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J. The initial letter of the words "judge" and "justice," for which it frequently stands as an abbreviation. Thus, "J.A.," judge advocate; "J.J.," junior judge; "L.J.," law judge; "A.L.J.," administrative law judge; "P.J.," president judge; "F.J.," first judge; "A.J.," associate judge; "C.J.," chief justice or judge; "J.P.," justice of the peace; "JJ.," judges or justices; "J.C.P.," justice of the common pleas; "J.K.B.," justice of the king's bench; "J.Q.B.," justice of the queen's bench; "J.U.B.," justice of the upper bench.

Jac. An abbreviation for "*Jacobus*," the Latin form of the name James; used principally in citing statutes enacted in the reigns of the English kings of that name; e.g., "St. 1, Jac. II."

Jacens /jéysənz/. Lat. Lying in abeyance, as in the phrase "*hæreditas jacens*," which is an inheritance or estate lying vacant or in abeyance prior to the ascertainment of the heir or his assumption of the succession.

Jacens hæreditas /jéysənz hæriydətəs/. See *Hæreditas jacens*.

Jacobus /jəkówbəs/. A gold coin an inch and three-eighths in diameter, in value about twenty-five shillings, so called from James I., in whose reign it was first coined. It was also called *broad*, *laurel*, and *broad-piece*. Its value is sometimes put at twenty-four shillings, but Macaulay speaks of a salary of eight thousand Jacobuses as equivalent to ten thousand pounds sterling.

Jactitation /jæktətéyshən/. Boasting of something which is challenged by another. A false boasting; a false claim; assertions repeated to the prejudice of another's right.

The species of defamation or disparagement of another's title to real estate known at common law as "slander of title" comes under the head of jactitation, and in some jurisdictions (as in Louisiana) a remedy for this injury is provided under the name of an "action of jactitation."

Jactitation of marriage. In English ecclesiastical law, the boasting or giving out by a party that he or she is married to some other, whereby a common reputation of their matrimony may ensue. To defeat that result, the person may be put to a proof of the actual marriage, failing which proof, he or she is put to silence about it. 3 Bl.Comm. 93. The High Court has jurisdiction over such actions.

Jactitation of tithes. In English ecclesiastical law, the boasting by a man that he is entitled to certain tithes, to which he has legally no title.

Jactivus /jæktáyvəs/. Lost by default; tossed away.

Jactura /jækt(y)úra/. In the civil law, a throwing of goods overboard in a storm; jettison. Loss from such a cause.

Jactus /jæktəs/. A throwing of goods overboard to lighten or save the vessel, in which case the goods so sacrificed are a proper subject for general average. See *Jettison*.

Jactus lapilli /jæktəs læpílay/. The throwing down of a stone. One of the modes, under the civil law, of interrupting prescription. Where one person was building on another's ground, and in this way acquiring a right by *usucapio*, the true owner challenged the intrusion and interrupted the prescriptive right by throwing down one of the stones of the building before witnesses called for the purpose.

J.A.G. Judge Advocate General.

Jail. A gaol; a prison. A building designated by law, or regularly used, for the confinement of persons held in lawful custody. A place of confinement that is more than a police station lockup and less than a prison. It is usually used to hold persons either convicted of misdemeanors (minor crimes) or persons awaiting trial or as a lockup for intoxicated and disorderly persons. See also *Gaol*; *Lockup*; *Prison*.

Jail credit. Refers to time spent by criminal defendant in confinement awaiting trial that will be deducted from his or her final sentence.

Jail delivery. See *Gaol*.

Jailer. A keeper or warden of a prison or jail.

Jailhouse lawyer. Inmate of a penal institution who spends his time reading the law and giving legal assistance and advice to inmates, especially to those who are illiterate. *Johnson v. Avery*, 393 U.S. 483, 89 S.Ct. 747, 21 L.Ed.2d 718.

Jail liberties. See *Gaol*.

Jamunlingi, jamundilingi. Freeman who delivered themselves and property to the protection of a more powerful person, in order to avoid military service and other burdens. Also a species of serfs among the Germans. The same as *commendati*.

Janus-faced. An argument looking in both directions at the same time, e.g., urging jurors not to be swayed by sympathy, but adding that any sympathy should be in favor of the arguing counsel's client. *Davis v. Franson*, 141 Cal.App.2d 263, 296 P.2d 600, 606.

Jaques. In old English law, small money.

Jason clause. Clause in bills of lading which obligates cargo owners to contribute in general average in cases of danger, damage, or disaster resulting from faults or errors in navigation or in management of vessel, her machinery or appurtenances, provided that shipowner shall have exercised due diligence to make vessel in all respects seaworthy, and to have her properly manned, equipped, and supplied. *Merklen v. Johnson & Higgins*, D.C.N.Y., 3 F.Supp. 897, 898.

Javelin-men /jæv(ə)lənmen/. In old English law, yeomen retained by the sheriff to escort the judge of assize.

Jay walking. Proceeding diagonally across a street intersection. Also, crossing a street between intersections, or at a place other than a crosswalk.

J.D. Short for "Juris Doctor" or "Doctor of Jurisprudence." This is now the basic law degree, replacing the "LL.B." in the late 1960's.

Jedburgh justice /jédbərə jéstəs/. Summary justice inflicted upon a marauder or felon without a regular trial, equivalent to "lynch law." So called from a Scotch town, near the English border, where raiders and cattle lifters were often summarily hung. Also written "Jeddart" /jédərt/ or "Jedwood" /jédwəd/ justice.

Jencks Act or Rule. A criminal defendant in a Federal Court is entitled to access to government documents for assistance in cross-examination of witnesses in order to impeach for prior inconsistent statements. *Jencks v. U. S.*, 353 U.S. 657, 77 S.Ct. 1007, 1 L.Ed.2d 1103. Following this case, a federal statute was enacted to the same effect; 18 U.S.C.A. § 3500. See also *Fed.R.Crim.P.* 26.2.

Jeofaile /jéfeyl/. L. Fr. I have failed; I am in error. An error or oversight in pleading.

Jeopardy. Danger; hazard; peril.

The danger of conviction and punishment which the defendant in a criminal action incurs when a valid indictment has been found, and a petit jury has been impaneled and sworn to try the case and give a verdict in a court of competent jurisdiction. *Hanley v. State*, 83 Nev. 461, 434 P.2d 440, 442. The condition of a person when he is put upon trial, before a court of competent jurisdiction, upon an indictment or information which is sufficient in form and substance to sustain a conviction, and a jury has been charged with his deliverance. For purpose of constitutional prohibition against double jeopardy, a court proceeding which may result in incarceration places a person, adult or juvenile, in "jeopardy." *Fain v. Duff*, C.A.Fla., 488 F.2d 218, 225.

The terms "jeopardy of life and liberty for the same offense," "jeopardy of life or limb," "jeopardy for the same offense," "in jeopardy of punishment," and other similar provisions used in the various constitutions, are to be construed as meaning substantially the same thing.

See also Double jeopardy; Former jeopardy; Legal jeopardy.

Jeopardy assessment. If the Internal Revenue Service believes that the collection of a tax deficiency is in jeopardy due to delay, the IRS may assess and collect the tax immediately and without the usual formalities. I.R.C. § 6861.

Jetsam /jétsəm/. Goods which, by the act of the owner, have been voluntarily cast overboard from a vessel, in a storm or other emergency, to lighten the ship. See also *Jactus*; *Jettison*.

Jettison /jédəsən/. The act of throwing overboard from a vessel part of the cargo, in case of extreme danger, to lighten the ship. The thing or things so cast out; jetsam. A carrier by water may, when in case of extreme peril it is necessary for the safety of the ship or cargo, throw overboard, or otherwise sacrifice, any or all of the cargo or appurtenances of the ship. Throwing property overboard for such purpose is called "jettison," and the loss incurred thereby is called a "general average loss." See also *Jactus*; *Jetsam*.

Jetty. A projection of stone or other material serving as a protection against the waves.

Jeux de bourse /zhúw də búrs/. Fr. In French law, speculation in the public funds or in stocks; gambling speculations on the stock exchange; dealings in "options" and "futures."

A kind of gambling or speculation, which consists of sales and purchases which bind neither of the parties to deliver the things which are the object of the sale, and which are settled by paying the difference in the value of the things sold between the day of the sale and that appointed for delivery of such things.

J.N.O.V., Abr. Judgment non obstante veredicto; judgment notwithstanding verdict. See *Non obstante veredicto*.

Job. The whole of a thing which is to be done. A specific task or piece of work to be done for a set fee or compensation. Employment position. Criminal act (e.g. robbery).

Jobber. One who buys and sells goods for others. One who buys or sells on the stock exchange; a dealer in stocks, shares, or securities. One who buys and sells articles in bulk and resells them to dealers. A merchant buying and selling in job lots. In general, a middleman in the sale of goods; one who buys from a wholesaler and sells to a retailer. Person who does piecework. See also *Agent*; *Broker*; *Factor*; *Middleman*; *Wholesaler*.

Joclet /jós(ə)lét/. A little manor or farm.

Jocus /jówkəs/. In old English law, a game of hazard.

Jocus partitus /jówkəs pártədəs/. In old English practice, a divided game, risk, or hazard. An arrangement which the parties to a suit were anciently sometimes allowed to make by mutual agreement upon a certain hazard, as that one should lose if the case turned out in a certain way, and, if it did not, that the other should gain.

John Doe. A fictitious name frequently used to indicate a person for the purpose of argument or illustration, or in the course of enforcing a fiction in the law. The name which was usually given to the fictitious lessee of the plaintiff in the mixed action of ejectment. He was sometimes called "Goodtitle." So the Romans had their fictitious personages in law proceedings, as *Titius*, *Seius*.

The name "John Doe" is, and for some centuries has been, used in legal proceedings as a fictitious name to designate a party until his real name can be ascertained. *State v. Rossignol*, 22 Wash.2d 19, 153 P.2d 882, 885. When "John Doe" is used in a search warrant, case report, textbook, or other legal document, it refers to an unknown or nonexistent person. *Garner v. State*, 220 Tenn. 680, 423 S.W.2d 480, 482.

John Doe summons. A summons used when the defendant's name is unknown and which is therefore made out to John Doe. After the true name of the defendant is known, it is substituted.

Join. To unite; to come together; to combine or unite in time, effort, action; to enter into an alliance.

Joinder. Joining or coupling together; uniting two or more constituents or elements in one; uniting with another person in some legal step or proceeding; union; concurrence.

The consent to an agreement or document by a party who has an interest in the subject matter of the agreement or document, but who is not himself an active party to the agreement or document.

Collusive joinder. The joinder of a defendant, commonly a nonresident, for purpose of removal to or conferring jurisdiction on a Federal Court. *Bentley v. Halliburton Oil Well Cementing Co.*, D.C.Tex., 174 F.2d 788, 791.

Compulsory joinder. A person must be joined in an action if complete relief cannot be afforded the parties without his joinder or if his interest is such that grave injustice will be done without him. Fed.R.Civ.P. 19(a). See *Joinder of parties*, below.

Joinder in demurrer. In common law pleading, when a defendant in an action tenders an issue of law (called a "demurrer"), the plaintiff, if he means to maintain his action, must accept it, and this acceptance of the defendant's tender, signified by the plaintiff in a set form of words, is called a "joinder in demurrer."

Joinder in issue. In common law pleading, a formula by which one of the parties to a suit joins in or accepts an issue in fact tendered by the opposite party. Also called "similiter".

Joinder in pleading. In common law pleading, accepting the issue, and mode of trial tendered, either by demurrer, error, or issue, in fact, by the opposite party.

Joinder of claims. Under rules practice, a party asserting a claim to relief as an original claim, counterclaim, cross claim or third party claim may join as many claims as he has against an opposing party whether they are legal or equitable. Fed.R.Civ.P. 18(a); New York C.P.L.R. § 601.

Joinder of defendants. Two or more defendants may be charged in the same indictment or information if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses. Such defendants may be charged in one or more counts together or separately and all of the defendants need not be charged in each count. Fed.R.Crim.Proc. 8(b).

Joinder of error. In proceedings on a writ of error in criminal cases, the joinder of error is a written denial of the errors alleged in the assignment of errors. It answers to a joinder of issue in an action.

Joinder of indictments or informations. The court may order two or more indictments or informations or both to be tried together if the offenses, and the defendants if there is more than one, could have been joined in a single indictment or information. The procedure shall be the same as if the prosecution were such single indictment or information. Fed.R.Crim.P. 13.

Joinder of issue. The act by which the parties to a cause arrive at that stage of it in their pleadings, that one asserts a fact to be so, and the other denies it.

Joinder of offenses. Two or more offenses may be charged in the same indictment or information in a separate count for each offense if the offenses charged, whether felonies or misdemeanors or both, are of the same or similar character or are based on the same act or transaction or on two or more acts or transactions connected together or constituting parts of a common scheme or plan. Fed.R.Crim.Proc. 8(a).

Joinder of parties. The act of uniting as parties to an action all persons who have the same rights or against whom rights are claimed, as either co-plaintiffs or co-defendants. Fed.R.Civil.P. 19 and 20.

Necessary and indispensable parties. Prior to 1966 the federal, and most state, courts used classifications to determine if a person should or must be joined in an action. The label "indispensable" was used if the connection to the action of the absentee party was so close that the action should be dismissed unless the party was joined. The label "necessary" was used if the party was one who ought to be joined if this was possible. These classifications proved unsatisfactory and in 1966 Fed.Rule of Civil Proc. 19 was replaced with a new Rule 19, "Joinder of Persons needed for Just Adjudication." Rule 19(a) defines the class of persons who are needed for just adjudication. If an absentee meets this test, and is subject to process, the court must require that he be joined. If the absentee is needed for just adjudication and is not subject to process, Rule 19(b) states the factors to be considered in deciding whether to proceed in his absence or to dismiss the action.

Proper parties. If a party has some relation to the action, but it is not so close as to make him a person needed for just adjudication within Rule of Civil Proc. 19(a), he is a "proper" party, and the plaintiff has an option whether to join him if the tests of Rule 20 are met.

Joinder of remedies. Whenever a claim is one theretofore cognizable only after another claim has been prosecuted to a conclusion, the two claims may be joined in a single action; but the court will grant relief in that action only in accordance with the relative substantive rights of the parties. In particular, a plaintiff may state a claim for money and a claim to have set aside a conveyance fraudulent as to him, without first having obtained a judgment establishing the claim for money. Fed.R.Civ.P. 18(b).

Misjoinder. The improper joining together of parties to a suit, as plaintiffs or defendants, or of different causes of action. Misjoinder, however, is not a ground for dismissal. The improper party is merely dropped on motion of any party or on courts own motion. Fed.R. Civil P. 21. Relief from prejudicial joinder of offenses or defendants in an indictment or information is permitted under Fed.R.Crim.P. 14.

Misjoinder in a criminal prosecution is the charging in separate counts of separate and distinct offenses arising out of wholly different transactions having no connection or relation with each other. *Optner v. U. S.*, C.C.A.Mich., 13 F.2d 11, 13.

Nonjoinder. The omission to join some person as party to a suit, whether as plaintiff or defendant, who ought to have been so joined. An omitted party may be added on motion of any party or on courts own motion. Fed.R. Civil P. 21.

Permissive joinder. All persons may join in one action as plaintiffs if they assert any right to relief jointly, severally, or in the alternative in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all these persons will arise in the action. All persons (and any vessel, cargo or other property subject to admiralty process in rem) may be joined in one action as defendants if there is asserted against them jointly, severally, or in the alternative, any right to relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any questions of law or fact common to all defendants will arise in the action. A plaintiff or defendant need not be interested in obtaining or defending against all the relief demanded. Judgment may be given for one or more of the plaintiffs according to their respective rights to relief, and against one or more defendants according to their respective liabilities. Fed. R.Civ.P. 20(a).

Joint. United; combined; undivided; done by or against two or more unitedly; shared by or between two or more; coupled together in interest or liability.

The term is used to express a common property interest enjoyed or a common liability incurred by two or more persons. Thus, it is one in which the obligors (being two or more in number) bind themselves jointly but not severally, and which must therefore be prosecuted in a joint action against them all; distinguished from "joint and several" obligation.

As to *joint* Annuity; Ballot; Committee; Contract; Covenant; Creditor; Custody; Fiat; Fine; Indictment; Obligation; Obligee; Obligor; Owner; Rate; Resolution; Session; Tenancy; Tenant; Trespass; Trespasser; Trustee; Will, see those titles. As to joint-stock banks, see Bank; joint-stock company, see Company; joint-stock corporation, see Corporation.

Joint account. An account (e.g. bank or brokerage account) in two or more names. *Harbour v. Harbour*, 207 Ark. 551, 181 S.W.2d 805, 807.

Joint action. An action brought by two or more as plaintiffs or against two or more as defendants. See Joinder.

Joint adventure. Any association of persons to carry out a single business enterprise for profit, for which purpose they combine their property, money, effects, skill, and knowledge. A "joint adventure" exists where there is a special combination of two or more persons jointly seeking to profit in some specific venture without actual partnership or corporate designation; it is an association of persons to carry out a single business enterprise for profit, for which purpose they combine their property, money, effects, skill, and knowledge. *Fulton v. Fulton*, Mo.App., 528 S.W.2d 146, 155. See also Community of interest; Joint enterprise; Joint venture.

Joint and several contracts. Contracts in which the parties bind themselves both individually and as a unit (jointly).

Joint and several liability. Describes the liability of copromisors of the same performance when each of them, individually, has the duty of fully performing the obligation, and the obligee can sue all or any of them upon breach of performance. A liability is said to be joint and several when the creditor may demand payment or sue one or more of the parties to such liability separately, or all of them together at his option. A joint and several bond or note is one in which the obligors or makers bind themselves both jointly and individually to the obligee or payee, so that all may be sued together for its enforcement, or the creditor may select one or more as the object of his suit.

Term also refers to the liability of joint tortfeasors (i.e., liability that an individual or business either shares with other tortfeasors or bears individually without the others). See Contribution; Indemnity; Joint liability; Joint tortfeasors; Liability.

Such liability permits the Internal Revenue Service to collect a tax from one or all of several taxpayers. A husband and wife that file a joint income tax return usually are collectively or individually liable for the full amount of the tax liability. I.R.C. § 6013.

Joint authorship. As to literary property, such exists where there is a common design to the execution of which several persons contribute. Mere alterations, additions or improvements, whether with or without the sanction of the author, will not entitle the person making them to claim to be a joint author of the work.

Joint labor in furtherance of a common design. *Edward B. Marks Music Corporation v. Jerry Vogel Music Co.*, D.C.N.Y., 140 F.2d 266, 267.

Joint bank account. An account in the names of two or more persons who have equal right to it, generally with the right of survivorship.

Joint cause of action. *See* Joinder.

Joint debtors. Persons united in a joint liability or indebtedness. Two or more persons jointly liable for the same debt.

Joint debtors' acts. Statutes enacted in many of the states, which provide that judgment may be given for or against one or more of several defendants, and that, "in an action against several defendants, the court may, in its discretion, render judgment against one or more of them, leaving the action to proceed against the others, whenever a several judgment is proper". The name is also given to statutes providing that where an action is instituted against two or more defendants upon an alleged joint liability, and some of them are served with process, but jurisdiction is not obtained over the others, the plaintiff may still proceed to trial against those who are before the court, and, if he recovers, may have judgment against all of the defendants whom he shows to be jointly liable. *Hall v. Lanning*, 91 U.S. 160, 168, 23 L.Ed. 271.

Joint defendants. Persons who are sued and tried together. In criminal law, persons who are indicted for the same crime and tried together. *See* Joinder; Trial.

Joint defense doctrine. This doctrine generally allows defendant to assert attorney-client privilege to protect his statements made in confidence not to his own lawyer, but to attorney for codefendant for common purpose related to defense of both. *U.S. v. Keplinger*, C.A.Ill., 776 F.2d 678, 701.

Joint enterprise. Also called "common enterprise". The joint prosecution of common purpose under such circumstances that each has authority express or implied to act for all in respect to the control, means or agencies employed to execute such common purpose. The necessary elements are: (1) an agreement among the group's members, either express or implied; (2) a common purpose that the group intends to carry out; (3) community of pecuniary interest among members of the group in that purpose; and (4) an equal right to a voice in control and direction of the enterprise which gives an equal right of control. *Fredrickson v. Kluever*, 82 S.D. 579, 152 N.W.2d 346, 348. *See also* Joint adventure; Joint venture.

Joint estate. Joint estate involves unity of interest, unity of title, unity of time, and unity of possession, and joint tenants must have the same interest accruing under the same conveyance, commencing at the same time, and held under the same undivided possession. *Mosser v. Dolsay*, 132 N.J.Eq. 121, 27 A.2d 155. *See also* Joint tenancy.

Joint executors. Co-executors; two or more who are joined in the execution of a will. *See also* Co-executor.

Joint feasons in pari delicto /jójnt fíyzərz in péray dəlíktow/. Phrase means as between persons who by concert of action intentionally commit the wrong complained of; there is no right of contribution. *Commercial Cas. Ins. Co. v. Leonard*, 210 Ark. 575, 196 S.W.2d 919, 920.

Joint indictment. *See* Indictment.

Joint inventions. Such as are made when two or more persons jointly work or collaborate in devising and putting into practical form the subject-matter of patent. *Altoona Publix Theatres v. American Tri-Ergon Corporation*, C.C.A.Pa., 72 F.2d 53, 56.

Jointist. A person established in a definite place of business, for the purpose of illegally selling intoxicants. One who opens up, conducts, or maintains any place for the unlawful sale of intoxicating liquors.

Joint liability. Liability that is owed to a third party by two or more other parties together. One wherein joint obligor has right to insist that co-obligor be joined as a codefendant with him, that is, that they be sued jointly. *Schram v. Perkins*, D.C.Mich., 38 F.Supp. 404, 407. *See* Contribution; Indemnity; Joinder; Joint and several liability; Joint tort-feasons; Liability.

Joint lives. This expression is used to designate the duration of an estate or right which is granted to two or more persons to be enjoyed so long as they both (or all) shall live. As soon as one dies, the interest determines.

Jointly. Unitedly, combined or joined together in unity of interest or liability. *Soderberg v. Atlantic Lighterage Corporation*, D.C.N.Y., 15 F.2d 209. In a joint manner; in concert; not separately; in conjunction. To be or become liable to a joint obligation. *Creighton v. Continental Roll & Steel Foundry Co.*, 155 Pa.Super. 165, 38 A.2d 337, 342. Participated in or used by two or more, held or shared in common.

Jointly acquired property. Property accumulated by joint industry of husband and wife during marriage. *See also* Community property.

Jointly and severally. *See* Joint and several contracts; Joint and several liability.

Jointly owned property. *See* Community property; Joint bank account; Tenancy.

Joint negligence. In case of "joint negligence" of several people, proximately causing accident, they act together in concert and either do something together which they should not do or fail to do something which they are together obligated to do under circumstances. *Russo v. Aucoin*, La.App., 7 So.2d 744, 747. *See also* Comparative negligence; Contribution; Joint tort-feasons; Negligence (*Contributory negligence*).

Joint offense. One offense committed by two or more persons jointly. Crime committed by the participation of two or more persons. *See* Conspiracy.

Joint ownership. *See* Tenancy (*Joint tenancy*).

Joint possession. Exists where two or more persons share actual or constructive possession. *Sewell v. U.S.*, C.A.Ark., 406 F.2d 1289, 1293.

Joint policy. Insurance on lives of spouses, for benefit of survivor. *O'Boyle v. Home Life Ins. Co. of America*, D.C.Pa., 20 F.Supp. 33, 36.

Joint rate. See Joint through rate; Rate.

Jointress, jointress. A woman who has an estate settled on her by her husband, to hold during her life, if she survives him.

Joint return. See Joint tax return.

Joint-stock association or company. An unincorporated business enterprise with ownership interests represented by shares of stock. This type enterprise was recognized at common law and by statute is generally treated as a corporate entity for certain purposes. Such entities bear a resemblance to both a corporation and a partnership. They appear to be like corporations to the extent that they have capital stock, but are not treated as corporations in many jurisdictions. *Brocki v. American Express Co.*, C.A.Mich., 279 F.2d 785, 787.

Joint-stock company. See Joint-stock association or company.

Joint-stock insurance company. See Stock insurance company.

Joint tax return. Tax return filed for federal or state taxes by a husband and wife together and each is individually liable. Such return includes the income of both spouses, though one spouse need not have any income. It is usually more beneficial from a tax standpoint for spouses to file a joint return than as "married filing separately".

Joint tenancy. See Tenancy.

Joint through rate. Transportation charge applicable from a point on one transportation line to a point on another transportation line. Occurs when freight is to be shipped to its destination by more than one carrier.

Joint tort. Where two or more persons owe to another the same duty and by their common neglect such other is injured, the tort is "joint." See Contribution; Joint negligence; Joint tort-feasors.

Joint tort-feasors. Term refers to two or more persons jointly or severally liable in tort for the same injury to person or property. *American Tobacco Co. v. Transport Corp.*, D.C.Va., 277 F.Supp. 457, 461. Those persons who have acted in concert in their tortious conduct and are, accordingly, jointly and severally liable. Those who act together in committing wrong, or whose acts if independent of each other, unite in causing single injury. *Bowen v. Iowa Nat. Mut. Ins. Co.*, 270 N.C. 486, 155 S.E.2d 238, 242. Several states have adopted the Uniform Contribution Among Tortfeasors Act. See also Contribution.

Joint trial. The trial of two or more persons for the same or similar offenses conducted within the framework of one trial. See also Joinder; Trial.

Jointure. A freehold estate in lands or tenements secured to the wife, and to take effect on the decease of the husband, and to continue during her life at the least, unless she be herself the cause of its determination.

Property provision for wife, made prior to marriage, in lieu of dower.

Joint venture. A legal entity in the nature of a partnership engaged in the joint undertaking of a particular transaction for mutual profit. *Tex-Co Grain Co. v. Happy Wheat Growers, Inc.*, Tex.Civ.App., 542 S.W.2d 934, 936. An association of persons or companies jointly undertaking some commercial enterprise; generally all contribute assets and share risks. It requires a community of interest in the performance of the subject matter, a right to direct and govern the policy in connection therewith, and duty, which may be altered by agreement, to share both in profit and losses. *Russell v. Klein*, 33 Ill.App.3d 1005, 339 N.E.2d 510, 512.

A one-time grouping of two or more persons in a business undertaking. Unlike a partnership, a joint venture does not entail a continuing relationship among the parties. A joint venture is treated like a partnership for Federal income tax purposes. I.R.C. § 7701(a).

See also Community of interest; Joint adventure; Joint enterprise. Compare Corporation; Partnership.

Joint venture corporation. See Corporation.

Joint verdict. Jury verdict covering more than one party to the action and combining two or more verdicts in one. See also Verdict.

Joint will. See Will.

Joint work. In copyright law, a "joint work" is a work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole. Copyright Act, 17 U.S.C.A. § 101.

Joker. In political usage, a clause in legislation that is ambiguous or apparently immaterial, inserted to render it inoperative or uncertain without arousing opposition at the time of passage.

Jones Act. Federal statute passed in 1920 which provides that a seaman injured in the course of his employment by the negligence of the owner, master or fellow crew members can recover damages for his injuries. 46 U.S.C.A. § 688. Similar remedies are available under the Act to the personal representative of a seaman killed in the course of his employment. See also Longshore and Harbor Workers' Compensation Act.

Jornale /jornéliy/jur/. In old English law, as much land as could be plowed in one day.

Josh. To ridicule or tease, or make fun of in a joke, to lure or tease by misrepresenting the facts.

Jour /zhüwir/. A French word, meaning to enjoy; to have enjoyment of; or to possess.

Jour /zhúr/júr/. A French word, signifying "day."

Jour en banc /júr ən bæŋk/. A day *in banc*. Distinguished from "*jour en pays*" (a day in the country), otherwise called "*jour en nisi prius*."

Jour in court /júr ən kórt/. In old practice, day in court; day to appear in court; appearance day. "Every process gives the defendant a day in court."

Journal. A daily book; a book in which entries are made or events recorded from day to day. The place where transactions are recorded as they occur. The book of original entry.

In maritime law, the journal (otherwise called "log" or "log-book") is a book kept on every vessel, which contains a brief record of the events and occurrences of each day of a voyage, with the nautical observations, course of the ship, account of the weather, etc. In the system of double-entry bookkeeping, the journal is an account-book into which are transcribed, daily or at other intervals, the items entered upon the day-book, for more convenient posting into the ledger. In the usage of legislative bodies, the journal is a daily record of the proceedings of either house. It is kept by the clerk, and in it are entered the appointments and actions of committees, introduction of bills, motions, votes, resolutions, etc., in the order of their occurrence.

Journal entry. A recording in an accounting journal of equal debits and credits, with, when necessary, an explanation of the transaction.

Journal entry rule. Regularity of enactment of statute may be inquired into by examining legislative journals.

Journalists' privilege. In the law of defamation, a publisher is protected in actions of defamation if the publication constitutes fair comment on the subject of public officers and employees in matters of public concern. Such privilege is qualified and hence is lost on proof of malice which, in this context, consists in publishing material either knowing it to be false or heedless in the reckless disregard of whether it is true or false when, in fact, it is false. *New York Times Co. v. Sullivan*, 376 U.S. 254, 84 S.Ct. 710, 11 L.Ed.2d 686. See also *Libel*; *Shield laws*.

Journeyman. A craftsman who has progressed through an apprenticeship and is qualified in his trade.

Journeys account. In English practice, a new writ which the plaintiff was permitted to sue out within a reasonable time after the abatement, without his fault, of the first writ. This time was computed with reference to the number of days which the plaintiff must spend in *journeying* to reach the court; hence the name of *journeys account*, that is, *journeys comptes* or *counted*.

Joyriding. The temporary taking of an automobile without intent to deprive owner permanently of the vehicle. *People v. Rivera*, 185 Colo. 337, 524 P.2d 1082, 1083. Called in some jurisdictions the crime of use of motor vehicle without authority which is commonly a misdemeanor in contrast to larceny of motor vehicle which is a more serious offense.

J.P. Justice of the Peace.

Jubere /jəbəriy/. Lat. In the civil law, to order, direct, or command. The word *jubeo* (I order), in a will, was called a "word of direction," as distinguished from "precatory words." To assure or promise. To decree or pass a law.

Judex /júdédks/. Lat. In Roman law, a private person appointed by the praetor, with the consent of the parties, to try and decide a cause of action commenced before him. He received from the praetor a written formula instructing him as to the legal principles according to which the action was to be judged. Hence the proceedings before him were said to be *in judicio*, as those before the praetor were said to be *in jure*. A judge who conducted the trial from beginning to end; *magistratus*.

The practice of calling in *judices* was disused before Justinian's time: therefore, in the Code, Institutes, and Novels, *judex* means judge in its modern sense. The term *judex* is used with very different significations at different periods of Roman law.

In later and modern civil law, a judge.

In old English law, a juror. A judge, in modern sense, especially—as opposed to *justiciarius*, i.e., a common-law judge—to denote an ecclesiastical judge.

Judex ad quem /júdédks æd kwém/. A judge to whom an appeal is taken.

Judex æquitatem semper spectare debet /júdédks iykwétéytəm sémpər spektériy débət/. A judge ought always to regard equity.

Judex ante oculos æquitatem semper habere debet /júdédks ántiy ókyələws iykwétéytəm sémpər hãbíriy débət/. A judge ought always to have equity before his eyes.

Judex a quo /júdédks èy kwów/. In civil law, the judge from whom, as *judex ad quem* is the judge to whom, an appeal is made or taken.

Judex bonus nihil ex arbitrio suo faciat, nec proposito domesticæ voluntatis, sed juxta leges et jura pronunciet /júdédks bównəs náy(h)əl èks arbítriyow s(y)úwəw féysh(iy)ət, nek prəpózətəw dãméstásiy vòlántéytəs, sèd júkstə líyjiz èt júra prənánshiyət/. A good judge should do nothing of his own arbitrary will, nor on the dictate of his personal inclination, but should decide according to law and justice.

Judex damnatur cum nocens absolvitur /júdédks dãmnéytər kəm nòsənz əbzólvətər/. The judge is condemned when a guilty person escapes punishment.

Judex datus /júdédks déytəs/. In Roman law, a judge given, that is, assigned or appointed, by the praetor to try a cause.

Judex debet judicare secundum allegata et probata /júdédks débət jüwdakériy səkándəm ələgétə èt prəbéytə/. The judge ought to decide according to the allegations and the proofs.

Judex delegatus /júdédks dèləgétəs/. A delegated judge; a special judge.

Judex est lex loquens /júdédks èst léks lówkwènz/. A judge is the law speaking [the mouth of the law].

Judex fiscalis /júdédks fəskéyləs/. A fiscal judge; one having cognizance of matters relating to the *fiscus* (*q.v.*).

Judex habere debet duos sales,—salem sapientiæ, ne sit insipidus; et salem conscientiæ, ne sit diabolus

/júdèks hǎbíriy débət d(y)úwows séyliyz: séylám sǎpiyénshiyiy niy síd ǎnsípǎdǎs èt séylám kǎn-s(h)iyénshiyiy, niy síd diyǎbǎlǎs/. A judge should have two salts,—the salt of wisdom, lest he be insipid [or foolish]; and the salt of conscience, lest he be devilish.

Judex non potest esse testis in propria causa /júwdèks nǎn pówtǎst ǎsiy tǎstǎs in prǎwpriyǎ kǎzǎ/. A judge cannot be a witness in his own cause.

Judex non potest injuriam sibi datam punire /júwdèks nǎn pówtǎst ǎnjúriyǎm síbay déytǎm pysǎny-riy/. A judge cannot punish a wrong done to himself.

Judex non reddit plus quam quod petens ipse requirit /júwdèks nǎn rǎdǎt plǎs kwǎm kwód pǎdǎnz ípsi rǎkwǎyrǎt/. A judge does not give more than what the complaining party himself demands.

Judex ordinarius /júwdèks ǎrdǎnér(i)yǎs/. In the civil law, an ordinary judge; one who had the right of hearing and determining causes as a matter of his own proper jurisdiction (*ex propria jurisdictione*), and not by virtue of a delegated authority. According to Blackstone *judices ordinarii* determined only questions of fact. 3 Bl.Comm. 315.

Judex pedaneus /júwdèks pǎdéyniyǎs/. In Roman law, inferior judge; deputy judge. The judge who was commissioned by the praetor to hear a cause was so-called, from the low seat which he anciently occupied at the foot of the praetor's tribunal.

Judex quaestionis /júwdèks kwès(h)tiyównǎs/. A magistrate who decided the law of a criminal case, when the praetor himself did not sit as a magistrate. The director of the criminal court under the presidency of the praetor.

Judex selectus /júwdèks sǎléktǎs/. A select or selected judge. The judges in criminal suits selected by the praetor. These *judices selecti* were used in criminal causes, and between them and modern *jurors* many points of resemblance have been noticed; 3 Bl.Comm. 366.

Judge. An officer so named in his commission, who presides in some court; a public officer, appointed to preside and to administer the law in a court of justice; the chief member of a court, and charged with the control of proceedings and the decision of questions of law or discretion. *Todd v. U. S.*, 158 U.S. 278, 15 S.Ct. 889, 39 L.Ed. 982. A public officer who, by virtue of his office, is clothed with judicial authority. *State ex rel. Mayer v. City of Cincinnati*, 60 Ohio App. 119, 19 N.E.2d 902. Presiding officer of court. *State v. Horn*, 336 Mo. 524, 79 S.W.2d 1044, 1045. Any officer authorized to function as or for judge in doing specified acts. In *re Roberts' Estate*, 49 Cal.App.2d 71, 120 P.2d 933, 937.

"Judge", "justice", and "court" are often used synonymously or interchangeably.

See also Magistrate.

Judge advocate. An officer of the Judge Advocate General's Corps of the Army or the Navy or an officer of the Air Force or the Marine Corps who is designated as a judge advocate. 10 U.S.C.A. § 801.

In American usage, the term "judge advocate" no longer refers to any of the parties involved in a court-martial. Instead, it refers to the principal legal adviser on the staff of a military commander (usually with a more definitive title, such as Staff Judge Advocate, Post Judge Advocate, or Command Judge Advocate) or, more broadly, to any officer in the Judge Advocate General's Corps or Department (*i.e.*, branch) of one of the U.S. armed forces. British usage is different.

Judge advocate corps. Staff of Judge Advocate General.

Judge Advocate General. Senior legal officer and chief legal advisor of the Army, Navy, and Air Force and, except when the Coast Guard is operating as a service in the Navy, the General Counsel of the Department of Transportation. 10 U.S.C.A. § 801.

Judge de facto. One who holds and exercises the office of a judge under color of lawful authority and by a title valid on its face, though he has not full right to the office, as where he was appointed under an unconstitutional statute, or by an usurper of the appointing power, or has not taken the oath of office.

Judge-made law. A phrase used to indicate judicial decisions which construe away the meaning of statutes, or find meanings in them the legislature never intended. It is perhaps more commonly used as meaning, simply, the law established by judicial precedent and decisions. Laws having their source in judicial decisions as opposed to laws having their source in statutes or administrative regulations.

Judge pro tempore /jǎj prǎw tǎmpǎriy/. One appointed for the term or some part thereof, during which time he exercises all the functions of the regular judge. *State ex rel. Hodshire v. Bingham*, 218 Ind. 490, 33 N.E.2d 771. As opposed to a special judge who is appointed to act in a particular case, such judge is appointed to act during the absence of the regular judge and exercises all of the powers of the regular judge during that period. *Survan v. State, Ind.*, 465 N.E.2d 1076, 1081.

Judge's minutes, or notes. Memoranda usually taken by a judge, while a trial is proceeding, of the testimony of witnesses, or documents offered or admitted in evidence, of offers of evidence, and whether it has been received or rejected, and the like matters.

Judge trial. Trial conducted before a judge without a jury. Jury waived trial; bench trial; non-jury trial.

Judgment. A sense of knowledge sufficient to comprehend nature of transaction. *Thomas v. Young*, 57 App. D.C. 282, 22 F.2d 588, 590. An opinion or estimate. *McClung Const. Co. v. Muncy, Tex.Civ.App.*, 65 S.W.2d 786, 790. The formation of an opinion or notion concerning some thing by exercising the mind upon it. *Cleveland Clinic Foundation v. Humphrys, C.C.A.Ohio*, 97 F.2d 849, 857.

The official and authentic decision of a court of justice upon the respective rights and claims of the parties to an action or suit therein litigated and submitted to its determination. The final decision of the court resolving

the dispute and determining the rights and obligations of the parties. The law's last word in a judicial controversy, it being the final determination by a court of the rights of the parties upon matters submitted to it in an action or proceeding. *Towley v. King Arthur Rings, Inc.*, 40 N.Y.2d 129, 386 N.Y.S.2d 80, 351 N.E.2d 728, 730. Conclusion of law upon facts found or admitted by the parties or upon their default in the course of the suit. Decision or sentence of the law, given by a court of justice or other competent tribunal, as the result of proceedings instituted therein, *Allegheny County v. Maryland Casualty Co.*, C.C.A.Pa., 132 F.2d 894, 897. Decision or sentence of the law pronounced by the court and entered upon its docket, minutes or record. Determination of a court of competent jurisdiction upon matters submitted to it. *State ex rel. Curran v. Brookes*, 142 Ohio St. 107, 50 N.E.2d 995, 998. Determination or sentence of the law, pronounced by a competent judge or court, as the result of an action or proceeding instituted in such court, affirming that, upon the matters submitted for its decision, a legal duty or liability does or does not exist.

Term "judgment" under rules practice includes "decree". Fed.R.Civ.P. 54(a). Terms "decision" and "judgment" are commonly used interchangeably. "Sentence" and "judgment" are synonymous in criminal action and appeal from sentence is same as appeal from judgment. *People v. Spencer*, 71 C.2d 933, 80 Cal.Rptr. 99, 101, 458 P.2d 43.

The term "judgment" is also used to denote the reason which the court gives for its decision; but this is more properly denominated an "opinion."

An award may be in the nature of, or equivalent of, a judgment. *Holliday v. Salling*, 54 Ariz. 496, 97 P.2d 221, 223. Also, an order may be a judgment. *Traders & General Ins. Co. v. Baker*, Tex.Civ.App., 111 S.W.2d 837, 839, 840.

See also Amendment of judgment; Decree; Entering judgments; Judgment in rem; Judgment quasi in rem; Rendition of judgment; Sentence; Simulated judgment; Vacation of judgment; Void judgment.

Specific Types of Judgments

Agreed judgment. A judgment entered on agreement of the parties, which receives the sanction of the court, and it constitutes a contract between the parties to the agreement, operates as an adjudication between them and when court gives the agreement its sanction, becomes a judgment of the court. *Traveler's Ins. Co. v. U. S.*, D.C.Tex., 283 F.Supp. 14, 28. See also *Consent Judgment*, below.

Alternative judgment. One that by its terms might be satisfied by doing either of several acts at the election of the party or parties against whom the judgment is rendered and from whom performance is by the judgment required. A judgment for one thing or another which does not specifically and in a definite manner determine the rights of the parties.

Appealable judgment. One which disposes of all parties and issues in case. *Chuning v. Calvert*, Mo.App., 452 S.W.2d 580, 582. See also *Final judgment*, below.

Arrest of judgment. See Arrest of judgment.

Assets in futuro, judgment of. One against an executor or heir, who holds at the time no property on which it can operate.

Cognovit actionem. See Cognovit actionem.

Cognovit judgment. See Cognovit judgment; also, *Confession of judgment*, below.

Conditional judgment. One whose force depends upon the performance of certain acts to be done in the future by one of the parties; as, one which may become of no effect if the defendant appears and pleads according to its terms, or one which orders the sale of mortgaged property in a foreclosure proceeding unless the mortgagor shall pay the amount decreed within the time limited.

Confession of judgment. At common law, judgment entered where defendant, instead of entering plea, confessed action, or withdrew plea and confessed action. Judgment where a defendant gives the plaintiff a cognovit or written confession of the action by virtue of which the plaintiff enters judgment. The act of a debtor in permitting judgment to be entered against him by his creditor, for a stipulated sum, by a written statement to that effect or by warrant of attorney, without the institution of legal proceedings of any kind; voluntary submission to court's jurisdiction. *O'Hara v. Manley*, 140 Pa.Super. 39, 12 A.2d 820, 822. Such agreements for confession of judgment are void in many states; e.g. *Mass.G.L. c. 231, § 13A*.

The negotiability of an instrument is not affected by a term authorizing a confession of judgment if the instrument is not paid when due. U.C.C. § 3-112.

See also Cognovit judgment.

Consent judgment. A judgment, the provisions and terms of which are settled and agreed to by the parties to the action. *Matthews v. Looney*, 132 Tex. 313, 123 S.W.2d 871, 872. See also *Decree (Consent decree)*; and *Agreed judgment*, above.

Contradictory judgment. A judgment which has been given after the parties have been heard, either in support of their claims or in defense. Used in Louisiana to distinguish such judgments from those rendered by default.

Declaratory judgment. See Declaratory judgment.

Default and inquiry, judgment by. It establishes right of action of kind properly pleaded in complaint, determines right of plaintiff to recover at least nominal damages and costs, and precludes defendant from offering any evidence on execution of inquiry to show that plaintiff has no right of action. Such type judgment is obsolete.

Default judgment. A judgment rendered in consequence of the non-appearance of the defendant. Fed.R.Civil P. 55(a). One entered upon the failure of a party to appear

or plead at the appointed time. The term is also applied to judgments entered under statutes or rules of court, for want of affidavit of defense, plea, answer, and the like, or for failure to take some required step in the cause.

Judgments rendered on defendant's default are: Judgment by *default*; Judgment by *non sum informatus*; judgment *nil dicit*. Judgments rendered on plaintiff's default are: Judgment of *non pros.* (from *non prosequitur*) and judgment of *nonsuit* (from *non sequitur*, or *ne suit pas*).

Deficiency judgment. A judgment in favor of a creditor for the difference between the amount of the indebtedness and the amount derived from the judicial sale held in order to satisfy the indebtedness. *Cameron Brown South, Inc. v. East Glen Oaks, Inc.*, La.App., 341 So.2d 450, 456. See also *Deficiency judgment*.

De melioribus damnis. See *De melioribus damnis*.

Demurrer, judgment on. Such concludes party demurring, because by demurring, a party admits the facts alleged in the pleadings of his adversary and relies on their insufficiency in law. See *Demurrer*.

Dismissal, judgment of. See *Dismissal*.

Domestic judgment. A judgment is *domestic* in the courts of the same state or country where it was originally rendered; in other states or countries it is called *foreign*. See *Foreign judgment, below*.

Dormant judgment. One which has not been satisfied or extinguished by lapse of time, but which has remained so long unexecuted that execution cannot now be issued upon it without first reviving the judgment. Or one which has lost its lien on land from the failure to issue execution on it or take other steps to enforce it within the time limited by statute.

Execution of judgment. See *Execution of judgment or decree*.

Face of judgment. See *Face of judgment*.

Final judgment. One which puts an *end* to an action at law by declaring that the plaintiff either has or has not entitled himself to recover the remedy he sues for. So distinguished from *interlocutory* judgments. A judgment which disposes of the subject-matter of the controversy or determines the litigation as to all parties on its merits. A judgment which terminates all litigation on the same right. Appeals in federal courts will only lie from "final" judgments. 28 U.S.C.A. § 1291. See *Final decision or judgment*; *Final decision rule*.

Foreign judgment. One rendered by the courts of a state or country politically and judicially distinct from that where the judgment or its effect is brought in question. One pronounced by a tribunal of a foreign country, or of a sister state. *Grover & B. Sewing Mach. Co. v. Radcliffe*, 137 U.S. 287, 11 S.Ct. 92, 34 L.Ed. 670. Several states have adopted the Uniform Foreign Money Judgments Recognition Act, and also the Uniform Enforcement of Foreign Judgments Act.

General verdict subject to a special case, judgment on. Where at the trial the parties agree on the facts and the only question is one of law and a verdict pro forma is taken and the jury find for the plaintiff generally but subject to the opinion of the court on a special case.

In personam or inter partes judgment. See *Personal judgment, below*; Judgment in personam or inter partes.

In rem judgment. See *Judgment in rem*.

Interlocutory judgment. One given in the progress of a cause upon some plea, proceeding, or default which is only intermediate and does not finally determine or complete the suit. One which determines some preliminary or subordinate point or plea, or settles some step, question, or default arising in the progress of the cause, but does not adjudicate the ultimate rights of the parties, or finally put the case out of court. Thus, a judgment or order passed upon any provisional or accessory claim or contention is, in general, merely interlocutory, although it may finally dispose of that particular matter. An "interlocutory judgment" is one which reserves or leaves some further question or direction for future determination. *State ex rel. Great Am. Ins. Co. v. Jones, Mo.*, 396 S.W.2d 601, 603. See *Interlocutory appeal*.

Judgment notwithstanding verdict. See *Non obstante veredicto*.

Judgment of conviction. A judgment of conviction shall set forth the plea, the verdict or findings, and the adjudication and sentence. If the defendant is found not guilty or for any other reason is entitled to be discharged, judgment shall be entered accordingly. The judgment shall be signed by the judge and entered by the clerk. Fed.R.Crim.P. 32(b).

Judgment on pleadings. After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56. Fed.R.Civ.P. 12(c). This device resembles closely a demurrer to the extent that it attacks the pleadings on the same basis as a demurrer.

Junior judgment. One which was rendered or entered after the rendition or entry of another judgment, on a different claim, against the same defendant.

Merits, judgment on. One rendered after argument and investigation, and when it is determined which party is in the right, as distinguished from a judgment rendered upon some preliminary or formal or merely technical or procedural point, or by default and without trial. A decision that was rendered on the basis of the evidence and facts introduced. Normally, a judgment based solely on some procedural error is not a judgment on the merits. The latter kind of judgment is often referred to as a "dismissal without prejudice." A party who has

received a judgment on the merits cannot bring the same suit again. A party whose case has been dismissed without prejudice can bring the same suit again so long as the procedural errors are corrected (*i.e.*, cured) in the later action.

For *res judicata* purposes is one which determines the rights and liabilities of the parties based on the ultimate fact as disclosed by the pleadings or issues presented for trial. *Thompson-Hayward Chemical Co. v. Cyprus Mines Corp.*, 8 Kan.App.2d 487, 660 P.2d 973, 975.

Money judgment. One which adjudges the payment of a sum of money, as distinguished from one directing an act to be done or property to be restored or transferred. A judgment, or any part thereof, for a sum of money or directing the payment of a sum of money. For enforcement or satisfaction of money judgment, *see* Execution. Several states have adopted the Uniform Foreign Money Judgments Recognition Act.

Nihil dicit judgment. *See* Nihil dicit.

Nil capiat per breve or per billa (that he take nothing by his writ, or by his bill). A judgment in favor of the defendant upon an issue raised upon a declaration or peremptory plea.

Nil dicit, judgment by. Judgment for plaintiff rendered when defendant has appeared but has failed to answer or when answer has been withdrawn or abandoned and no further defense is made. *Bredeson v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, Tex.Civ.App., 513 S.W.2d 110, 112. At common law, it may be taken against defendant who omits to plead or answer whole or any separable substantial portion of declaration. It amounts to judgment by confession with reference to cause of action states. *Grand Lodge Brotherhood of Railroad Trainmen v. Ware*, Tex.Civ.App., 73 S.W.2d 1076, 1077. Under current rules practice, such judgment is substantially identical with default judgment. *See also* Nihil dicit.

Nisi. At common law, judgment nisi was a judgment entered on the return of the nisi prius record, which, according to the terms of the postea indorsed thereon was to become absolute unless otherwise ordered by the court within the first four days of the next succeeding term. *See also* Nisi; Show cause order.

Nolle prosequi, judgment of. One entered against plaintiff when, after appearance and before judgment, he declares that he will not further prosecute his suit. *Merchants Mut. Casualty Co. v. Kiley*, 92 N.H. 323, 30 A.2d 681, 683. *See also* Nolle prosequi.

Non obstante veredicto. *See* Non obstante veredicto.

Non pros. (Non prosequitur [he does not follow up, or pursue]). *See* Non prosequitur.

Nonsuit. *See* Nonsuit.

Non sum informatus. *See* Non sum informatus.

Notwithstanding verdict. *See* Non obstante veredicto.

Nul tiel record. *See* Nul tiel record.

Nunc pro tunc. Judgment given effect as of a date in the past. One entered on a day subsequent to the time at which it should have been entered, as of the latter date. *See* Nunc pro tunc.

Offer of judgment. Before trial, a party defending against a claim may serve upon the adverse party an offer to allow judgment to be taken against him for the money or property or to the effect specified in his offer, with costs then accrued. If after service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof and thereupon the clerk shall enter judgment. Fed.R.Civil P. 68.

Personal judgment. One imposing on the defendant a personal liability to pay it, and which may therefore be satisfied out of any of his property which is within the reach of process, as distinguished from one which may be satisfied only out of a particular fund or the proceeds of particular property. Judgments in which court has personal jurisdiction over parties. *State v. Dreyer*, 188 Kan. 270, 362 P.2d 55, 57.

Pro retorno habendo. A judgment that the party have a return of the goods.

Quod computet. *See* Quod computet.

Quod partes replacitent. *See* Quod partes replacitent.

Quod partitio fiat. Interlocutory judgment in a writ of partition, that partition be made.

Quod recuperet. *See* Quod recuperet.

Relicta verificatione. *See* Relicta verificatione.

Repleader, judgment of. *See* Repleader.

Respondeat ouster. When the issue in law arises on a dilatory plea, and is determined for the plaintiff, the judgment is only that the defendant "do answer over," called a judgment of *respondeat ouster*; it is interlocutory only.

Retraxit. *See* Retraxit.

Revival of judgment. *See* Revival.

Stet processus. *See* Stet processus.

Summary judgment. *See* Summary judgment.

Verdict, judgment on. The most usual of the judgments upon facts found, and is for the party obtaining the verdict. *See also* Verdict.

Warrant of attorney. *See* Warrant.

Judgment book. A book required to be kept by the clerk, among the records of the court, for the entry of judgments. Such is called a "civil docket" or "criminal docket" in the federal and many state courts. Fed.R. Civil P. 79; Fed.R.Crim.P. 55. *See also* Judgment docket.

Judgment creditor. A person in whose favor a money judgment has been entered by a court of law and who has not yet been paid. One who has obtained a judgment against his debtor, under which he can enforce execution. A person in whose favor a money judgment

is entered or a person who becomes entitled to enforce it. Owner of an unsatisfied judgment. For purpose of Internal Revenue Code, term is used in conventional sense of judgment of court of record. *U.S. v. Gilbert Associates*, 345 U.S. 361, 364, 73 S.Ct. 701, 703-704, 97 L.Ed. 1071. *Cf. U.C.C. 9-301(3)* (lien creditor). *Compare* Judgment debtor. *See also* Attachment; Execution (*Writ of execution*); Judgment lien.

Judgment debt. A monetary obligation which is either evidenced by a written record, or brought about by successful legal action against the debtor. A debt, whether on simple contract or by specialty, for the recovery of which judgment has been entered, either upon a *cognovit* or upon a warrant of attorney or as the result of a successful action. *See also* Judgment debtor.

Judgment debtor. A person against whom judgment has been recovered, and which remains unsatisfied. The term has been construed to include a judgment debtor's successors in interest. *Compare* Judgment creditor. *See also* Attachment; Execution (*Writ of execution*); Judgment lien.

Judgment docket. A list or docket of the judgments entered in a given court, methodically kept by the clerk or other proper officer, open to public inspection, and intended to afford official notice to interested parties of the existence or lien of judgments. *See* Fed.R.Civ.P. 79; Fed.R.Crim.P. 55. *See also* Docket; Judgment book.

Judgment, estoppel by. The estoppel raised by the rendition of a valid judgment by a court having jurisdiction. The essence of estoppel by judgment is that there has been a judicial determination of a fact. *Price v. Clement*, 187 Okl. 304, 102 P.2d 595, 597. It rests upon principles forbidding one to relitigate matter in dispute between parties which has been determined by competent court, on ground that record of judgment imports absolute verity. Where subsequent proceeding is on same cause of action between same parties a former adjudication is conclusive. *Kimpton v. Spellman*, 351 Mo. 674, 173 S.W.2d 886. Ordinarily, "estoppel" of judgment does not extend to matters not expressly adjudicated. *Sonken-Galamba Corporation v. Atchison, T. & S. F. Ry. Co.*, C.C.A.Mo., 124 F.2d 952, 956; and a judgment or decree without prejudice does not work an "estoppel". *In re McDermott*, C.C.A.Ill., 115 F.2d 582, 584. *See also* Collateral estoppel doctrine; Issue preclusion; Judicial estoppel; *Res (Res judicata)*.

Judgment execution. The formal or written evidence of the judgment which commands the officer to seize the goods and property of the judgment debtor to satisfy the judgment. Procedure on execution is governed by Fed. R.Civil P. 69. *See* Execution.

Judgment file. The docket in which the entry of a judgment is recorded and preserved as a permanent court record. Fed.R.Civ.P. 79; Fed.R.Crim.P. 55. *See also* Docket; Judgment docket.

Judgment in personam or inter partes /jɔːmənt in pɜːsɔːnəm/ˈɪntər pɑːtiyɪz/. A judgment against a particular person, as distinguished from a judgment against

a thing or a right or *status*. *See also* Judgment (*Personal judgment*).

Judgment in rem. An adjudication pronounced upon the status of some particular thing or subject matter, by a tribunal having competent authority. *Booth v. Copley*, 283 Ky. 23, 140 S.W.2d 662, 666. It is founded on proceeding instituted against or on some thing or subject matter whose status or condition is to be determined, *Eureka Building & Loan Ass'n v. Shultz*, 139 Kan. 435, 32 P.2d 477, 480; or one brought to enforce a right in the thing itself, *Federal Land Bank of Omaha v. Jefferson*, 229 Iowa 1054, 295 N.W. 855, 857. It operates directly upon the property. *Guild v. Wallis*, 150 Or. 69, 40 P.2d 737, 742. It is a solemn declaration of the status of some person or thing. *Jones v. Teat*, Tex.Civ.App., 57 S.W.2d 617, 620. It is binding upon all persons in so far as their interests in the property are concerned. *See also* Judgment quasi in rem.

Judgment in retraxit /jɔːmənt in rɛtræksɪt/. A judgment which is usually based upon and follows a settlement out of court, and like a judgment on the merits is a bar and estops plaintiff from again proceeding in another suit on same cause of action. *Steele v. Beaty*, 215 N.C. 680, 2 S.E.2d 854, 856, 857. *See* Retraxit.

Judgment lien. An encumbrance that arises by law when a judgment for the recovery of money is docketed and that attaches to the debtor's real estate located in the county where the judgment is docketed. A lien binding the real estate of a judgment debtor, in favor of the holder of the judgment, and giving the latter a right to levy on the property for the satisfaction of his judgment to the exclusion of other adverse interests subsequent to the judgment. Right to subject property of judgment debtor to satisfaction of judgment. A charge on or attachment of property of one who owes a debt and is subject to a judgment thereon. *See also* Execution.

Judgment note. A promissory note (also called *cognovit note*) embodying an authorization to an attorney, or to a designated attorney, or to the holder, or the clerk of the court, to enter an appearance for the maker and confess a judgment against him for a sum therein named, upon default of payment of the note. Such are invalid in many states. *See* Judgment (*Confession of judgment*).

Judgment of his peers. A term of expression borrowed from *Magna Charta* meaning trial by jury. *Ex parte Wagner*, 58 Okl.Cr. 161, 50 P.2d 1135, 1139.

Judgment paper. In English practice, a sheet of paper containing an *incipitur* of the pleadings in an action at law, upon which final judgment is signed by the master.

Judgment proof. Descriptive of all persons against whom judgments for money recoveries are of no effect; *e.g.*, persons who are insolvent, who do not have sufficient property within the jurisdiction of the court to satisfy the judgment, or who are protected by statutes which exempt wages and property from execution.

Judgment quasi in rem. A judgment based on the court's jurisdiction over the defendant's interest in prop-

erty within the jurisdiction of the court and not on the court's jurisdiction over the person of the defendant (in personam) or over the thing itself (in rem).

Judgment record. In English practice, a parchment roll, on which are transcribed the whole proceedings in the cause, deposited and filed of record in the treasury of the court, after signing of judgment. In American practice, the record is signed, filed, and docketed by the clerk. See Fed.R.Civil P. 79. See also Docket; Judgment docket.

Judgment recovered. A plea by a defendant that the plaintiff has already recovered that which he seeks to obtain by his action. This was formerly a species of sham plea, often put in for the purpose of delaying a plaintiff's action. Under current rules practice, the defense of prior judgment would be raised as an affirmative defense. Fed.R.Civ.P. 8(c).

Judgment roll. See Roll.

Judgment void on its face. A judgment or order is "void on its face" when its invalidity is apparent upon inspection of judgment roll. Application of Behymer, 130 Cal.App. 200, 19 P.2d 829, 830.

Judicandum est legibus, non exemplis /jùwdækéndəm èst líyjàbəs nòn əgzémpləs/. Judgment is to be given according to the laws, not according to examples or precedents.

Judicare /jùwdəkəriy/. Lat. In the civil and old English law, to judge; to decide or determine judicially; to give judgment or sentence.

Judicatio /jùwdəkéysh(i)yow/. Lat. In the civil law, judging; the pronouncing of sentence after hearing a cause.

Judicatories /jùwdəkətòriy/juwdikət(ə)riy/. The term as used designates that department of government which it was intended should interpret and administer the laws.

Judicature. The state or profession of those officers who are employed in administering justice; the judiciary. A judicatory, tribunal, or court of justice. Jurisdiction; the right of judicial action; the scope or extent of jurisdiction.

Judicature Acts (England). The acts under which the present system of courts in England was organized and is continued.

The statutes of 36 & 37 Vict., c. 66, and 38 & 39 Vict., c. 77, which went into force November 1, 1875, with amendments in 1877, 40 & 41 Vict., c. 9; 1879, 42 & 43 Vict., c. 78; and 1881, 44 & 45 Vict., c. 68, made very important changes in the organization of, and methods of procedure in, the superior courts of England, consolidating them together so as to constitute one supreme court of judicature, consisting of two divisions,—her majesty's high court of justice, having chiefly original jurisdiction; and her majesty's court of appeal, whose jurisdiction is chiefly appellate.

Such acts were superseded by the Supreme Court Act of 1981. Also, the High Court was reorganized in 1970.

The Court of Appeal was reorganized in 1966. By the Courts Act of 1971 the Crown Court replaces the Quarter Sessions and the courts of assize and was made a part of the Supreme Court.

See also Judiciary Acts.

Judices /júwdəsiy/. Lat. Judges. See *Judex*.

Judices non tenentur exprimere causam sententiæ suæ /júwdəsiy nòn tənéntər əkspráyməriy kózəm senténsхий(iy) s(y)úwiy/. Judges are not bound to explain the reason of their sentence.

Judices ordinarii /júwdəsiy òrdənériyay/. Lat. Plural of *judex ordinarius* (q.v.).

Judices pedanei /júwdəsiy pədéniyay/. Lat. Plural of *judex pedaneus* (q.v.).

Judices selecti /júwdəsiy səléktoy/. Lat. Plural of *judex selectus* (q.v.).

Judicia; judicia publica /jədis(h)(i)yə/°pəbləkə/. Lat. In Roman law. Judicial proceedings; trials. *Judicia publica*, criminal trials. See also *Judicium*.

Judicia in curia regis non adnihilentur, sed stent in robore suo quousque per errorem aut attentum adnullentur /jədis(h)(i)yə in kyúriyə ríyjàs nòn ədnây(h)əléntər, sèd stént in rəbóriy s(y)úwów kwowáskwiy pər ərórəm òt ətíj(k)təm ədnáléntər/. Judgments in the king's court are not to be annihilated, but to remain in force until annulled by error or attain.

Judicia in deliberationibus crebro maturescunt, in accelerato processu nunquam /jədis(h)(i)yə in dəlibərəyshiyównəbəs kríybrow mətyərəskənt, in əksələréytow prəsés(y)uw nənkwəm/. Judgments frequently become matured by deliberations, never by hurried process or precipitation.

Judicial. Belonging to the office of a judge; as judicial authority. Relating to or connected with the administration of justice; as a judicial officer. Having the character of judgment or formal legal procedure; as a judicial act. Proceeding from a court of justice; as a judicial writ, a judicial determination. Involving the exercise of judgment or discretion; as distinguished from *ministerial*.

Of or pertaining or appropriate to the administration of justice, or courts of justice, or a judge thereof, or the proceedings therein; as, judicial power, judicial proceedings. State v. Freitag, 53 Idaho 726, 27 P.2d 68.

As to *judicial* Action; Confession; Day; Discretion; Document; Estoppel; Evidence; Factor; Mortgage; Notice; Process; Record; Sale; Sequestration; Writ, see those titles. As to Quasi judicial, see that title.

Judicial act. An act which involves exercise of discretion or judgment. It is also defined as an act by court or magistrate touching rights of parties or property brought before it or him by voluntary appearance, or by prior action of ministerial officers. An act by member of judicial department in construing law or applying it to a particular state of facts. State ex rel. Tharel v. Board of Com'rs of Creek County, 188 Okl. 184, 107 P.2d 542, 549. An act of administrative board if it goes to

determination of some right, protection of which is peculiar office of courts. *Belk's Dept. Store v. Guilford County*, 222 N.C. 441, 23 S.E.2d 897, 902. An act which imposes burdens or confers privileges according to finding of some person or body whether a general rule is applicable or according to discretionary judgment as to propriety. An act which undertakes to determine a question of right or obligation or of property as foundation on which it proceeds. The action of judge in trying a cause and rendering a decision. Application of *Gleit*, 178 Misc. 198, 33 N.Y.S.2d 629, 630, 631.

Rendition or pronouncement of a judgment is a judicial act and entry thereof a ministerial act. *Peoples Electric Co-op. v. Broughton*, 191 Okl. 229, 127 P.2d 850, 853. But if there are matters requiring exercise of court's discretion, entry of decree is judicial act. *Stewart v. Superior Court in and for Los Angeles County*, 3 Cal.App.2d 702, 40 P.2d 529.

For purposes of judicial immunity, an act is "judicial" if it is a function normally performed by a judge, and parties dealt with judge in his judicial capacity. *Martinez v. Winner*, C.A.Colo., 771 F.2d 424, 434.

See also Decision; Decree; Judgment; Order.

Judicial action. An adjudication upon rights of parties who in general appear or are brought before tribunal by notice or process, and upon whose claims some decision or judgment is rendered. Action of a court upon a cause, by hearing it, and determining what shall be adjudged or decreed between the parties, and with which is the right of the case.

Judicial activism. Judicial philosophy which motivates judges to depart from strict adherence to judicial precedent in favor or progressive and new social policies which are not always consistent with the restraint expected of appellate judges. It is commonly marked by decisions calling for social engineering and occasionally these decisions represent intrusions into legislative and executive matters.

Judicial acts. *See* Judiciary Acts.

Judicial admission. *See* Admission.

Judicial Article. Article III of the U.S.Const. which creates the U.S. Supreme Court; vests in Congress the right to create inferior courts; provides for life tenure for Federal Court judges; and specifies the powers and jurisdiction of the Federal Courts. *See* Federal Judicial Code; Judicial branch; Judicial power; Judicial system; Judiciary Acts.

Judicial authority. The power and authority appertaining to the office of a judge. Jurisdiction; the official right to hear and determine questions in controversy.

Judicial bonds. Generic term for bonds required by court for appeals, costs, attachment, injunction, etc.

Judicial branch. Branch of state and federal government whose function it is to interpret, construe, apply, and generally administer and enforce the laws. This branch, together with the executive and legislative branches forms our tripartite form of federal and state government. *See* U.S. Constitution, Article III. *See*

Judicial Article; Judicial power; Judicial system; Judiciary Acts.

Judicial business. Such as involves the exercise of judicial power, or the application of the mind and authority of a court to some contested matter, or the conduct of judicial proceedings, as distinguished from such ministerial and other acts, incident to the progress of a cause, as may be performed by the parties, counsel, or officers of the court without application to the court or judge. *See* Judicial act; Judicial action.

Judicial Code. *See* Federal Judicial Code.

Judicial cognizance. Judicial notice, or knowledge upon which a judge is bound to act without having it proved in evidence. *See* Judicial notice.

Judicial comity. Principle in accordance with which courts of one state or jurisdiction give effect to laws and judicial decisions of another state out of deference and respect, not obligation. *See also* Full faith and credit clause.

Judicial council. Provision is made in 28 U.S.C.A. § 332 for the Chief Judge of each Circuit Court of Appeal to call a council of all the judges of the circuit twice each year. The primary function of the councils is to assure expeditious and effective administration of the business of the courts.

Judicial cy pres /jə'diʃhəl siy prey/. Doctrine of "judicial cy pres" is a principle of construction based on a judicial finding of donor's intention as applied to new conditions. *Rohlf v. German Old People's Home*, 143 Neb. 636, 10 N.W.2d 686, 691. When only minor features of a trust for charity become impossible or impracticable of performance and it cannot properly be said that general scheme of testator has failed, doctrine of "judicial cy pres" operates to avoid failure of charity. *Noel v. Olds*, 78 U.S.App.D.C. 155, 138 F.2d 581, 586, 587. *See also* Cy-pres.

Judicial decision. Application by a court or tribunal exercising judicial authority of competent jurisdiction of the law to a state of facts proved, or admitted to be true, and a declaration of the consequences which follow. In *re Knofler's Estate*, 73 Ohio App. 383, 52 N.E.2d 667, 668. *See also* Decision; Decree; Judgment; Opinion; Order.

Judicial department. *See also* Judicial branch.

Judicial dictum /juw'diʃhəl diktəm/. A dictum made by a court or judge in the course of a judicial decision or opinion. *Com. v. Paine*, 207 Pa. 45, 56 A. 317. Expression of opinion by court on question directly involved, argued by counsel and deliberately passed on by court, which is not necessary to decision in the case. *Atlantic City Casino Ass'n v. Kimmelman*, 204 N.J.Super. 652, 499 A.2d 1049, 1054. *See* Dictum.

Judicial discretion. Term is a broad and elastic one which is equated with sound judgment of court to be exercised according to rules of law. *People v. Russel*, 70 Cal.Rptr. 210, 215, 448 P.2d 794. The option the trial judge has in doing or not doing a thing that cannot be

demanded by a litigant as an absolute right. *Kasper v. Helfrich*, Mo.App., 421 S.W.2d 66, 69. A sound judgment which is not exercised arbitrarily, but with regard to what is right and equitable in circumstances and law, and which is directed by the reasoning conscience of the trial judge to a just result. *State v. Grant*, 10 Wash. App. 468, 519 P.2d 261, 265. *See also* Judicial duty.

Judicial district. One of the circuits or precincts into which a state is commonly divided for judicial purposes; a court of general original jurisdiction being usually provided in each of such districts, and the boundaries of the district marking the territorial limits of its authority; or the district may include two or more counties, having separate and independent county courts, but in that case they are presided over by the same judge. Term is also used to describe or refer to federal judicial districts of the various states. *See* 28 U.S.C.A. § 81 et seq.

Judicial duty. One that requires exercise of judgment or choice of alternatives in its performance. One that requires exercise of judgment or decision of a question of fact. *State ex rel. Coast Holding Co. v. Ekwall*, 144 Or. 672, 26 P.2d 52. One that requires use of discretion or examination of evidence and decision of questions of law and fact. One that legitimately pertains to an officer in judicial department. *Harding v. McCullough*, 236 Iowa 556, 19 N.W.2d 613, 617; *Ex parte Lewis*, 328 Mo. 843, 42 S.W.2d 21, 22. *See also* Judicial act; Judicial action; Judicial discretion.

Judicial errors. Errors into which the court itself falls are "judicial errors." An error of this character occurs when the judgment rendered is erroneous in some particular, requiring it to be changed. *See* Error.

Judicial estoppel. Under doctrine of "judicial estoppel," a party is bound by his judicial declarations and may not contradict them in a subsequent proceeding involving same issues and parties. *Sailes v. Jones*, 17 Ariz.App. 593, 499 P.2d 721, 726. Under this doctrine, a party who by his pleadings, statements or contentions, under oath, has assumed a particular position in a judicial proceeding is estopped to assume an inconsistent position in a subsequent action. *Yarber v. Pennell*, Tex.Civ.App., 443 S.W.2d 382, 384. It is the doctrine of the conclusiveness of the judgments. *State v. Ohio Oil Co.*, Tex.Civ.App., 173 S.W.2d 470, 478, 479. *See also* Collateral estoppel doctrine; Issue preclusion; Judgment, estoppel by; *Res (Res judicata)*.

Judicial evidence. The means, sanctioned by law, of ascertaining in a judicial proceeding the truth respecting a question. *See* Evidence.

Judicial foreclosure. *See* Foreclosure sale.

Judicial function. The exercise of the judicial faculty or office. The capacity to act in the specific way which appertains to the judicial power, as one of the powers of government. The term is used to describe generally those modes of action which appertain to the judiciary as a department of organized government, and through and by means of which it accomplishes its purposes and

exercises its peculiar powers. *See also* Judicial act; Judicial action; Judicial business.

Judicial immunity. The absolute protection from civil liability arising out of the discharge of judicial functions which every judge enjoys. Under doctrine of "judicial immunity," a judge is not subject to liability for any act committed within the exercise of his judicial function; the immunity is absolute in that it is applicable even if the actions of the judicial official are taken in bad faith. *C. M. Clark Ins. Agency, Inc. v. Reed*, D.C.Tex., 390 F.Supp. 1056, 1060. However, a person may be given injunctive relief and an award of attorneys' fees under the Civil Rights Act (42 U.S.C.A. §§ 1983, 1988). *Pulliam v. Allen*, 466 U.S. 522, 104 S.Ct. 1970, 80 L.Ed.2d 565.

Judicial inquiry. Such inquiry investigates, declares, and enforces liabilities as they stand on present or past facts and under laws supposed already to exist. *Oklahoma Gas & Electric Co. v. Wilson & Co. of Oklahoma*, C.C.A.Okl., 54 F.2d 596, 598.

Judicial knowledge. Knowledge of that which is so notorious that everybody, including judges, knows it, and hence need not be proved. *Ex parte Ferguson*, 112 Tex.Cr.R. 152, 15 S.W.2d 650, 652. *See* Judicial notice.

Judicial legislation. *See* Judge-made law.

Judicial lien. One obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding. Within meaning of Bankruptcy Code lien avoidance section, is charge against or interest in property to secure payment of debt, obtained by judgment or other legal proceedings. *In re Ashe*, C.A.Pa., 669 F.2d 105, 108. Bankruptcy Code § 101.

Judicial notice. The act by which a court, in conducting a trial, or framing its decision, will, of its own motion or on request of a party, and without the production of evidence, recognize the existence and truth of certain facts, having a bearing on the controversy at bar, which, from their nature, are not properly the subject of testimony, or which are universally regarded as established by common notoriety, e.g., the laws of the state, international law, historical events, the constitution and course of nature, main geographical features, etc. The cognizance of certain facts which judges and jurors may properly take and act upon without proof, because they already know them. Such notice excuses party having burden of establishing fact from necessity of producing formal proof. *Hutchinson v. State, Ind.*, 477 N.E.2d 850, 854. Fed.Evid.Rule 201.

Judicial oath. *See* Oath.

Judicial office. Offices which relate to the administration of justice; and which should be exercised by persons of sufficient skill and experience in the duties which appertain to them. A general term including courts of record and courts not of record.

Judicial officer. A judge or magistrate. The term, in the popular sense, applies generally to any officer of a court, but in the strictly legal sense applies only to an officer who determines causes between parties or ren-

ders decision in a judicial capacity. One who exercises judicial function. *Adams v. State*, 214 Ind. 603, 17 N.E.2d 84. A person in whom is vested authority to decide causes or exercise powers appropriate to a court.

Judicial opinion. A term synonymous with what has been adjudged or decreed and final in its character. *See* Decision; Decree; Judgment; Opinion; Order.

Judicial order. One which involves exercise of judicial discretion and affects final result of litigation. *Happy Coal Co. v. Brashear*, 263 Ky. 257, 92 S.W.2d 23, 27. *See also* Decision; Decree; Judgment; Order.

Judicial power. The authority exercised by that department of government which is charged with declaration of what law is and its construction. The authority vested in courts and judges, as distinguished from the executive and legislative power. Courts have general powers to decide and pronounce a judgment and carry it into effect between two persons and parties who bring a case before it for decision; and also such specific powers as contempt powers, power to control admission and disbarment of attorneys, power to adopt rules of court, etc.

A power involving exercise of judgment and discretion in determination of questions of right in specific cases affecting interests of person or property, as distinguished from ministerial power involving no discretion. Inherent authority not only to hear and determine controversies between adverse parties, but to make binding orders or judgments. *Fewel v. Fewel*, 23 Cal.2d 431, 144 P.2d 592, 594. Power to decide and pronounce a judgment and carry it into effect between persons and parties who bring a case before court for decision. Power that adjudicates upon and protects the rights and interests of persons or property, and to that end declares, construes and applies the law.

The primary source of powers of federal courts is provided in Art. III of U.S.Const., and Judiciary Act of 1789 (Title 28 of U.S.Code). *See* Judiciary Acts.

Judicial proceeding. Any proceeding wherein judicial action is invoked and taken. *Mannix v. Portland Telegram*, 144 Or. 172, 23 P.2d 138. Any proceeding to obtain such remedy as the law allows. Any step taken in a court of justice in the prosecution or defense of an action. A general term for proceedings relating to, practiced in, or proceeding from, a court of justice; or the course prescribed to be taken in various cases for the determination of a controversy or for legal redress or relief. A proceeding in a legally constituted court. A proceeding wherein there are parties, who have opportunity to be heard, and wherein the tribunal proceeds either to a determination of facts upon evidence or of law upon proved or conceded facts. *See also* Trial.

Judicial question. One proper for the determination of a court of justice, as distinguished from moot questions or from such questions as belong to the decision of the legislative or executive departments of government and with which the courts will not interfere, called "political" or "legislative" questions. *See also* Case (*Cases and controversies*).

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Judicial records. Dockets or records of judicial proceedings; a judgment is a judicial record. *Little v. Stevens*, 23 Cal.App.3d 112, 99 Cal.Rptr. 885, 886; *Fed.R.Civil P.* 79. *See* Docket; Judgment docket; Judgment record.

Judicial remedy. Such as is administered by the courts of justice, or by judicial officers empowered for that purpose by the constitution and laws of the state or nation. *See also* Remedy.

Judicial reprieve. *See* Reprieve.

Judicial review. Power of courts to review decisions of another department or level of government. *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177, 2 L.Ed. 60. Form of appeal from an administrative body to the courts for review of either the findings of fact, or of law, or of both. May also refer to appellate court review of decisions of trial court or of an intermediate appellate court. *See also* Appeal.

Judicial Review Act. Federal statute which sets forth scope of review of decisions of federal administrative agencies. 28 U.S.C.A. §§ 2341-2351.

Judicial sale. Sale conducted under a judgment, order, or supervision of a court as in a sale under a petition for partition of real estate or an execution or a foreclosure sale. One which must be based upon an order or a decree of a court directing the sale. *Petition of Achione*, 425 Pa. 23, 227 A.2d 816, 821, 823. A sale in a bankruptcy proceeding is a "judicial sale". *In re Dennis Mitchell Industries, Inc.*, D.C.Pa., 280 F.Supp. 433, 436. *See also* Execution sale; Foreclosure sale; Sale; Sheriff's sale; Tax sale.

Judicial self-restraint. Self-imposed discipline by judges in deciding cases without permitting themselves to indulge their own personal views or ideas which may be inconsistent with existing decisional or statutory law.

Judicial separation. A separation of man and wife by decree of court, less complete than an absolute divorce. A "limited divorce" or a "divorce a mensa et thoro."

Judicial system. Entire network of courts in a particular jurisdiction. The federal judicial system consists of the Supreme Court, Courts of Appeals, District Courts, and specialized courts such as the Court of Claims, Court of Customs and Patent Appeals, etc. *See* 28 U.S.C.A. § 1 et seq.; Art. III, U.S. Const. *See also* Judicial Article; Judiciary (*n*).

Judicia posteriora sunt in lege fortiora /jə'dis(h)(i)yə pə'stəriyərə sánt in liyjiy fɔrsh(i)yərə/. The later decisions are the stronger in law.

Judiciary, adj. /jə'dis(h)(i)yəriy/. Pertaining or relating to the courts of justice, to the judicial department of government, or to the administration of justice.

Judiciary, n. That branch of government invested with the judicial power; the system of courts in a country; the body of judges; the bench. That branch of government which is intended to interpret, construe and apply the law. *Board of Com'rs of Wyandotte County v. General Securities Corporation*, 157 Kan. 64, 138 P.2d 479, 487. *See also* Judicial system.

Judiciary Acts. The Judiciary Article (Art. III) of the U.S. Constitution created a Supreme Court and "such inferior courts as the Congress may from time to time ordain or establish". The First Congress established such inferior federal courts under the Judiciary Act of 1789. Subsequent major judiciary acts include the following: Act of 1875 granting federal question jurisdiction; Act of 1891 (Evarts Act) establishing circuit courts of appeals and fixing the outline of the contemporary scheme of federal appellate review; Act of 1911 enacting the Federal Judicial Code (which was recodified in 1948 and 1958); Act of 1925 (Judges' Bill), and 1988, further narrowing the scope of discretionary review by certiorari of the Supreme Court. *See also* Federal Judicial Code.

Judicia sunt tanquam juris dicta, et pro veritate accipiuntur /jədis(h)(i)yəm sənt tæŋkwəm júrəs diktə, èt pròw vèhrətéytiy əksipiýántər/. Judgments are, as it were, the sayings of the law, and are received as truth.

Judiciis posterioribus fides est adhibenda /jədis(h)iýəs pəstiriýórəbəs fáydizy èst ədhəbéndə/. Faith or credit is to be given to the later judgments.

Judici officium suum excedenti non paretur /júwdəsəy əfish(i)yəm s(y)úwəm èksədéntəy nòn pəriýtər/. A judge exceeding his office (or jurisdiction) is not to be obeyed. Said of void judgments.

Judiciously. Directed by sound judgment. *Shivers v. Stovall, Tex.Civ.App., 75 S.W.2d 276, 279.*

Judici satis pœna est, quod Deum habet ultorem /júwdəsəy séytəs píynə èst kwòd diyəm héybət əltórəm/. It is punishment enough for a judge that he has God as his avenger.

Judicis est in pronuntiando sequi regulam, exceptione non probata /júwdəsəs èst in prənəns(h)iýəndow sékway régyələm, əksəpshiyówniy nòn prəbéytə/. The judge in his decision ought to follow the rule, when the exception is not proved.

Judicis est judicare secundum allegata et probata /júwdəsəs èst júwdəkəriy səkándəm əlэгéytə èt prəbéytə/. It is the duty of a judge to decide according to facts alleged and proved.

Judicis est jus dicere, non dare /júwdəsəs èst jəs díseriy, nòn dériy/°dáyseriy°/. It is the province of a judge to declare the law, not to give it.

Judicis officium est opus diei in die suo perficere /júwdəsəs əfish(i)yəm èst ówpəs dàiyay in dáiyi s(y)úwəw pərfisəriy/. It is the duty of a judge to finish the work of each day within that day.

Judicis officium est ut res, ita tempora rerum, quærere /júwdəsəs əfish(i)yəm èst èt riyz, áytə témpərə rirəm, kwírəriy/. It is the duty of a judge to inquire into the times of things, as well as into things themselves.

Judicium /jədis(h)(i)yəm/. Lat. Judicial authority or jurisdiction; a court or tribunal; a judicial hearing or other proceeding; a verdict or judgment; a proceeding before a *judex* or judge.

Judicium a non suo iudice datum nullius est momenti /jədis(h)(i)yəm èy nòn s(y)úwəw júwdəsiy déytəm nəláyəs èst məméntay/. A judgment given by one who is not the proper judge is of no force.

Judicium capitale /jədis(h)(i)yəm kəpətéyliy/. In old English law, judgment of death; capital judgment. Called, also, "*judicium vitæ amissionis*," judgment of loss of life.

Judicium Dei /jədis(h)(i)yəm díyay/. In old English and European law, the judgment of God; otherwise called "*divinum iudicium*," the "divine judgment." A term particularly applied to the ordeals by fire or hot iron and water, and also to the trials by the cross, the Eucharist, and the corsned, and the *duellum* or trial by battle (*q.v.*), it being supposed that the interposition of Heaven was directly manifest, in these cases, in behalf of the innocent.

Judicium est quasi juris dictum /jədis(h)(i)yəm èst kwéysay júrés diktəm/. Judgment is, as it were, a declaration of law.

Judicium non debet esse illusorium; suum effectum habere debet /jədis(h)(i)yəm nòn débət ésiy il(y)uwzóriyam; s(y)úwəm əféktəm həbiriý débət/. A judgment ought not to be illusory; it ought to have its proper effect.

Judicium parium /jədis(h)(i)yəm pəriyam/. In old English law, judgment of the peers; judgment of one's peers: trial by jury.

Judicium (semper) pro veritate accipitur /jədis(h)(i)yəm (sémpər) pròw vèhrətéytiy əksipítər/. A judgment is always taken for truth [that is, as long as it stands in force it cannot be contradicted].

Judicium redditur in invitum /jədis(h)(i)yəm rédətər in ənváyətəm/. Judgment is given against one, whether he will or not.

Juge. In French law, a judge.

Juge de paix /zhýwz də péy/. An inferior judicial functionary, appointed to decide summarily controversies of minor importance, especially such as turn mainly on questions of fact. He has also the functions of a police magistrate.

Juge d'instruction. *See* *Instruct.*

Jugerum /jəgírəm/. An acre. As much as a yoke (jugum) of oxen could plow in one day.

Jugulator /jəgyələytər/. In old records, a cutthroat or murderer.

Jugum /júwgəm/. Lat. In the civil law, a yoke; a measure of land; as much land as a yoke of oxen could plow in a day.

Jugum terræ /júwgəm téhriy/. In old English law, a yoke of land; half a plow-land.

Juicio /huwíysiyow/. In Spanish law, a trial or suit.

Juicio de apeo /huwíysiyow déy apéyow/. The decree of a competent tribunal directing the determining and marking the boundaries of lands or estates.

Juicio de concurso de acreedores /huwísiyow dey konkúrsow dey akrèyeyðóreys/. The judgment granted for a debtor who has various creditors, or for such creditors, to the effect that their claims be satisfied according to their respective form and rank, when the debtor's estate is not sufficient to discharge them all in full.

Julian law /júwl(i)yən ló/. See *Lex Julia*.

Jump bail. To abscond, withdraw, leave the jurisdiction, or secrete one's self, in violation of the obligation of a bail bond. See *Forfeiture of bond*.

Junior. Younger. Lower in rank, tenure, preference, or position.

This has been held to be no part of a man's name, but an addition by use, and a convenient distinction between a father and son of the same name.

As to *junior* Barrister; Counsel; Creditor; Judgment; Partner; Security; Writ, see those titles.

Junior execution. One which was issued after the issuance of another execution, on a different judgment, against the same defendant.

Junior interest. A legal right which is subordinate to another's right as applied to property; e.g. a second mortgage is subordinate to a first mortgage. See also *Creditor (Junior creditor)*.

Junior lien. Lien which is subordinate to prior lien. See *Lien*.

Junior mortgage. A mortgage which is subordinate to another mortgage, called the priority, prior, or senior mortgage. See also *Mortgage*.

Junior security issue. Debt or equity issue that is subordinate to another security issue in terms of interest, principal, dividends, payment on dissolution, etc. See also *Security*.

Junk bond. See *Bond*.

Junket. An arrangement or arrangements the primary purpose of which is to induce any person to gamble at a licensed casino and pursuant to which, and as consideration for which, a certain portion of the cost of transportation, food, lodging, and entertainment for said person is directly or indirectly paid by a casino licensee or employee or agent thereof.

Jura /júra/. Lat. Plural of "jus." Rights; laws.

Jura ecclesiastica limitata sunt infra limites separatos /júre əkliziyəstəka lɪmətéyətə sənt ɪnfra lɪmətiyɪz səpərəytəwz/. Ecclesiastical laws are limited within separate bounds.

Jura eodem modo destituuntur quo constituuntur /júre iyówdəm mówdow dəstityuwántər kwòw kənstityuwántər/. Laws are abrogated by the same means [authority] by which they are made.

Jura fiscalia /júre fəskéyl(i)yə/. In English law, fiscal rights; rights of the exchequer.

Jura in re /júre ɪn ríy/. In the civil law, rights in a thing; rights which, being separated from the *domini-*

um, or right of property, exist independently of it, and are enjoyed by some other person than him who has the *dominium*.

Jural /júrel/. Pertaining to natural or positive right, or to the doctrines of rights and obligations; as "jural relations." Of or pertaining to jurisprudence; juristic; juridical.

Recognized or sanctioned by positive law; embraced within, or covered by, the rules and enactments of positive law. Founded in law; organized upon the basis of a fundamental law, and existing for the recognition and protection of rights.

The "jural sphere" is to be distinguished from the "moral sphere;" the latter denoting the whole scope or range of ethics or the science of conduct, the former embracing only such portions of the same as have been made the subject of legal sanction or recognition.

The term "jural society" is used as the synonym of "state" or "organized political community."

Jural cause. A matter or item involving law as contrasted with social obligations or ethics. A judicial matter.

Jura majestatis /júre məjəstéyətəs/. Rights of sovereignty or majesty; a term used in the civil law to designate certain rights which belong to each and every sovereignty and which are deemed essential to its existence.

Juramentæ corporales /jurəméntiy kɔrpərəylyz/. Lat. Corporal oaths, *q.v.*

Juramentum /jurəméntəm/. Lat. In the civil law, an oath.

Juramentum calumniæ /jurəméntəm kələmniyiy/. In the civil and canon law, the oath of calumny. An oath imposed upon both parties to a suit, as a preliminary to its trial, to the effect that they are not influenced by malice or any sinister motives in prosecuting or defending the same, but by a belief in the justice of their cause. It was also required of the attorneys and proctors.

Juramentum corporalis /jurəméntəm kɔrpərəylys/. A corporal oath. See *Corporal oath*.

Juramentum est indivisibile; et non est admittendum in parte verum et in parte falsum /jurəméntəm ɛst ɪndivəzɪbəliy ɛt nɔn ɛst ədməténdəm ɪn pɑrtiy víram ɛd ɪn pɑrtiy fɔlsəm/. An oath is indivisible; it is not to be held partly true and partly false.

Juramentum in litem /jurəméntəm ɪn láytəm/. In the civil law, an assessment oath; an oath, taken by the plaintiff in an action, that the extent of the damages he has suffered, estimated in money, amounts to a certain sum, which oath, in certain cases, is accepted in lieu of other proof.

Juramentum judiciale /jurəméntəm juwdishiyéliy/. In the civil law, an oath which the judge, of his own accord, defers to either of the parties. It is of two kinds: *First*, that which the judge defers for the decision of the cause, and which is understood by the general name "*juramentum judiciale*," and is sometimes called "suppletory oath," *juramentum suppletorium*; *second*, that

which the judge defers in order to fix and determine the amount of the condemnation which he ought to pronounce, and which is called "*juramentum in litem*."

Juramentum necessarium /juréméntəm nēsəsériyəm/. In Roman law, a compulsory oath. A disclosure under oath, which the prætor compelled one of the parties to a suit to make, when the other, applying for such an appeal, agreed to abide by what his adversary should swear.

Juramentum voluntarium /juréméntəm vólentériyəm/. In Roman law, a voluntary oath. A species of appeal to conscience, by which one of the parties to a suit, instead of proving his case, offered to abide by what his adversary should answer under oath.

Jura mixti dominii /júrə míkstay dəminiyay/. In old English law, rights of mixed dominion. The king's right or power of jurisdiction was so termed.

Jura naturæ sunt immutabilia /júrə nət(y)úriy sənt imyúwtəbil(i)yə/. The laws of nature are unchangeable.

Jura novit curia /júrə nówvət kyúriyə/. The court knows the laws; the court recognizes rights.

Jura personarum /júrə pərsənérəm/. Rights of persons; the rights of persons. Rights which concern and are annexed to the persons of men.

Jura prædiorum /júrə priydiórəm/. In the civil law, the rights of estates.

Jura publica anteferenda privatis /júrə pəbləkə əntəfərəndə prəvéytəs/. Public rights are to be preferred to private.

Jura publica ex privato [privatis] promiscue decidi non debent /júrə pəbləkə əks prəvéytow prəmískyuwiy dəsáyday nòn débənt/°əks prəvéytəs°/. Public rights ought not to be decided promiscuously with private.

Jurare /jərériy/. Lat. To swear; to take an oath.

Jurare est Deum in testem vocare, et est actus divini cultus /jərériy èst diyəm in téstəm vəkériy èt èst əktəs dəváyнай káltəs/. To swear is to call God to witness, and is an act of religion.

Jura regalia /júrə rəgéyl(i)yə/. In English law, royal rights or privileges.

Jura regia /júrə riyj(i)yə/. In English law, royal rights; the prerogatives of the crown.

Jura regis specialia non conceduntur per generalia verba /júrə riyjəs speshiyéyl(i)yə nòn kònsədántər pər jènərəýl(i)yə vərbə/. The special rights of the king are not granted by general words.

Jura rerum /júrə rírəm/. Rights of things; the rights of things; rights which a man may acquire over external objects or things, unconnected with his person.

Jura sanguinis nullo jure civili dirimi possunt /júrə səngwənas nəlów júriy sívalay dirímáy pòsənt/. The right of blood and kindred cannot be destroyed by any civil law.

Jura summi imperii /júrə səmay əmpíriyay/. Rights of supreme dominion; rights of sovereignty.

Jurat /júrət/. Certificate of officer or person before whom writing was sworn to. In common use term is employed to designate certificate of competent administering officer that writing was sworn to by person who signed it. The clause written at the foot of an affidavit, stating when, where, and before whom such affidavit was sworn. U. S. v. McDermott, 140 U.S. 151, 11 S.Ct. 746, 35 L.Ed. 391; U. S. v. Julian, 162 U.S. 324, 16 S.Ct. 801, 40 L.Ed. 984. See also Affidavit; Verification.

Jurata /jəréytə/. In old English law, a jury of twelve men sworn. Especially, a jury of the common law, as distinguished from the *assisa*.

The jury clause in a *nisi prius* record, so called from the emphatic words of the old forms: "*Jurata ponitur in respectum*," the jury is put in respite.

See also Jurat.

Juration /jəréyshən/. The act of swearing; the administration of an oath.

Jurato creditur in judicio /jəréydow krédətər in jədísh(i)yow/. He who makes oath is to be believed in judgment.

Jurator /jəréytər/. A juror; a compurgator (*q.v.*).

Juratores debent esse vicini, sufficientes, et minus suspecti /jürətóriyz débənt ésiy vəsáyнай, səfis(h)iyéntiyz, èt máynəs səspéktay/. Jurors ought to be neighbors of sufficient estate, and free from suspicion.

Juratores sunt judices facti /jürətóriyz sənt júwdəsiyz fáktay/. Juries are the judges of fact.

Jurats /júrəts/. In English law, officers in some corporations in Kent and Sussex in the nature of aldermen.

Jure /júriy/. Lat. By right; in right; by the law.

Jure belli /júriy bélay/. By the right or law of war.

Jure civili /júriy sívalay/. By the civil law.

Jure coronæ /júriy kərówniy/. In right of the crown.

Jure divino /júriy dəváynow/. By divine right.

Jure ecclesiæ /júriy əklíyziy(i)y/. In right of the church.

Jure emphyteutico /júriy əmfətyúwtəkow/. By the right or law of *emphyteusis*. See Emphyteusis.

Jure gentium /júriy jénsh(i)yəm/. By the law of nations.

Jure naturæ æquum est neminem cum alterius detrimento et injuria fieri locupletiozem /júriy nətyúriy íkwəm èst némənəm kəm oltíriyəs dètəraméntow èt ənjúriyə fáyərəy löwkəpliyshiyórəm/. By the law of nature it is not just that any one should be enriched by the detriment or injury of another.

Jure representationis /júriy rəprəzəntəyshiyównəs/. By right of representation; in the right of another person.

Jure uxoris /júriy əksórəs/. In right of a wife.

Juridical /jə'ridəkəl/. Relating to administration of justice, or office of a judge.

Regular; done in conformity to the laws of the country and the practice which is there observed.

Juridical day. Day on which court is in session. *Black v. National Bank of Kentucky*, 226 Ky. 152, 10 S.W.2d 629, 630.

Juridicus /jə'ridəkəs/. Lat. Relating to the courts or to the administration of justice; juridical; lawful.

Juri non est consonum quod aliquis accessorius in curia regis convincatur antequam aliquis de facto fuerit attinctus /júray nón èst kónsənem kwòd éləkwəs əksəsóriyəs in kyúriyá ríyəs kónvínkéyər éntiykwəm éləkwəs diy fáktow fyúwərat ətíŋktəs/. It is not consonant to justice that any accessory should be convicted in the king's court before any one has been attainted of the fact.

Juris /júrəs/. Lat. Of right; of law.

Juris affectus in executione consistit /júrəs əféktəs in èksəkyúwshiyówniy kənsístət/. The effect of the law consists in the execution.

Jurisconsult /júrəskónsəlt/*kənsəlt/. A jurist; a person skilled in the science of law, particularly of international or public law.

Jurisconsultus /júrəskənsəltəs/. Lat. In Roman law, an expert in juridical science; a person thoroughly versed in the laws, who was habitually resorted to, for information and advice, both by private persons as his clients, and also by the magistrates, advocates, and others employed in administering justice. Abbreviated *i-ctus*.

Jurisdictio est potestas de publico introducta, cum necessitate juris dicendi /júrəsdíksh(i)yow èst pətéstəəs diy pəbləkow intrədəktə, kəm nəsəsətéytiy júrəs dəsənday/. Jurisdiction is a power introduced for the public good, on account of the necessity of dispensing justice.

Jurisdiction. A term of comprehensive import embracing every kind of judicial action. *Federal Land Bank of Louisville, Ky. v. Crombie*, 258 Ky. 383, 80 S.W.2d 39, 40. It is the power of the court to decide a matter in controversy and presupposes the existence of a duly constituted court with control over the subject matter and the parties. *Pinner v. Pinner*, 33 N.C.App. 204, 234 S.E.2d 633. Jurisdiction defines the powers of courts to inquire into facts, apply the law, make decisions, and declare judgment. *Police Com'r of Boston v. Municipal Court of Dorchester Dist.*, 374 Mass. 640, 374 N.E.2d 272, 285. The legal right by which judges exercise their authority. *Max Ams, Inc. v. Barker*, 293 Ky. 698, 170 S.W.2d 45, 48. It exists when court has cognizance of class of cases involved, proper parties are present, and point to be decided is within powers of court. *United Cemeteries Co. v. Strother*, 342 Mo. 1155, 119 S.W.2d 762, 765. Power and authority of a court to hear and determine a judicial proceeding; and power to render particular judgment in question. *In re De Camillis' Estate*, 66 Misc.2d 882, 322 N.Y.S.2d 551, 556. The right

and power of a court to adjudicate concerning the subject matter in a given case. *Biddinger v. Fletcher*, 224 Ga. 501, 162 S.E.2d 414, 416. The term may have different meanings in different contexts. *Martin v. Luther*, C.A.III., 689 F.2d 109, 114.

Areas of authority; the geographic area in which a court has power or types of cases it has power to hear.

Scope and extent of jurisdiction of federal courts is governed by 28 U.S.C.A. § 1251 et seq.

For Ancillary; Appellate; Concurrent; Contentious; Continuing; Coordinate; Criminal; Equity; Exclusive; Foreign; General; Legislative; Limited or special jurisdiction; Military; Pendent jurisdiction; Plenary; Primary; Probate; Special; Subject-matter; Summary; Territorial; and Voluntary jurisdiction, see those titles. See also Excess of jurisdiction; Jurisdiction in personam; Jurisdiction in rem; Jurisdiction of the subject matter; Jurisdiction quasi in rem; Lack of jurisdiction. For *original jurisdiction*, see Original. For *diversity jurisdiction*, see Diversity of citizenship. For *federal question jurisdiction*, see Federal question jurisdiction. For *jurisdiction over nonresidents* or *foreign corporations*, see Long arm statutes; Minimum contacts.

Jurisdictional. Pertaining or relating to jurisdiction; conferring jurisdiction; showing or disclosing jurisdiction; defining or limiting jurisdiction; essential to jurisdiction.

Jurisdictional amount. Required amount involved in the particular case to give court jurisdiction, *Shabotzky v. Massachusetts Mut. Life Ins. Co.*, D.C.N.Y., 21 F.Supp. 166, 167; sum of all claims that are properly joined, *Gray v. Blight*, C.A.Colo., 112 F.2d 696, 700; value of the object sought to be attained in the litigation, *Ronzio v. Denver & R.G.W.R. Co.*, C.C.A.Utah, 116 F.2d 604, 606. The jurisdiction of the trial court is commonly limited by the amount in controversy in the particular action; e.g. the requisite jurisdictional amount for diversity of citizenship jurisdiction in the federal district courts is set forth in 28 U.S.C.A. § 1332.

Jurisdictional dispute. The competing claims made to an employer by different unions that each of their members are entitled to perform certain specific work. There must be evidence of a threat of coercive action for the N.L.R.B. to conduct a hearing and make an assignment of the work.

Jurisdictional facts. Those matters of fact which must exist before the court can properly take jurisdiction of the particular case, as, that the defendant has been properly served with process, that the amount in controversy exceeds a certain sum, that the parties are citizens of different states, etc. *Noble v. Union River Logging Railroad Co.*, 147 U.S. 165, 13 S.Ct. 271, 37 L.Ed. 123. See Jurisdictional statement; Jurisdiction clause.

Jurisdictional limits. The constitutional or statutory parameters within which judicial power may be exercised such as limits based on the monetary value of the action. See Jurisdictional amount.

Jurisdictional plea. Form of answer addressed to the issue of whether the court has the power over the

defendant or over the subject matter of the litigation; e.g. Fed.R.Civ.P. 12(b)(1), (2).

Jurisdictional statement. In some states, a statement required to set forth the amount claimed to be in controversy so as to permit a court of general jurisdiction to hear the case without remanding it to an inferior court. See also Jurisdiction clause.

Jurisdiction clause. A pleading which sets forth a claim for relief, whether an original claim, counterclaim, crossclaim, or third party claim, shall contain "a short and plain statement of the grounds upon which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds to support it." Fed.R.Civ.P. 8(a).

In equity practice, that part of a bill which is intended to give jurisdiction of the suit to the court, by a general averment that the acts complained of are contrary to equity, and tend to the injury of the complainant, and that he has no remedy, or not a complete remedy, without the assistance of a court of equity, is called the "jurisdiction clause."

See also Jurisdictional statement.

Jurisdiction in personam. Power which a court has over the defendant's person and which is required before a court can enter a personal or in personam judgment. *Pennoyer v. Neff*, 95 U.S. 714, 24 L.Ed. 565. It may be acquired by an act of the defendant within a jurisdiction under a law by which the defendant impliedly consents to the personal jurisdiction of the court, e.g. operation of a motor vehicle on the highways of state confers jurisdiction of operator and owner on courts of state. *Hess v. Pawloski*, 274 U.S. 352, 47 S.Ct. 632, 71 L.Ed. 1091. A judgment in personam brings about a merger of the original cause of action into the judgment and thereafter the action is upon the judgment and not on the original cause of action. See also In personam; Jurisdiction over person.

Jurisdiction in rem. Power of a court over a thing so that its judgment is valid as against the rights of every person in the thing, e.g. a judgment or decree of registration of title to land. See also In rem; Jurisdiction quasi in rem.

Jurisdiction of the person. See Jurisdiction in personam.

Jurisdiction of the subject matter. Power of a particular court to hear the type of case that is then before it. *Alfaro v. Meagher*, 27 Ill.App.3d 292, 326 N.E.2d 545, 548. Term refers to jurisdiction of court over class of cases to which particular case belongs, *Ferree v. Ferree*, 285 Ky. 825, 149 S.W.2d 719, 721; jurisdiction over the nature of the cause of action and relief sought, *Mid-City Bank & Trust Co. v. Myers*, 343 Pa. 465, 23 A.2d 420, 423; or the amount for which a court of limited jurisdiction is authorized to enter judgment.

A court is without authority to adjudicate a matter over which it has no jurisdiction even though the court possesses jurisdiction over the parties to the litigation; e.g. a court of limited criminal jurisdiction has no power

to try a murder indictment and its judgment therein would be void and of no effect because it lacks subject matter jurisdiction.

Jurisdiction over person. The legal power of the court to render a personal judgment against a party to an action or a proceeding. *Imperial v. Hardy, La.*, 302 So.2d 5, 7. See Jurisdiction in personam.

Jurisdiction quasi in rem. The power of a court over the defendant's interest in property, real or personal, within the geographical limits of the court. The court's judgment or decree binds only the defendant's interest and not the whole world as in the case of jurisdiction in rem. The original cause of action is not merged in the judgment as in the case of a judgment predicated on personal jurisdiction.

Juris et de jure /júræs èt diy júriy/. Of law and of right.

A presumption *juris et de jure*, or an irrebuttable presumption, is one which the law will not suffer to be rebutted by any counter-evidence, but establishes as conclusive; while a presumption *juris tantum* is one which holds good in the absence of evidence to the contrary, but may be rebutted.

Juris et seisinæ conjunctio /júræs èt síyzəniy kənjéj(k)-sh(iy)ow/. The union of seisin or possession and the right of possession, forming a complete title. 2 Bl. Comm. 199, 311.

Juris ignorantia est cum jus nostrum ignoramus /júræs ignəránsh(iy)ə èst kəm jás nóstrəm ignəréməs/. It is ignorance of the law when we do not know our own rights.

Jurisceptor /júrəsənséptər/. Lat. A student of the civil law.

Jurisperitus /júrəspəráytəs/. Lat. Skilled or learned in the law.

Juris positivi /júrəs pòzətáyvay/. Of positive law; a regulation or requirement of positive law, as distinguished from natural or divine law.

Juris præcepta sunt hæc: honeste vivere; alterum non lædere; suum cuique tribuere /júrəs præséptə sánt híyk: (h)onéstiy vívəriy; óltərəm nòn líydariy; s(y)úwəm k(yuw)áykwiy trəbyúwəriy/. These are the precepts of the law: To live honorably; to hurt nobody; to render to every one his due.

Juris privati /júrəs prəvéytay/. Of private right; subjects of private property.

Jurisprudence. The philosophy of law, or the science which treats of the principles of positive law and legal relations.

In the proper sense of the word, "jurisprudence" is the science of law, namely, that science which has for its function to ascertain the principles on which legal rules are based, so as not only to classify those rules in their proper order, and show the relation in which they stand to one another, but also to settle the manner in which new or doubtful cases should be brought under the appropriate rules. Jurisprudence is more a formal than

a material science. It has no direct concern with questions of moral or political policy, for they fall under the province of ethics and legislation; but, when a new or doubtful case arises to which two different rules seem, when taken literally, to be equally applicable, it may be, and often is, the function of jurisprudence to consider the ultimate effect which would be produced if each rule were applied to an indefinite number of similar cases, and to choose that rule which, when so applied, will produce the greatest advantage to the community.

For Comparative jurisprudence and Medical jurisprudence, see those titles. For *equity jurisprudence*, see Equity.

Jurisprudentia /jürəspruwdénsh(iy)ə/. Lat. In the civil and common law, jurisprudence, or legal science.

Jurisprudentia est divinarum atque humanarum rerum notitia, justī atque injustī scientia /jürəspruwdénsh(iy)ə èst divənérəm ætkwiý hyüwmónérəm rírəm nowtish(iy)ə, jóstay ætkwiý injéstay sayénsh(iy)ə/. Jurisprudence is the knowledge of things divine and human, the science of what is right and what is wrong.

Jurisprudentia legis communis anglīe est scientia socialis et copiosa /jürəspruwdénsh(iy)ə líýjəs kəmyúwnəs ængliýiy èst sayénsh(iy)ə sòws(h)iyéyləs èt kòwpiýòwsə/. The jurisprudence of the common law of England is a science social and comprehensive.

Juris publici /jürəs pəbləsay/. Of common right; of common or public use; such things as, at least in their own use, are common to all the king's subjects; as common highways, common bridges, common rivers, and common ports.

Jurist. One who is versed or skilled in law; answering to the Latin "*jurisperitus*" (*q.v.*). A judge; a legal scholar.

The term is commonly applied to those who have distinguished themselves by their writings on legal subjects or to judges.

Juristic /jəristək/. Pertaining or belonging to, or characteristic of, jurisprudence, or a jurist, or the legal profession.

Juristic act. One designed to have a legal effect, and capable thereof. An act of a private individual directed to the origin, termination, or alteration of a right.

Juris doctor. See J.D.

Juris utrum /jürəs yúwtrəm/. In English law, an abolished writ which lay for the parson of a church whose predecessor had alienated the lands and tenements thereof.

Juror. Member of jury. In addition to regular jurors, term includes special and alternate jurors.

Alternate juror. Additional juror impanelled in case of sickness or disability of another juror; generally in trials of expectedly long duration. Fed.R.Civil P. 47(b).

Juror designate. A juror who has been drawn as a juror. *Summers v. State ex rel. Boykin*, 66 Ga.App. 648, 19 S.E.2d 28, 31.

Juror's book. A list of persons qualified to serve on juries. See also Jury-list.

Jury. A certain number of men and women selected according to law, and *sworn (jurati)* to inquire of certain matters of fact, and declare the truth upon evidence to be laid before them. This definition embraces the various subdivisions of juries; as *grand jury*, *petit jury*, *common jury*, *special jury*, *coroner's jury*, *sheriff's jury* (*q.v.*).

A jury is a body of persons temporarily selected from the citizens of a particular district, and invested with power to present or indict a person for a public offense, or to try a question of fact. See also Trier of fact.

Advisory jury. A body of jurors impanelled to hear a case in which the parties have no right to a jury trial. The judge remains solely responsible for the findings and he may accept or reject the jury's verdict. Fed.R. Civil P. 39(c). See also Advisory jury.

Blue ribbon jury. Jury not drawn from the community at large, but one selected from unusually qualified people; an exceptional jury.

Challenge to jury. See Jury challenge.

Common jury. The ordinary kind of jury (*i.e.* petit jury) by which issues of fact are generally tried, as distinguished from a *special jury* (*q.v.*).

Deadlocked jury. See *Hung jury*, below.

Fair and impartial jury. See Fair and impartial jury.

Foreign jury. A jury obtained from a county or jurisdiction other than that in which issue was joined.

Grand jury. A jury of inquiry who are summoned and returned by the sheriff to each session of the criminal courts, and whose duty is to receive complaints and accusations in criminal cases, hear the evidence adduced on the part of the state, and find bills of indictment in cases where they are satisfied a trial ought to be had. They are first sworn, and instructed by the court. This is called a "grand jury" because it comprises a greater number of jurors than the ordinary trial jury or "petit jury." At common law, a grand jury consisted of not less than twelve nor more than twenty-three men.

Body of citizens, the number of whom varies from state to state, whose duties consist in determining whether probable cause exists that a crime has been committed and whether an indictment (true bill) should be returned against one for such a crime. If the grand jury determines that probable cause does not exist, it returns a "no bill." It is an accusatory body and its function does not include a determination of guilt.

Federal grand jury. Every grand jury impaneled before any federal district court shall consist of not less than sixteen nor more than twenty-three persons. If less than sixteen of the persons summoned attend, they shall be placed on the grand jury, and the court shall order the marshal to summon, either immediately or for a day fixed, from the body of the district, and not from the bystanders, a sufficient number of persons to

complete the grand jury. 18 U.S.C.A. § 3321; Fed.R.Crim.P. 6.

See also Inquest; Special grand jury.

Hung jury. A jury which is unable to agree on a verdict after a suitable period of deliberation; a deadlocked jury. The result is a mistrial of the case. *See* Dynamite instruction.

Impanelling of jury. *See* Impanel; Jury challenge.

Impartial jury. *See* Impartial jury.

Inquest jury. A jury of inquest is a body of persons summoned from the citizens of a particular district before the sheriff, coroner, or other ministerial officers, to inquire of particular facts. *See* Inquest.

Jury instructions. *See* Jury instructions.

Jury size. While at common law, and traditionally, a jury consisted of 12 members, there is no constitutional infirmity or deficiency in a jury of less than twelve; and it is common for state and Federal district court juries to consist of six persons for civil cases, instead of twelve (e.g. Dist. of Mass.). *Colgrove v. Battin*, 413 U.S. 149, 93 S.Ct. 2448, 37 L.Ed.2d 522. Also, in federal district courts, and many state courts, the parties may stipulate that the jury shall consist of any number less than twelve. Fed.R.Civil P. 48; Fed.R.Crim.P. 23. For size of federal grand jury, *see Federal grand jury, above*.

Jury tampering. The unauthorized communication with a juror for the purpose of exerting improper influence. *State v. Boudreaux*, La.App., 526 So.2d 230, 233. It is proscribed by Federal and state statutes. Cf. 18 U.S.C.A. §§ 1503, 1504; N.Y. McKinney's Penal Law § 215.25.

Petit jury. The ordinary jury for the trial of a civil or criminal action; so called to distinguish it from the grand jury.

Polling of jury. *See* Polling the jury.

Sequestration of jury. In some cases of great notoriety, the trial judge will order the jury to be isolated from the public (e.g. confined to area of hotel while trial not in session) for the duration of the trial to prevent tampering and exposure to trial publicity. In these cases the jurors are always in the custody of the court.

Special jury. A jury ordered by the court, on the motion of either party, in cases of unusual importance or intricacy. Called, from the manner in which it is constituted, a "struck jury." *See* Striking a jury.

At common law, a jury composed of persons above the rank of ordinary freeholders; usually summoned to try questions of greater importance than those usually submitted to common juries.

Traverse jury. *See* Traverse.

Trial jury. The jury participating in the trial of a given case; or a jury summoned and impaneled for the trial of a case, and in this sense a petit jury as distinguished from a grand jury. A body of persons returned from the citizens of a particular district before a court or officer

of competent jurisdiction, and sworn to try and determine, by verdict, a question of fact.

Jury-box. The place in court (strictly an inclosed place) where the jury sits during the trial of a cause.

Jury challenge. *Challenge for cause.* In most jurisdictions, each party to the litigation has right to a certain number of peremptory challenges to jurors at the time of impanelling. In addition, a party has the right to challenge a juror by furnishing a satisfactory reason why such juror should not be seated such as bias or knowledge of the case. Unlike the peremptory challenge for which no reason need be given, the party challenging a juror for cause must satisfy the trial judge that his reasons are compelling. *See e.g. Fed.R.Crim.P. 24. See also* Challenge.

Challenge to array. A challenge to the entire jury venire based on such grounds as systematic exclusion of women, blacks, young persons, etc. in the selection process.

Peremptory challenge. A challenge to a juror at the time of impanelling for which no reason need be advanced; in most jurisdictions each party is entitled to a certain number of such challenges in addition to challenges for cause. *See e.g. Fed.R.Crim.P. 24.*

Jury commissioner. An officer charged with the duty of selecting the names to be put into the jury wheel, or of drawing the panel of jurors for a particular term of court. Local official responsible for collecting lists of qualified prospective jurors for submission to court.

Jury instructions. A direction given by the judge to the jury concerning the law of the case; a statement made by the judge to the jury informing them of the law applicable to the case in general or some aspect of it; an exposition or the rules or principles of law applicable to the case or some branch or phase of it, which the jury are bound to accept and apply. Attorneys for both sides normally furnish judge with suggested instructions. Fed.R.Civil P. 51; Fed.R.Crim.P. 30. Many states and federal courts have model or pattern jury instructions which are required to be used, or substantially followed, by the trial judge.

See also Allen charge; Argumentative instruction; Cautionary instruction; Charge (*Charge to jury*); Converse instruction; Dynamite instruction; Formula instruction; Golden Rule argument. For *request for instructions*, *see* Request.

Additional instructions. If during the course of deliberations the jury is unclear about a particular point of law or aspect of the evidence it may request the court for additional or supplementary instructions.

Mandatory instruction. A mandatory instruction unequivocally charges the jury that if jurors find from preponderance of evidence that certain set of facts exists, jurors must find for one party and against the other. *Skaggs v. Davis*, 424 N.E.2d 137, 141. Mandatory instructions are those which attempt to set up a factual situation and direct jury to a certain result and they are to be distinguished from instructions which

merely state propositions of law without incorporating a factual situation. *LaNoux v. Hagar*, Ind.App., 308 N.E.2d 873, 878.

Peremptory instruction. An instruction given by a court to a jury which the latter must obey implicitly; as an instruction to return a verdict for the defendant, or for the plaintiff, as the case may be. *See also* *Mandatory instruction*, above.

Jury-list. A paper containing the names of jurors impaneled to try a cause, or the names of all the jurors summoned to attend court. *See also* *Jury panel*.

Jury of matrons. *See* *Matrons, jury of*.

Jury panel. The group of prospective jurors who are summoned to appear on a stated day and from which a grand jury or petit jury is chosen. *See* *Impanel*; *Jury-list*.

Jury polling. *See* *Polling the jury*.

Jury process. The process by which a jury is summoned in a cause, and by which their attendance is enforced. *See also* *Impanel*.

Jury questions. In general, term refers to questions of fact which are peculiarly within the province of the jury as contrasted with questions of law which must be decided by the judge. Term may also refer to special questions or interrogatories which the court may direct to the jury for a special verdict. Fed.R.Civil P. 49. *See also* *Voir dire*.

Jury Selection and Service Act. Federal Act (1968) to insure non-discrimination in federal jury selection and service. 28 U.S.C.A. § 1861.

Jury summation. *See* *Closing argument*.

Jury trial. Trial of matter or cause before jury as opposed to trial before judge. Such right is guaranteed with respect to criminal cases by Art. III, Sec. 2, cl. 3 of U.S.Const., and with respect to "suits at common law, where the value in controversy shall exceed twenty dollars" by the Seventh Amendment. Such right is also preserved by rule of court (e.g. Fed.R.Civil P. 38) and by the Fifth Amendment which provides *inter alia* for indictment by grand jury, and the Sixth Amendment which contains further specifications respecting jury trial in criminal cases. In addition, state constitutions provide for right to jury trial and the Supreme Court has held that the Fourteenth Amendment guarantees a right of jury trial in all state criminal cases which—were they to be tried in federal court—would come within the Sixth Amendment's guarantee. *Duncan v. Louisiana*, 391 U.S. 145, 88 S.Ct. 1444, 20 L.Ed.2d 491.

The right to "jury trial" of controverted issues implies a trial by an impartial and qualified jury. *Alexander v. R. D. Crier & Sons Co.*, 181 Md. 415, 30 A.2d 757, 759.

See also *Trial*.

Jury wheel. Physical device or electronic system for the storage and random selection of the names or identifying numbers of prospective jurors. A machine containing the names of persons qualified to serve as grand and

petit jurors, from which, in an order determined by the hazard of its revolutions, are drawn a sufficient number of such names to make up the panels for a given term of court.

Jurywoman. Member of a jury of matrons.

Jus /jəs/. Lat. In Roman law, right; justice; law; the whole body of law; also a right. The term is used in two meanings:

1. "*Jus*" means "law," considered in the abstract; that is, as distinguished from any specific enactment, the science or department of learning, or *quasi* personified factor in human history or conduct or social development, which we call, in a general sense, "the law." Or it means the law taken as a system, an aggregate, a whole; "the sum total of a number of individual laws taken together." Or it may designate some one particular system or body of particular laws; as in the phrases "*jus civile*," "*jus gentium*," "*jus prætorium*."

2. In a second sense, "*jus*" signifies "a right;" that is, a power, privilege, faculty, or demand inherent in one person and incident upon another; or a capacity residing in one person of controlling, with the assent and assistance of the state, the actions of another. This is its meaning in the expressions "*jus in rem*," "*jus accrescendi*," "*jus possessionis*."

It is thus seen to possess the same ambiguity as the words "*droit*," "*recht*," and "right" (*q.v.*).

Within the meaning of the maxim that "*ignorantia juris non excusat*" (ignorance of the law is no excuse), the word "*jus*" is used to denote the general law or ordinary law of the land, and not a private right.

Some further meanings of the word are:

An action, or, rather, those proceedings in the Roman action which were conducted before the prætor.

Power or authority. *Sui juris*, in one's own power; independent. *Alieni juris*, under another's power.

The profession (*ars*) or practice of the law. *Jus ponitur pro ipsa arte*.

A court or judicial tribunal (*locus in quo redditur jus*).

Jus abstinendi /jəs əbstənénday/. The right of renunciation; the right of an heir, under the Roman law, to renounce or decline the inheritance, as, for example, where his acceptance, in consequence of the necessity of paying the debts, would make it a burden to him.

Jus abutendi /jəs əbyəténday/. The right to abuse. By this phrase is understood the right to do exactly as one likes with property, or having full dominion over property.

Jus accrescendi /jəs əkrəsénday/. The right of survivorship. In *re Brogan's Estate*, 165 Misc. 111, 300 N.Y.S. 447, 455. The right of the survivor or survivors of two or more joint tenants to the tenancy or estate, upon the death of one or more of the joint tenants. In *re Capria's Estate*, 89 Misc. 101, 151 N.Y.S. 385, 386.

Jus accrescendi inter mercatores, pro beneficio commercii, locum non habet /jəs əkrəsénday întər märke-tóriyz, prów benéfis(h)(i)yow kəmərziyay, lówkəm nòn

hýbát/. The right of survivorship has no place between merchants, for the benefit of commerce. There is no survivorship in cases of partnership, as there is in joint-tenancy.

Jus accrescendi præfertur oneribus /jəs ækrəséndaj præfærtər ownéhřəbəs/. The right of survivorship is preferred to incumbrances. Hence no dower or curtesy can be claimed out of a joint estate.

Jus accrescendi præfertur ultimæ voluntati /jəs ækrəséndaj præfærtər iltəmiy voləntéytaj/. The right of survivorship is preferred to the last will. A devise of one's share of a joint estate, by will, is no severance of the jointure; for no testament takes effect till after the death of the testator, and by such death the right of the survivor (which accrued at the original creation of the estate, and has therefore a priority to the other) is already vested. 2 Bl.Comm. 186.

Jus actus /jəs éktəs/. In Roman law, a rural servitude giving to a person a passage for carriages, or for cattle.

Jus ad rem /jəs əd rém/. A term of the civil law, meaning "a right to a thing;" that is, a right exercisable by one person over a particular article of property in virtue of a contract or obligation incurred by another person in respect to it, and which is enforceable only against or through such other person. It is thus distinguished from *jus in re*, which is a complete and absolute dominion over a thing available against all persons. *Mire v. Sunray DX Oil Co.*, D.C.La., 285 F.Supp. 885, 889.

The disposition of writers is to use the term "*jus ad rem*" as descriptive of a right without possession, and "*jus in re*" as descriptive of a right accompanied by possession. Or, in a somewhat wider sense, the former denotes an inchoate or incomplete right to a thing; the latter, a complete and perfect right to a thing. The *Carlos F. Roses*, 177 U.S. 655, 20 S.Ct. 803, 44 L.Ed. 929.

In canon law, a right to a thing. An inchoate and imperfect right, such as is gained by nomination and institution; as distinguished from *jus in re* or complete and full right, such as is acquired by corporal possession. 2 Bl.Comm. 312.

Jus Ælianum /jəs iyliyénəm/. A body of laws drawn up by Sextus Ælius, and consisting of three parts, wherein were explained, respectively: (1) The laws of the Twelve Tables; (2) the interpretation of and decisions upon such laws; and (3) the forms of procedure. In date, it was subsequent to the *jus Flavianum* (*q.v.*).

Jus æquum /jəs iykwəm/. A term used by the Romans to express the adaptation of the law to the circumstances of the individual case as opposed to *jus strictum* (*q.v.*).

Jus æsneciæ /jəs əsníys(h)iyiy/. The right of primogeniture (*q.v.*).

Jus albinatus /jəs əlbənétəs/. The *droit d'aubaine* (*q.v.*). See *Albinatus jus*.

Jus angariæ /jəs əngériiy/. See *Angaria*; *Angary*, right of.

Jus aquæductus /jəs əkwədəktəs/. In the civil law, the name of a servitude which gives to the owner of land the right to bring down water through or from the land of another.

Jus aquæ haustus /jəs əkwiy hóstəs/. In Roman law, a rural servitude giving to a person a right of watering cattle on another's field, or of drawing water from another's well.

Jus banci /jəs bənsay/. In old English law, the right of bench. The right or privilege of having an elevated and separate *seat of judgment*, anciently allowed only to the king's judges, who hence were said to administer *high justice* (*summam administrant justitiam*).

Jus belli /jəs bélay/. The law of war. The law of nations as applied to a state of war, defining in particular the rights and duties of the belligerent powers themselves, and of neutral nations. That which may be done without injustice with regard to an enemy.

Jus bellum dicendi /jəs béləm dəséndaj/. The right of proclaiming war.

Jus canonicum /jəs kənonəkəm/. The canon law.

Jus civile /jəs sívəliy/. Civil law. The system of law peculiar to one state or people. Particularly, in Roman law, the civil law of the Roman people, as distinguished from the *jus gentium*. The term is also applied to the body of law called, emphatically, the "civil law." See also *Civil law*.

The *jus civile* and the *jus gentium* are distinguished in this way. All people ruled by statutes and customs use a law partly peculiar to themselves, partly common to all men. The law each people has settled for itself is peculiar to the state itself, and is called "*jus civile*," as being peculiar to that very state. The law, again, that natural reason has settled among all men,—the law that is guarded among all peoples quite alike,—is called the "*jus gentium*," and all nations use it as if law. The Roman people, therefore, use a law that is partly peculiar to itself, partly common to all men.

But this is not the only, or even the general, use of the words. What the Roman jurists had chiefly in view, when they spoke of "*jus civile*," was not local as opposed to cosmopolitan law, but the old law of the city as contrasted with the newer law introduced by the prætor (*jus prætorium*, *jus honorarium*). Largely, no doubt, the *jus gentium* corresponds with the *jus prætorium*; but the correspondence is not perfect.

Jus civile est quod sibi populus constituit /jəs sívəliy ést kwód síbay pópyləs kənstít(y)uwət/. The civil law is what a people establishes for itself.

Jus civitatus /jəs sívətéytəs/. The right of citizenship; the freedom of the city of Rome. It differs from *jus quiritium*, which comprehended all the privileges of a free native of Rome. The difference is much the same as between "denization" and "naturalization".

Jus cloacæ /jəs klówéysiy/klówəsiy/. In the civil law, the right of sewerage or drainage. An easement consisting in the right of having a sewer, or of conducting

surface water, through the house or over the ground of one's neighbor.

Jus commune /jəs kəmyúwni/. In the Civil law, common right; the common and natural rule of right, as opposed to *jus singulare* (q.v.).

In English law, the common law, answering to the Saxon "*folcright*."

Jus constitui oportet in his quæ ut plurimum accidunt non quæ ex inopinato /jəs kənstityuway əpɔrtət in his kwiy èt plúrəməm æksədənt nɔn kwiy èks inɔpənétow/. Laws ought to be made with a view to those cases which happen most frequently, and not to those which are of rare or accidental occurrence.

Jus coronæ /jəs kərówni/. In English law, the right of the crown, or to the crown; the right of succession to the throne.

Jus cudendæ monetæ /jəs kədéndiy mənítiy/. In old English law, the right of coining money.

Jus curialitatis /jəs kyúriælététəs/. In English law, the right of curtesy.

Jus dare /jəs déri/. To give or to make the law; the function and prerogative of the legislative department.

Jus deliberandi /jəs dəlibərənday/. In the civil law the right of deliberating. A term granted by the proper officer at the request of him who is called to the inheritance (the heir), within which he has the right to investigate its condition and to consider whether he will accept or reject it.

Jus descendit, et non terra /jəs dəséndət, èt nɔn téhrə/. A right descends, not the land.

Jus devolutum /jəs dəvəl(y)úwtəm/. The right of the church of presenting a minister to a vacant parish, in case the patron shall neglect to exercise his right within the time limited by law.

Jus dicere /jəs dáysəri/. To declare the law; to say what the law is. The province of a court or judge.

Jus dicere, et non jus dare /jəs dáysəri, èt nɔn jəs déri/. To declare the law, not to make it.

Jus disponendi /jəs dispənénday/. The right of disposing. An expression used either generally to signify the right of alienation, as when we speak of depriving a married woman of the *jus disponendi* over her separate estate, or specially in the law relating to sales of goods, where it is often a question whether the vendor of goods has the intention of reserving to himself the *jus disponendi*; i.e., of preventing the ownership from passing to the purchaser, notwithstanding that he (the vendor) has parted with the possession of the goods.

Jus distrahendi /jəs distrəhénday/. The right of sale of goods pledged in case of non-payment. See Distress; Pledge.

Jus dividendi /jəs divədénday/. The right of disposing of realty by will.

Jus duplicatum /jəs d(y)ùwpləkéytəm/. A double right; the right of possession united with the right of property; otherwise called "*droit-droit*." 2 Bl.Comm. 199.

Jus edicere or **jus edicendi** /jəs ədáysəri/jəs iydəsénday/. The right to issue edicts. It belonged to all the higher magistrates, but special interest is attached to the prætorian edicts in connection with the history of Roman law.

Jus est ars boni et æqui /jəs èst árz bównay èt iykway/. Law is the science of what is good and just.

Jus est norma recti; et quicquid est contra normam recti est injuria /jəs èst nórma réktay, èt kwí(d)kwid èst kóntrə nórma réktay èst ənjúr(i)yə/. Law is a rule of right; and whatever is contrary to the rule of right is an injury.

Jus et fraus nunquam cohabitant /jəs èt frós nánkwəm kowhábətənt/. Right and fraud never dwell together.

Jus ex injuria non oritur /jəs èks ənjúr(i)yə nɔn órətər/. A right does (or can) not rise out of a wrong.

Jus ex non scripto /jəs èks nɔn skriptow/. Law constituted by custom or such usage as indicates the tacit consent of the community.

Jus falcandi /jəs fòlkénday/. The right of mowing or cutting. The right of cutting wood.

Jus faciale /jəs fes(h)iyéyli/. In Roman law, the law of arms, or of heralds. A rudimentary species of international law founded on the rites and religious ceremonies of the different peoples.

Jus fiduciarium /jəs fəd(y)uws(h)iyérəm/. In the civil law, a right in trust; as distinguished from *jus legitimum*, a legal right. 2 Bl.Comm. 328.

Jus fluminum /jəs fl(y)úwmənəm/. In the civil law, the right to the use of rivers.

Jus fodiendi /jəs fò(w)diyénday/. In the civil and old English law, a right of digging on another's land.

Jus futurum /jəs fyətýúram/. In the civil law, a future right; an inchoate, incipient, or expectant right, not yet fully vested. It may be either "*jus delatum*," when the subsequent acquisition or vesting of it depends merely on the will of the person in whom it is to vest, or "*jus nondum delatum*," when it depends on the future occurrence of other circumstances or conditions.

Jus gentium /jəs jénsh(iy)əm/. The law of nations. That law which natural reason has established among all men is equally observed among all nations, and is called the "law of nations," as being the law which all nations use. Although this phrase had a meaning in the Roman law which may be rendered by our expression "law of nations," it must not be understood as equivalent to what we now call "international law," its scope being much wider. It was originally a system of law, or more properly equity, gathered by the early Roman lawyers and magistrates from the common ingredients in the customs of the old Italian tribes,—those being the nations, *gentes*, whom they had opportunities of observing,—to be used in cases where the *jus civile* did not

apply; that is, in cases between foreigners or between a Roman citizen and a foreigner. The principle upon which they proceeded was that any rule of law which was common to all the nations they knew of must be intrinsically consonant to right reason, and therefore fundamentally valid and just. From this it was an easy transition to the converse principle, viz., that any rule which instinctively commended itself to their sense of justice and reason must be a part of the *jus gentium*. And so the latter term came eventually to be about synonymous with "equity" (as the Romans understood it), or the system of prætorian law.

Jurists frequently employed the term "*jus gentium privatum*" to denote private international law, or that subject which is otherwise styled the "conflict of laws"; and "*jus gentium publicum*" for public international law, or the system of rules governing the intercourse of nations with each other as persons.

Jus gladii /jəs glædiy/. The right of the sword; the executory power of the law; the right, power, or prerogative of punishing for crime. 4 Bl.Comm. 177.

Jus habendi /jəs hæbénday/. The right to have a thing. The right to be put in actual possession of property.

Jus habendi et retinendi /jəs hæbénday èt rètánénday/. A right to have and to retain the profits, tithes, and offerings, etc., of a rectory or parsonage.

Jus hæreditatis /jəs hæredétéytəs/. The right of inheritance.

Jus hauriendi /jəs hohriyénday/. In the civil and old English law, the right of drawing water.

Jus honorarium /jəs (h)ònàrériyám/. The body of Roman law, which was made up of edicts of the supreme magistrates, particularly the prætors.

Jus honorum /jəs (h)ònóram/. In Roman law, the right of holding offices. See *Jus suffragii*.

Jus imaginis /jəs əmájənas/. In Roman law, the right to use or display pictures or statues of ancestors; somewhat analogous to the right, in English law, to bear a coat of arms.

Jus immunitatis /jəs əmyùwnətéytəs/. In the civil law, the law of immunity or exemption from the burden of public office.

Jus incognitum /jəs inkógnətəm/. An unknown law. This term is applied by the civilians to obsolete laws.

Jus individuum /jəs indəvidyüwəm/. An individual or indivisible right; a right incapable of division.

Jus in personam /jəs in pərsównəm/. A right against a person; a right which gives its possessor a power to oblige another person to give or procure, to do or not to do, something.

Jus in re /jəs in riy/. A right in a thing. *Denver Joint Stock Land Bank of Denver v. Dixon*, 57 Wyo. 523, 122 P.2d 842, 847. A right existing in a person with respect to an article or subject of property, inherent in his

relation to it, implying complete ownership with possession, and available against all the world.

See *Jus ad rem*.

Jus in re aliena /jəs in riy èyliyiýnə/. An easement on servitude, or right in, or arising out of, the property of another.

Jus in re inhærit ossibus usufructuarii /jəs in riy inhîrèt ósəbəs yüwz(h)uwfræktériyay/. A right in the thing cleaves to the person of the usufructuary.

Jus in re propria /jəs in riy prówpriyə/. The right of enjoyment which is incident to full ownership or property, and is often used to denote the full ownership or property itself. It is distinguished from *jus in re aliena*, which is a mere easement or right in or over the property of another.

Jus italicum /jəs ítáeləkəm/. A term of the Roman law descriptive of the aggregate of rights, privileges, and franchises possessed by the cities and inhabitants of Italy, outside of the city of Rome, and afterwards extended to some of the colonies and provinces of the empire, consisting principally in the right to have a free constitution, to be exempt from the land tax, and to have the title to the land regarded as Quiritarian property.

Jus itineris /jəs aytínəras/. In Roman law, a rural servitude giving to a person the right to pass over an adjoining field, on foot or horseback.

Jus jurandi forma verbis differt, re convenit; hunc enim sensum habere debet: ut deus invocetur /jəs jərənday fórmə vərbəs difərt, riy kənvíynət; háŋk iyəm sénsəm hæbíríy débət: èt díyəs invəsiytər/. The form of taking an oath differs in language, agrees in meaning; for it ought to have this sense; that the deity is invoked.

Jus jurandum /jəs jərəndəm/. Lat. An oath.

Jus jurandum inter alios factum nec nocere neo prodesse debet /jəs jərəndəm íntər əliyóws fáktəm nèk nəsíriy nèk prədəsíy débət/. An oath made between others ought neither to hurt nor profit.

Jus Latii /jəs léyshiyay/. In Roman law, the right of Latium or of the Latins.

The principal privilege of the Latins seems to have been the use of their own laws, and their not being subject to the edicts of the prætor, and that they had occasional access to the freedom of Rome, and a participation in her sacred rites.

Jus Latium /jəs léysh(iy)əm/. In Roman law, a rule of law applicable to magistrates in Latium. It was either *majus Latium* or *minus Latium*,—the *majus Latium* raising to the dignity of Roman citizen not only the magistrate himself, but also his wife and children; the *minus Latium* raising to that dignity only the magistrate himself.

Jus legitimum /jəs lejítəməm/. A legal right. In the civil law, a right which was enforceable in the ordinary course of law.

Jus liberorum /jəs libərórəm/. In Roman law, the privilege conferred upon a woman who had three or four children.

Jus mariti /jəs mārətay/. The right of a husband; especially the right which a husband acquires to his wife's movable estate by virtue of the marriage.

Jus merum /jəs mírəm/. In old English law, mere or bare right; the mere right of property in lands, without either possession or even the right of possession.

Jus moribus constitutum /jəs mórəbəs kònstətyúwtəm/. See *Jus ex non scripto*.

Jus naturæ /jəs nətýúriy/. The law of nature. See *Jus naturale*.

Jus naturale /jəs nətýərəyliy/. The natural law, or law of nature; law, or legal principles, supposed to be discoverable by the light of nature or abstract reasoning, or to be taught by nature to all nations and men alike; or law supposed to govern men and peoples in a state of nature, *i.e.*, in advance of organized governments or enacted laws. See *Natural law*.

This concept originated with the philosophical jurists of Rome, and was gradually extended until the phrase came to denote a supposed basis or substratum common to all systems of positive law, and hence to be found, in greater or less purity, in the laws of all nations. And, conversely, they held that if any rule or principle of law was observed in common by all peoples with whose systems they were acquainted, it must be a part of the *jus naturale*, or derived from it. Thus the phrases "*jus naturale*" and "*jus gentium*" came to be used interchangeably.

Jus naturale est quod apud homines eandem habet potentiam /jəs nətýərəyliy èst kwód əpəd hóməniyz iyəndəm héybat pətəsh(iy)əm/. Natural right is that which has the same force among all mankind.

Jus navigandi /jəs nəvəgənday/. The right of navigating or navigation; the right of commerce by ships or by sea.

Jus necis /jəs níysəs/. In Roman law, the right of death, or of putting to death. A right which a father anciently had over his children. See *Jus vitæ necisque*.

Jus non habenti tute non paretur /jəs nòn həbéntay t(y)úwtiy nòn pəriytər/. One who has no right cannot be safely obeyed.

Jus non patitur ut idem bis solvatur /jəs nòn pətətər ət əydəm bis sòlvétər/. Law does not suffer that the same thing be twice paid.

Jus non sacrum /jəs nòn sækram/. In Roman law, that portion of the *jus publicum* which regulated the duties of magistrates.

Non-sacred law; that which dealt with the duties of civil magistrates, the preservation of public order, and the rights and duties of persons in their relation to the state. It was analogous to that which would now be called the police power.

Jus non scriptum /jəs nòn skriptəm/. The unwritten law.

Jus offerendi /jəs òfərénday/. In Roman law, the right of subrogation, that is, the right of succeeding to the lien and priority of an elder creditor on tendering or paying into court the amount due to him.

Jus oneris ferendi /jəs ównərəs fərénday/. An urban servitude in the Roman law, the owner of which had the right of supporting and building upon the house wall of another.

Jus pascendi /jəs pásénday/. In the civil and old English law, the right of pasturing cattle.

Jus patronatus /jəs pàtrənáyts/. In English ecclesiastical law, the right of patronage; the right of presenting a clerk to a benefice.

A commission from the bishop, where two presentations are offered upon the same avoidance, directed usually to his chancellor and others of competent learning, who are to summon a jury of six clergymen and six laymen to inquire into and examine who is the rightful patron. 3 Bl.Comm. 246.

Jus personarum /jəs pərsənérəm/. Rights of persons. Those rights which, in the civil law, belong to persons as such, or in their different characters and relations; as parents and children, masters and servants, etc.

Jus pœnitendi /jəs pènéténday/. In Roman law, the right of rescission or revocation of an executory contract on failure of the other party to fulfill his part of the agreement.

Jus portus /jəs pórtəs/. In maritime law, the right of port or harbor.

Jus possessionis /jəs pəzəshiyównəs/. The right of possession.

Jus possidendi /jəs pòsədénday/. The right of possessing, which is the legal consequence of ownership. It is to be distinguished from the *jus possessionis* (*q.v.*), which is a right to possess which may exist without ownership.

Jus postliminii /jəs pòwstləmíniyay/. In the civil law, the right of postliminy; the right or claim of a person who had been restored to the possession of a thing, or to a former condition, to be considered as though he had never been deprived of it.

In International law, the right by which property taken by an enemy, and recaptured or rescued from him by the fellow-subjects or allies of the original owner, is restored to the latter upon certain terms.

Jus præsens /jəs priyézənz/. In the civil law, a present or vested right; a right already completely acquired.

Jus prætorium /jəs prətóriyəm/. In the civil law, the discretion of the prætor, as distinct from the *leges*, or standing laws. 3 Bl.Comm. 49. That kind of law which the prætors introduced for the purpose of aiding, supplying, or correcting the civil law, for the public benefit. Called, also "*jus honorarium*" (*q.v.*).

Jus precarium /jəs prəkériyəm/. In the civil law, a right to a thing held for another, for which there was no

remedy by legal action, but only by entreaty or request. 2 Bl.Comm. 328.

Jus presentationis /jás prèzèntèyshiyównəs/. The right of presentation.

Jus privatum /jás prævétəm/. Private law; the law regulating the rights, conduct, and affairs of individuals, as distinguished from "public" law, which relates to the constitution and functions of government and the administration of criminal justice. The right of a person acquiring title to lands under navigable waters to fill in such lands, making upland out of foreshore, and thus extinguishing *jus publicum*, subject to right of sovereign to make public improvements on tide water for benefit of commerce. *Arnold's Inn, Inc. v. Morgan*, 63 Misc.2d 279, 310 N.Y.S.2d 541, 547.

Also private ownership, or the right, title, or dominion of a private owner, as distinguished from "*jus publicum*," which denotes public ownership, or the ownership of property by the government, either as a matter of territorial sovereignty or in trust for the benefit and advantage of the general public. In this sense, a state may have a double right in given property, e.g., lands covered by navigable waters within its boundaries, including both "*jus publicum*," a sovereign or political title, and "*jus privatum*," a proprietary ownership.

Jus projiciendi /jás prájis(h)iyénday/. In the civil law, the name of a servitude which consists in the right to build a projection, such as a balcony or gallery, from one's house in the open space belonging to one's neighbor, but without resting on his house.

Jus proprietatis /jás prəprəyətéytəs/. The right of property, as distinguished from the *jus possessionis* or right of possession.

Jus protegendi /jás pròwtəjénday/. In the civil law, the name of a servitude. It is a right by which a part of the roof or tiling of one house is made to extend over the adjoining house.

Jus protimeseos /jás pròwtəmiysiyòs/. The right of pre-emption of a landlord in case the tenant wishes to dispose of his rights as a perpetual lessee. *Pactum protimeseos* was the right of pre-emption to the seller; i.e. in case the buyer should sell, he must sell to the former seller.

Jus publicum /jás pəbləkəm/. Public law, or the law relating to the constitution and functions of government and its officers and the administration of criminal justice. Also public ownership, or the paramount or sovereign territorial right or title of the state or government. The right shared by all to navigate on waters covering foreshore at high tide and, at low tide, to have access across foreshore to waters for fishing, bathing or any other lawful purpose. *Arnold's Inn, Inc. v. Morgan*, 63 Misc.2d 279, 310 N.Y.S.2d 541. See *Jus privatum*.

It implies a right in a sovereign or public capacity to be exercised for the interest or benefit of the state or the public, as distinguished from the exercise in a proprietary capacity of a right of the sovereign or a right possessed by an individual in common with the public.

Sovereign's right of jurisdiction and dominion for governmental purposes over all lands and waters within its territorial limits, including tidal waters and their bottoms, is sometimes termed "*jus publicum*."

Jus publicum et privatum quod ex naturalibus præceptis aut gentium aut civilibus est collectum; et quod in jure scripto jus appellatur, id in lege Angliæ rectum esse dicitur /jás pəbləkəm èt prævétəm kwòd èks nàtyrèylyəbəs prəséptəs òt jénsh(iy)əm òt səviləbəs èst kələktəm, èt kwòd in júryi skríptow jás əpəlétər, id in líyjiy əngliyi rəktəm ésiy dísetər/. Public and private law is that which is collected from natural principles, either of nations or in states; and that which in the civil law is called "*jus*," in the law of England is said to be "right."

Jus publicum privatorum pactis mutari non potest /jás pəbləkəm prəyvtórəm pəktəs myuwtəray nòn pòwtəst/. A public law or right cannot be altered by the agreements of private persons.

Jus quæsitum /jás kwəzəytəm/. A right to ask or recover; for example, in an obligation there is a binding of the obligor, and a *jus quæsitum* in the obligee.

Jus quiritium /jás kwəryəsh(iy)əm/. The old law of Rome, that was applicable originally to patricians only, and, under the Twelve Tables, to the entire Roman people, was so called, in contradistinction to the *jus prætorium* (q.v.), or equity.

Jus recuperandi /jás rək(y)ùwpərénday/. The right of recovering [lands].

Jus representationis /jás rèprəzèntèyshiyównəs/. The right of representing or standing in the place of another, or of being represented by another.

Jus rerum /jás rírəm/. The law of things. The law regulating the rights and powers of persons over things; how property is acquired, enjoyed, and transferred.

Jus respicit æquitatem /jás rəspsət èkwətéytəm/. Law regards equity.

Jus sacrum /jás səkkrəm/. In Roman law, that portion of the public law which was concerned with matters relating to public worship and including the regulation of sacrifices and the appointment of priests. There was a general division of the *jus publicum* into *jus sacrum* and *jus non sacrum* (q.v.).

Jus sanguinis /jás səngwənəs/. The right of blood. The principle that a person's citizenship is determined by the citizenship of the parents. See *Jus soli*.

Jus scriptum /jás skríptəm/. In English law, written law, or statute law, otherwise called "*lex scripta*," as distinguished from the common law, "*lex non scripta*." 1 Bl.Comm. 62.

In Roman law, all law that was actually committed to writing, whether it had originated by enactment or by custom, in contradistinction to such parts of the law of custom as were not committed to writing.

Jus singulare /jás sɪŋgyləriy/. In the civil law, a peculiar or individual rule, differing from the *jus com-*

mune, or common rule of right, and established for some special reason.

Jus soli /jəs sówlay/. The law of the place of one's birth as contrasted with *jus sanguinis*, the law of the place of one's descent or parentage. The principle that a person's citizenship is determined by place of birth rather than by the citizenship of one's parents. It is of feudal origin.

Jus spatiaudi /jəs spèyshiyénday/. A right of way over land by the public by uses merely for the purposes of recreation and instruction.

Jus stapulæ /jəs stèypýeliy/. In old European law, the law of staple; the right of staple. A right or privilege of certain towns of stopping imported merchandise, and compelling it to be offered for sale in their own markets.

Jus stillicidii vel fluminis recipiendi /jəs stílèsídiyay vèl fl(y)úwmənəs rəsipiyénday/. In Roman law, an urban servitude giving the owner a right to project his roof over the land of another or to open a house drain upon it.

Jus strictum /jəs stríktəm/. Strict law; law interpreted without any modification, and in its utmost rigor.

Jus suffragii /jəs sàfréyjíyay/. In Roman law, the right of voting. This and the *jus honorum* (*q.v.*) were the public rights of the Roman citizen.

Jus superveniens auctori accrescit successori /jəs-(y)uwpərviyn(i)yènz óktóray àkrèsèt sàksesóray/. A right growing to a possessor accrues to the successor.

Just. Conforming to or consonant with what is legal or lawful; legally right; lawful. *National Surety Corporation v. Mullins*, 262 Ky. 465, 90 S.W.2d 707, 708. Correct, true, due. *Wisdom v. Board of Sup'rs of Polk County*, 236 Iowa 669, 19 N.W.2d 602, 606. Equitable. *Carter v. Carter*, 181 Okl. 204, 73 P.2d 404, 405. Reasonable. *National Surety Corporation v. Mullins*, 262 Ky. 465, 90 S.W.2d 707, 708. Right; in accordance with law and justice. See also *Equitable*.

Justa causa /jəstə kózo/. In the civil law, a just cause; a lawful ground; a legal transaction of some kind.

Just cause. A cause outside legal cause, which must be based on reasonable grounds, and there must be a fair and honest cause or reason, regulated by good faith. *Dubois v. Gentry*, 182 Tenn. 103, 184 S.W.2d 369, 371. Fair, adequate, reasonable cause. In re *Municipal Garage in and for City of Utica*, 141 Misc. 15, 252 N.Y.S. 18, 32. Legitimate cause; legal or lawful ground for action; such reasons as will suffice in law to justify the action taken. *Boston Elevated Ry. Co. v. Commonwealth*, 310 Mass. 528, 39 N.E.2d 87, 112, 124. As used in statutory sense is that which to an ordinary intelligent person is justifiable reason for doing or not doing a particular act. *Daugherty v. Admr., Bureau of Employment Services*, 21 Ohio App.3d 1, 486 N.E.2d 242, 243, 21 O.B.R. 1. See *Cause of action*.

Under provision that no license shall be revoked without "just cause," the words imply that charges should be made and notice of hearing given and an opportunity to

be heard afforded. *Carroll v. California Horse Racing Board*, 16 Cal.2d 164, 105 P.2d 110, 111.

Just cause of provocation. That which will constitute the homicide murder in the second degree, as distinguished from a lawful provocation, which will reduce it to manslaughter. *State v. McCracken*, 341 Mo. 697, 108 S.W.2d 372, 376.

Just compensation. Compensation which is fair to both the owner and the public when property is taken for public use through condemnation (eminent domain). Consideration is taken of such criteria as the cost of reproducing the property, its market value, and the resulting damage to the remaining property of the owner. The Fifth Amendment to the U.S. Constitution provides that no private property shall be taken for public use, without "just compensation." Within Fifth Amendment provision that private property shall not be taken for public use without just compensation, "just compensation" means the full monetary equivalent of the property taken. *U. S. v. Reynolds, Ky.*, 397 U.S. 14, 90 S.Ct. 803, 805, 25 L.Ed.2d 12.

As regards property taken for public use, the term is comprehensive and includes all elements, *Jacobs v. U. S., Ala.*, 290 U.S. 13, 54 S.Ct. 26, 78 L.Ed. 142; *Metropolitan Water Dist. of Southern California v. Adams*, 16 Cal.2d 676, 107 P.2d 618, 621, but does not exceed market value. *U. S. v. Waterhouse, C.C.A.Hawaii*, 132 F.2d 699, 703. It means a settlement which leaves one no poorer or richer than he was before the property was taken. *U. S. ex rel. Tennessee Valley Authority v. Indian Creek Marble Co., D.C.Tenn.*, 40 F.Supp. 811, 818, 819. Adequate compensation. *State v. Hale, Tex.Civ. App.*, 96 S.W.2d 135, 141. Fair market value. *Cameron Development Co. v. United States, C.C.A.Fla.*, 145 F.2d 209, 210. Full and perfect equivalent of the property taken. *U. S. v. 2.4 Acres of Land, More or Less, in Lake County, Ill., C.C.A.Ill.*, 138 F.2d 295, 297. It is the fair market value of property taken at time of taking, *Danforth v. U. S., Mo.*, 308 U.S. 271, 60 S.Ct. 231, 236, 84 L.Ed. 240; plus compensation for delay in payment, *Kieselbach v. Commissioner of Internal Revenue*, 317 U.S. 399, 63 S.Ct. 303, 305, 87 L.Ed. 358; or consequential damages to the owner, In re *Board of Water Supply of City of New York*, 277 N.Y. 452, 14 N.E.2d 789; or value of use of property from date of taking possession to date of judgment if possession is taken by condemnor prior to judgment. *Los Angeles County Flood Control Dist. v. Hansen*, 48 Cal.App.2d 314, 119 P.2d 734, 735. It requires that the owner be put in as good position pecuniarily as he would otherwise have been if the property had not been taken. *Almota Farmers Elevator & Warehouse Co. v. U.S., Wash.*, 93 S.Ct. 791, 794, 409 U.S. 470. Interest is recoverable in eminent domain proceedings as part of "just compensation" when payment is not contemporaneous with the taking. *New Hampshire Water Resources Bd. v. Pera*, 108 N.H. 18, 226 A.2d 774, 775, 776. Market value at time of taking; i.e. highest price for which property considered at its best and most profitable use can be sold in open market by willing seller to willing buyer, neither acting under

compulsion and both exercising reasonable judgment. *State Highway Commission v. American Memorial Parks, Inc.*, 82 S.D. 231, 144 N.W.2d 25, 27. *See also* Adequate compensation; Similar sales.

On government's cancellation of contract, "just compensation" recoverable consists of such sum as in court's judgment will fairly compensate contractor. *Enright v. U. S.*, 73 Ct.Cl. 416, 54 F.2d 182, 190. It is the value of contract at time of cancellation, not profits which it would have produced. *De Laval Steam Turbine Co. v. U. S.*, 284 U.S. 61, 52 S.Ct. 78, 79, 76 L.Ed. 168.

Just debts. As used in a will or a statute, this term means legal, valid, and incontestable obligations, not including such as are barred by the statute of limitations or voidable at the election of the party. *Jones' Ex'r v. Jones*, 275 Ky. 753, 122 S.W.2d 779, 780.

Jus tertii /jʊs tɜrʃiɪy/. The right of a third party.

A tenant, bailee, etc., who pleads that the title is in some person other than his landlord, bailor, etc., is said to set up a *jus tertii*. *Dempsey Oil & Gas Co. v. Citizens' Nat. Bank*, 110 Okl. 39, 235 P. 1104, 1107.

Jus testamentorum pertinet ordinario /jʊs tɛstəməntɔrəm pɜrtənət ɔrdənəriyow/. The right of testaments belongs to the ordinary.

Justice, v. To do justice, to see justice done; to summon one to do justice.

Justice, n. Title given to judges, particularly to judges of U.S. and state supreme courts, and as well to judges of appellate courts. The U.S. Supreme Court, and most state supreme courts are composed of a chief justice and several associate justices.

Proper administration of laws. In jurisprudence, the constant and perpetual disposition of legal matters or disputes to render every man his due.

Commutative justice concerns obligations as between persons (e.g., in exchange of goods) and requires proportionate equality in dealings of person to person; *Distributive justice* concerns obligations of the community to the individual, and requires fair disbursement of common advantages and sharing of common burdens; *Social justice* concerns obligations of individual to community and its end is the common good.

In Feudal law, jurisdiction; judicial cognizance of causes or offenses. *High justice* was the jurisdiction or right of trying crimes of every kind, even the highest. This was a privilege claimed and exercised by the great lords or barons of the middle ages. *Low justice* was jurisdiction of petty offenses.

See also Miscarriage of justice; Obstructing justice.

Justice Department. One of the executive departments of the federal government, headed by the Attorney General. The chief purposes of the Department of Justice are to enforce the federal laws, to furnish legal counsel in federal cases, and to construe the laws under which other departments act. It conducts all suits in the Supreme Court in which the United States is concerned, supervises the federal penal institutions, and investigates and detects violations against federal laws. It

represents the government in legal matters generally, rendering legal advice and opinions, upon request, to the President and to the heads of the executive departments. The Attorney General supervises and directs the activities of the U.S. attorneys and marshals in the various judicial districts. *See* Attorney General.

Justice in eyre /jʊstəs in ɛr/. From the old French word "eire," i.e., a journey. Those justices who in ancient times were sent by commission into various counties, to hear more especially such causes as were termed "pleas of the crown," were called "justices in eyre." They differed from justices in oyer and terminer, inasmuch as the latter were sent to one place, and for the purpose of trying only a limited number of special causes; whereas the justices in eyre were sent through the various counties, with a more indefinite and general commission. In some respects they resembled our present justices of assize, although their authority and manner of proceeding differed much from them. In England, such justices made a circuit every seven years throughout the Kingdom to try causes.

Justicements /jʊstɛsmənts/. An old general term for all things appertaining to justice.

Justice of the peace. A judicial magistrate (of English origin) of inferior rank having (usually) jurisdiction limited to that prescribed by statute in civil matters (e.g. performance of marriages) and jurisdiction over minor criminal offenses, committing more serious crimes to higher courts. Trend in most states has been to abolish office and courts of justice of the peace, transferring their powers and functions to other courts; e.g. municipal or district courts. *See* Justice's courts.

Justicer /jʊstəsər/. The old form of *justice*.

Justice's clerk. An amanuensis of the justice. A justice of the peace is regarded as his own clerk, and, in making entries on his docket, he acts in a ministerial capacity. *State ex rel. Morris Bldg. & Inv. Co. v. Brown*, 228 Mo.App. 760, 72 S.W.2d 859, 862.

Justice's courts. Inferior tribunals, not of record, with limited jurisdiction, both civil and criminal, held by justices of the peace. The trend has been to abolish such courts, transferring their powers and functions to other courts; e.g. municipal or district courts.

Justice seat. In old English law, the principal court of the forest, held before the chief justice in eyre, or chief itinerant judge or his deputy; to hear and determine all trespasses within the forest, and all claims of franchises, liberties, and privileges, and all pleas and causes whatsoever therein arising. 3 Bl.Comm. 72.

Justiceship. Rank or office of a justice.

Justices of assize /jʊstəsəz əv əsáyz/. These justices, or, as they were sometimes called, "justices of *nisi prius*," were judges of the superior English courts, who went on circuit into the various counties of England and Wales for the purpose of disposing of such causes as were ready for trial at the assizes. *See* Assize.

Justices of gaol delivery. In old English law, those justices who were sent with a commission to hear and determine all causes appertaining to persons, who, for any offense, had been cast into gaol. Part of their authority was to punish those who let to mainprise those prisoners who were not bailable by law, and they seem formerly to have been sent into the country upon this exclusive occasion, but afterwards had the same authority given them as the justices of assize.

Justices of laborers. In old English law, justices appointed to redress the frowardness of laboring men, who would either be idle or have unreasonable wages.

Justices of nisi prius /jəstəsəz əv náysay práyəs/. In old English law, this title was usually coupled with that of *justices of assize*; the judges of the superior courts acting on their circuits in both these capacities. *See* Assise.

Justices of oyer and terminer /jəstəsəz əv óyər ànd tərminər/. In England, certain persons appointed by the king's commission, among whom were usually two judges of the courts at Westminster, and who went twice in every year to every county of the kingdom (except London and Middlesex), and, at what was usually called the "assizes," heard and determined all treasons, felonies, and misdemeanors. *See* Oyer and terminer.

Justices of the bench. In England, the justices of the court of common bench or common pleas.

Justices of the forest. In old English law, officers who had jurisdiction over all offenses committed within the forest against vert or venison. The court wherein these justices sat and determined such causes was called the "justice seat of the forest." They were also sometimes called the "justices in eyre of the forest." *See* Forest courts.

Justices of the hundred. Hundredors; lords of the hundreds. In old English law, they who had the jurisdiction of hundreds and held the hundred courts. *See* Hundred Court.

Justices of the quorum. *See* Quorum.

Justices of trail-baston. *See* Trail-baston.

Justiciability. *See* Justiciable controversy.

Justiciable /jəstish(iy)əbəl/. Matter appropriate for court review. *See* Justiciable controversy.

Justiciable controversy. A controversy in which a present and fixed claim of right is asserted against one who has an interest in contesting it; rights must be declared upon existing state of facts and not upon state of facts that may or may not arise in future. A question as may properly come before a tribunal for decision. *Duart Mfg. Co. v. Philad Co.*, D.C.Del., 30 F.Supp. 777, 779, 780. Courts will only consider a "justiciable" controversy, as distinguished from a hypothetical difference or dispute or one that is academic or moot. *Aetna Life Ins. Co. v. Haworth*, 300 U.S. 227, 239, 57 S.Ct. 461, 463, 81 L.Ed. 617. Term refers to real and substantial controversy which is appropriate for judicial determination, as distinguished from dispute or difference of contin-

gent, hypothetical or abstract character. *State v. Nardini*, 187 Conn. 109, 445 A.2d 304, 307. *Compare* Political questions. *See* Case; Cause of action; Controversy.

Justiciar /jəstish(iy)ər/. In old English law, a judge or justice. One of several persons learned in the law, who sat in the *aula regis*, and formed a kind of court of appeal in cases of difficulty. Also spelled *justicier*.

Justiciarii itinerantes /jəstis(h)iyériyay aytinərántiyz/. In old English law, justices in eyre, who formerly went from county to county to administer justice. They were so called to distinguish them from justices residing at Westminster, who were called "*justicii residentes*".

Justiciarii residentes /jəstis(h)iyériyay rēzədéntiyz/. In old English law, justices or judges who usually resided in Westminster. They were so called to distinguish them from justices in eyre.

Justiciary /jəstish(iy)əri/. An old name for a judge or justice. The word is formed on the analogy of the Latin "*juriciarius*" and French "*justicier*", and is a variant of *justiciar* (q.v.).

Justiciatus /jəstishiyéytəs/. Judicature; prerogative.

The proceeding by which bail establishes the ability to perform the undertaking of the bond or recognizance.

Justicier. Fr. *See* Justiciar.

Justices /jəstis(h)iy(iy)z/. In old English law, a writ directed to the sheriff, empowering him, for the sake of dispatch, to try an action in his county court for a larger amount than he has the ordinary power to do. It is so called because it is a commission to the sheriff to do the party justice, the word itself meaning, "You may do justice to —". 3 Bl.Comm. 36.

Justifiable. Rightful; defensible; warranted or sanctioned by law; that which can be shown to be sustained by law, as justifiable homicide. *See* Homicide; Justifiable homicide.

Justifiable cause. Justifiable cause for prosecution is well-founded belief of person of ordinary caution, prudence, and judgment in existence of facts essential to prosecution. *See also* Probable cause.

Justifiable homicide. Killing of another in self-defense when danger of death or serious bodily injury exists. Such homicide generally connotes only the use of force which is necessary, or which reasonably appears to be necessary, to resist other party's misconduct; and use of excessive force destroys the justification. *People v. Bates*, 256 C.A.2d 935, 64 Cal.Rptr. 575, 578. An act which the law positively enjoins upon the perpetrator or positively permits him to perform, such as a capital crime execution or the prevention of a crime or escape by a proper officer. *Law v. State*, 21 Md.App. 13, 318 A.2d 859, 869. *See* Self-defense.

Justification. Just, lawful excuse or reason for act or failing to act. A maintaining or showing a sufficient reason in court why the defendant did what he is called upon to answer, particularly in an action of libel and as a defense to criminal charges of assault or homicide (e.g. self defense).

Justification is a procedure with common-law origins by which a surety must demonstrate to the satisfaction of the court that it has sufficient ability to perform its obligations. *Matthews v. IMC Mint Corp.*, C.A.Utah, 542 F.2d 544, 546.

Justification means explanation with supporting data. *American Export-Isbrandtsen Lines, Inc. v. Federal Maritime Commission*, 135 U.S.App.D.C. 181, 417 F.2d 749, 752. As defense in criminal and tort law, term means maintaining or showing a sufficient reason in court why the defendant did what he is called upon to answer or, just cause or lawful excuse for act, reasonable excuse. *Young Women's Christian Ass'n of Princeton, N. J. v. Kugler, D.C.N.J.*, 342 F.Supp. 1048, 1062. See Model Penal Code § 3.01 et seq.

Term is not widely used in torts where, instead, defenses and privileges are common.

See also Legal excuse; Necessity; Self-defense.

Justificators /jəstəfəkəytərz/. A kind of compurgators (*q.v.*), or those who by oath justified the innocence or oaths of others; as in the case of wager or law.

Justifying bail. Consists in the requirement of proving the sufficiency of bail or sureties in point of property, etc. See *Bail (Bail point scale)*.

Jus tigni immittendi /jəs tignay iməténday/. In Roman law, an urban servitude which gave the right of inserting a beam into the wall of another.

Justinianist /jəstín(i)yənəst/. A civilian; one who studies the civil law.

Justinian's institutes /jəstín(i)yənz instət(y)úwts/. See *Institutes*.

Justitia /jəstish(iy)ə/. Lat. Justice. A jurisdiction, or the office of a judge.

Justitia debet esse libera, quia nihil iniquis venali justitia; plena, quia justitia non debet claudicare; et celeris, quia dilatio est quaedam negatio /jəstish(iy)ə débət ésiy libərə, kwáyə náy(h)əl əníkwiýəs vənéylay jəstish(iy)ə; plíynə, kwíyə, jəstish(iy)ə nòn débət klódakériy, èt sélarəs, kwáyə dələysh(iy)ow èst kwíydəm nəgáysh(iy)ow/. Justice ought to be free, because nothing is more iniquitous than venal justice; full, because justice ought not to halt; and speedy, because delay is a kind of denial.

Justitia est constans et perpetua voluntas jus suum cuique tribuendi /jəstish(iy)ə èst kónstənz èt pərpéyuwə vələntəs jəs s(y)úwəm k(yu)áykwíy trib(y)uwénday/. Justice is a steady and unceasing disposition to render to every man his due.

Justitia est duplex, viz., severe puniens et vere praveniens /jəstish(iy)ə èst d(y)úwpleks viz: səviriy pyúwn(i)yènz èt víriy prəvíyn(i)yènz/. Justice is double; punishing severely, and truly preventing.

Justitia est virtus excellens et altissimo complacens /jəstish(iy)ə èst vértəs éksələnz èt əltísəmw kəmpléysənz/. Justice is excellent virtue and pleasing to the most high.

Justitia firmatur solium /jəstish(iy)ə fərméytər sówliyam/. By justice the throne is established.

Justitia nemini neganda est /jəstish(iy)ə némənay nəgənda èst/. Justice is to be denied to none.

Justitia non est neganda non differenda /jəstish(iy)ə nòn èst nəgənda, nòn difərənda/. Justice is neither to be denied nor delayed.

Justitia non novit patrem nec matrem; solam veritatem spectat justitia /jəstish(iy)ə nòn nóvwət pətrəm nèk méytram; sówləm véhrətéytəm spékətət jəstish(iy)ə/. Justice knows not father nor mother; justice looks at truth alone.

Justitia piepoudrous. Speedy justice.

Justitium /jəstish(iy)əm/. Lat. In the civil law, a suspension or intermission of the administration of justice in courts; vacation time.

Justness. Conformity to truth, propriety, accuracy, or the like. *John W. Masury & Son v. Bisbee Lumber Co.*, 49 Ariz. 443, 68 P.2d 679, 693.

As used in statute providing for acknowledgment of "justness" of claim to remove bar of limitations, refers to moral obligation. *John W. Masury & Son v. Bisbee Lumber Co.*, 49 Ariz. 443, 68 P.2d 679, 693.

Just prior. Immediately preceding; just before; without appreciable lapse of time before. *Jackson v. McCrary, Tex.Civ.App.*, 148 S.W.2d 942, 944. It means before the time and connotes nearness in point of time. Some period of time before. *Hoelzel v. Chicago, R. I. & P. Ry. Co.*, 337 Mo. 61, 85 S.W.2d 126, 129.

Jus tripartitum /jəs trəypərtáydəm/. In Roman law, a name applied to the Roman law of wills, in the time of Justinian, on account of its three-fold derivation, viz., from the praetorian edict, from the civil law, and from the imperial constitutions.

Jus triplex est,—propietatis, possessionis, et possibilitatis /jəs trípleks èst: prəprəytéytəs pəzəshiyównəs èt pòsbílatéytəs/. Right is three-fold,—of property, of possession, and of possibility.

Jus trium liberorum /jəs tráyəm láybərórəm/. In Roman law, a right or privilege allowed to the parent of three or more children. These privileges were an exemption from the trouble of guardianship, priority in bearing offices, and a treble proportion of corn.

Just title. By the term "just title," in cases of prescription, is meant a title which the possessor may have received from any person whom he honestly believed to be the real owner, provided the title was such as to transfer the ownership of the property. *Davis v. Gaines*, 104 U.S. 386, 400, 26 L.Ed. 757; *B. Fernandez & Bros. v. Ayllon*, 266 U.S. 144, 45 S.Ct. 52, 69 L.Ed. 209. One good against all the world. See *Marketable title*.

Justum non est aliquem antenatum mortuum facere bastardum, qui pro tota vita sua pro legitimo habetur /jəstəm nòn èst ələkwm əntənáytm mórtyuwəm féysəriy bəstárdəm, kwáy prów tówtə váytə s(y)úwə prów ləjítəmw həbíytər/. It is not just to make a bastard

after his death one elder born who all his life has been accounted legitimate.

Just value. In taxation, the fair, honest, and reasonable value of property, without exaggeration or depreciation; its actual market value. *See also* Fair market value.

Jus utendi /jʊs yuwténday/. The right to use property without destroying its substance. It is employed in contradistinction to the *jus abutendi*.

Jus venandi et piscandi /jʊs vənánday èt piskánday/. The right of hunting and fishing.

Jus vendit quod usus approbavit /jʊs véndət kwòd yúwzəs ə̀prəbéyvat/. The law dispenses what use has approved.

Jus vitæ necisque /jʊs váytiy nəsískwiy/. In Roman law, the right of life and death. Originally a father, or his *pater-familias* if he was himself in domestic subjection, could decide—not arbitrarily, but judicially—whether or not to rear his child; and while this right became subject to certain restrictions, yet when the child had grown up, the father, in the exercise of his domestic jurisdiction, might visit his son's misconduct, both in private and public life, with such punishment as he thought fit, even banishment, slavery, or death. In the early Empire these rights became relaxed, and they disappeared in the Justinian law.

Juvenile. A young person who has not yet attained the age at which he or she should be treated as an adult for purposes of criminal law. In some states, this age is seventeen. Under the federal Juvenile Delinquency Act, a "juvenile" is a person who has not attained his eighteenth birthday. 18 U.S.C.A. § 5031. A term which may be, though not commonly is, applied to a person who has not reached his or her legal majority for purposes of contracting, marrying, etc. In law, the terms "juvenile" and "minor" are usually used in different contexts; the former used when referring to young crim-

inal offenders, the latter to legal capacity or majority. *See also* Minor; Youthful offender.

Juvenile courts. A court having special jurisdiction, of a paternal nature, over delinquent, dependent, and neglected children. In juvenile court proceedings, due process requires that juveniles have right to notice of charges, to counsel, to confrontation and cross-examination of witnesses, and to privilege against self-incrimination. In *re Gault*, 387 U.S. 1, 87 S.Ct. 1428, 18 L.Ed.2d 527.

Juvenile delinquency. Participation in illegal behavior by a minor who falls under a statutory age limit. *See also* Delinquent child.

Juvenile delinquent. *See* Delinquent child.

Juvenile offenders. *See* Delinquent child.

Juxta /jʊkstə/. Lat. Near; following; according to.

Juxta conventionem /jʊkstə kənvənsiyównəm/. According to the covenant.

Juxta formam statuti /jʊkstə fórməm stət(y)úwtay/. According to the form of the statute.

Juxtaposition /jʊkstəpəzishən/. A placing or being placed in nearness or contiguity; or side by side; as a juxtaposition of words. *Brown v. State*, 126 Tex.Cr.R. 449, 72 S.W.2d 269, 270.

In patent law, "juxtaposition" is the English equivalent of "aggregation." *Mesta Mach. Co. v. Federal Machine & Welder Co.*, C.C.A.Pa., 110 F.2d 479, 481.

Juxta ratam /jʊkstə réytəm/. At or after the rate.

Juxta tenorem sequentem /jʊkstə tənórəm səkvéntəm/. According to the tenor following. A phrase used in the old books when the very words themselves referred to were set forth.

Juzgado /huwsgáðow/. In Spanish law, the judiciary; the body of judges; the judges who concur in a decree.