch or conduit designed to allow the passage of water from one point to another in a certain direction, whether for purposes of drainage, irrigation, or otherwise. *Warren v. Henly, 31 Iowa 31; Willis v. State, 27 Neb. 98, 42 N.W. 920.*

**GWABR MERCHED.** Maid's fee. A British word signifying a customary fine payable to lords of some manors on marriage of the tenant's daughters, or otherwise on their committing incontinence. *Cowell.*

**GWALSTOW.** A place of execution. *Jacob.*

**GWAYF.** Waif, or waived; that which has been stolen and afterwards dropped in the highway for fear of a discovery. *Cowell.*

**GYLPUT.** The name of a court which was held every three weeks in the liberty or hundred of Pathbew in Warwick. *Jacob.*

**GYLTWITE, or GUILTWIT.** Sax. Compensation for fraud or trespass. *Cowell.*

**GYNARCHY, or GYNÆOCRACY.** Government by a woman; a state in which women are legally capable of the supreme command; *e. g.*, in Great Britain.

**GYNECOLOGIST.** A physician specializing in diseases of the female organs. *Simonet v. Frank F. Pellissier & Sons, 61 Cal.App.2d 41, 141 P.2d 922, 924.*

**GYNECOLOGY.** The science which treats of the structure and diseases of women. *Zerr v. Zerr, 188 Ky. 233, 221 S.W. 550, 551.*

**GYRATION.** Movement about a fixed point. *Great Western Mfg. Co. v. Lowe, D.C.Mich., 13 F.2d 880, 881.*

**GYRATORY STONE-CRUSHER.** A machine with a shaft or crushing means which, instead of rotating, gyrates or moves in a circular course under the control of an eccentric. *Traylor Engineering & Mfg. Co. v. Worthington Pump & Machinery Co., C.C.A.Pa., 1 F.2d 833.*

**GYROVAGI.** Wandering monks.

**GYVES.** Fetters or shackles for the legs.