

C

C. Roman numeral for 100.

At one time, the letter "C" was branded on the forehead as a punishment for counterfeiting, in Rhode Island.

c. Abbreviation for cent or cents; capacity; centimeter; century; chapter; chancellor; cubic; hundredweight; and, in rare instances, court; a symbol for "copyright," in a notice of copyright, where inclosed within a circle, thus © . 18 Am J2d Copyr § 58; a brand mark placed upon chattels belonging to the United States, previously branded US, where they are offered for sale, which is usually after they have been inspected and condemned for government use. 46 Am J1st Sales § 311.

C. An abbreviation, infrequently used, for Corps; Court; or Chancellor.

ca. An abbreviation of the Latin word "circa," meaning "about." It is often used with dates, as circa 1492, or ca. 1492.

C.A. Abbreviation for Court of Appeals.

C/A. Abbreviation for current account.

CAA. Abbreviation for Civil Aeronautics Authority.

cab. See **taxicab.**

cabal. A junto; a small political faction.

caballeria. A Mexican term for the measure of a tract containing 105.75 acres. *Ainsa v United States*, 161 US 219, 40 L Ed 677, 16 S Ct 544.

caballero. Gentleman.

cabaret. A restaurant wherein alcoholic beverages are served; a restaurant with instrumental music and singing.

cabinet. A body of officials forming all advisory council, the most illustrious of which is the Cabinet of the President of the United States, consisting of the heads of the Departments of Government.

cabinet council. A council of cabinet members held privately to consider public matters.

cable. Noun: A heavy rope, often made of wire; an underground or underseas bundle of wires in insulation used for the transmission of messages by telegraph or telephone. Verb: To send a message by underseas cable.

Cable Act. A federal statute of Sept. 22, 1922, repealing the rule by which the naturalization of a female was effected by her marriage to a citizen.

cablegram. A message transmitted by underseas cable.

cable system. A system of operating street railway cars by means of an underground cable set in motion by a stationary engine at the power house of the system. *Hooper v Baltimore City Passenger Railway Co.* 85 Md 509, 37 A 359.

cable transfer of exchange. An arrangement whereby the person contracting to deliver exchange contracts that he will make available by cable to the person contracting to take such exchange, a credit of the amount specified, at the point specified, and at the time specified. In such an agreement there is no guaranty or necessary implication that the contractor has any credit which he is selling, or agreeing to sell, or that he will place the credit through a third party as correspondent. Equitable Trust Co. v Keene, 232 NY 290, 133 N E 894, 19 ALR 1137, 1139.

cablish. Brushwood; wood or brush blown down by the wind.

caboose car. A car which is coupled at the rear end of a freight train and which is intended primarily for the accommodation of the men connected with the train. Shoemaker v Kingsbury (US) 12 Wall 369, 20 L Ed 432. It is, however, the car in which drovers accompanying shipments of livestock are accommodated. 14 Am J2d Car § 756. Occasionally, passengers for hire are carried on freight trains, in which case, they ride in the caboose. 14 Am J2d Car § 860-

cache. A place, usually in wilderness or an unfrequented region, where supplies are stored. The word implies concealment. Lane v Washington Daily News, 66 App DC 245, 85 F2d 822.

cachepolus. A catchpoll; a bailiff; a constable.

cacicazgos. Lands held in entail by the caciques in Indian villages in Spanish-America. --Bouvier's Law Dict.

cadaster. Same as **cadastre**.

castral survey. An original survey of a large area of public lands made by the government.

cadastre. An official statement of the quantity and value of real property in any district, made for the purpose of justly apportioning the taxes payable on such property. Strother v Lucas (US) 12 Pet 410, 428 note, 9 1, Ed It 37, 1144 note.

Cadat a causa sua. He shall fail in, or lose, his case.

cadaver. A corpse.

See **dead body**.

cadere. To fail; to fail; to end; to abate.

cadere assisa. To be nonsuit.

cadere causa. To fail or lose it cause or case.

cadet. A youth under tuition and drill with a view to his becoming an army or navy officer.

cadi. A Turkish civil magistrate.

Cadat a causa. He loses his case.

Cadit actio. The actions fails.

Cadit warrantia. The warranty fails.

caduca. That which is inherited; also a testamentary gift which lapses and an escheat.

caducary. Relating to or subject to escheat or forfeiture of property.

caducus. Falling.

caedua. Preserved for cutting, as wood.

Caesarean operation. The delivery of a child by surgery, the term deriving from the fact or legend respecting the birth of Julius Caesar.

Caesarean section. A more professional term for Caesarean operation.

Caetera desunt. Other things are wanting or lacking.

[168]

caeteris paribus. Other things being equal.

caeteris tacentibus. The others being silent, not voting, not expressing opinions.

caeteros. See *inter caeteros*.

caetorum. Of the rest or residue, --a term applied to the residuum of an estate.

c. a. f. An abbreviation for "cost, freight and assurance," sometimes used in mercantile transactions, especially in England. The letters in such form have also been used in mercantile transactions as an abbreviation of "cost and freight." 46 Am J1st Sales § 136.

See **cost and freight; cost, insurance, and freight.**

cafe. A restaurant. 29 Am J Rev ed look § 9. As used in a Sunday law, either by way of prohibition or of exception to a prohibition, the terms cafe, restaurant and victualing house, seem to have the same meaning, and to intend an establishment where food is sold to the public for consumption on the premises. Anno: 9 ALR 428.

A cafe is not an inn. 29 Am J Rev ed Innk § 9.

cahier. A memorial; a petition; a report; a section of a book.

caisson disease. Caisson disease, or "the bends," as the most prevalent and dangerous ailment of divers or men who work in a compressed-air atmosphere is known, results when a diver who has been working under great pressure is too quickly brought to the surface and normal pressures. Nitrogen in the air goes into and out of solution in the blood slowly. When pressure is too quickly reduced, this slow change causes bubbles in the blood and the attacks are frequently fatal.

calaboose. A jail.

calami diversitas vel atramenti. A difference in penmanship or ink.

calamity. A cause of general distress in the nation, a state, or a subdivision of the state, which arises from natural forces and also from adversities such as widespread unemployment. Muskegon Heights v Danigelis, 253 Mich 260, 235 NW 83, 73 ALR

696. The devastation of a country by hurricanes or earthquakes, and the desolation of its inhabitants by famine or plague, are great calamities. *Jones v Williams*, 121 Tex 94, 45 SW2d 130, 79 ALR 983.

calamus. A writing pen made of a reed; handwriting with a pen.

calangium. A disputed claim.

calcea. A causeway.

calceto reparando. See **de calceto reparando.**

calcetum. A causeway

calculated. Computed; reckoned; intended. *State v Wyman*, 56 Mont 600, 186 P 1; fitted, adapted, or suited by design. *Smallwood v Commonwealth (Ky)* 40 SW 248; *Gerrish v Norris*, 63 Mass (9 Cush) 167, 170.

calefagium. The right to take fuel annually.

calendar. The mode of adjusting the natural divisions of time with respect to each other for the purposes of civil life. 52 Am J1st Time § 9; a tabulation of time by days and weeks in the succession of the months; a system of measuring time as in years, months and days.

See **court calendar**; **Gregorian calendar**; **intercalary month**; **judge's calendar**; **Julian calendar**; **tax calendar**.

Calendar Amendment Act. An English statute passed in 1751, adopting the Gregorian calendar.

calendar call. The reading of the trial calendar, that is, the list of cases for trial during the term or a week of the term, ordinarily on it stated day of the week, for which attorneys attend and respond, when their cases are called, to indicate whether a case is ready for trial.

calendar days. Consecutive days, including Sundays and holidays. *Okanogan Indians v United States*, 279 US 671, 73 L Ed 894, 49 S Ct 463, 64 ALR 1434.

calendar month. A month by the calendar, that is, a month computed, not by counting the days intervening, but by referring to the calendar for a month as it appears therein, without regard to the number of days it may contain. 11 Am J2d B & N § 291; a month according to the calendar rather than a lunar month. *Simmons v Hanne*, 50 Fla 267, 39 So 77.

calendar of causes. See **court calendar**.

calendar of prisoners. A sheriff's list of prisoners with their sentences or commitments.

calendar week. A period of seven days, usually reckoned from one Sabbath or Sunday to the next. 52 Am J1st Time § 12.

calendar year. The period from January 1st to December 31st, inclusive, of any year.

calends. The first day of the month in the Roman calendar.

calf. The offspring of a cow, so called until it has shed its two front milk teeth; a colloquial term for an awkward youth, also for a person who complains unduly.

call. A reference made in a description of real estate to a course, distance, marker, monument, or a natural object such as a tree, stream, rock, etc., by which a boundary is to be determined; stopping at a place for a social visit, or, in the case of a physician, a professional visit; a notice by an obligor that its securities are being redeemed; a notice of a meeting to be held by the stockholders or board of directors of a corporation; an assessment made upon the members of an association, club, or society; it demand on a subscriber to stock in a corporation for an additional contribution to the capital of the corporation; an option to purchase property, particularly corporate stock, securities, or commodities, at a stipulated price, on or before a specific future date or within a specified future period of time, say, 30, 60, or 90 days.

See **on call**; **port of call**.

callable bonds. See **redeemable bonds**.

call-board contract. A contract between members of a stock exchange representing a specified quantity of a commodity, which a seller might produce and deliver to the buyer instead of the commodity itself. *Berry v Kowalsky*, 95 Cal 134, 30 P 202.

called meeting. A special meeting of an organized group held upon notice.

called upon to pay. Compelled or required to pay by law. *H. Koehler & Co. v Reinheimer*, 20 Misc 62, 45 NYS 337.

call girl. A prostitute whose appointments are made by telephone.

[169]

calling. Business, occupation, profession, trade, or vocation.

calling the plaintiff. An old and abandoned procedure followed in a strategem by a losing plaintiff to avoid an adjudication. Blackstone has stated that before a verdict is delivered by the jury, if the plaintiff is not present or represented by counsel, it is the common-law practice for the crier to call the plaintiff, after which the plaintiff is nonsuited if he or his counsel stay away. The plaintiff adopts this course if it appears that the verdict will be against him, in order to avoid an adverse verdict which would be a bar to a renewal of the same litigation, while a nonsuit would not be such a bar. See 3 Bl Comm 376.

calling to the bar. Admitting a law Student to the privilege of practicing law before the Courts.

call of nature. The prompting of a visit to the bathroom, toilet, or lavatory.

call patent. A land patent in which the corners in the description of the land are all stakes, or all but one, or whose lines were not run out and marked at the time of the issuance of the patent. *Hall v Pratt*, 142 Ky 561, 563, 134 SW 900.

calls. See **call**.

call to arms. An ancient expression, meaning to call on a man to put on his armor and take up his weapons.

calpe. Tribute paid by a clansman to his chief for personal protection.

calumnia. A false charge; a calumny; a claim; a demand.

calumniae juramentum. The oath against calumny; an oath of good faith.

calumniare. To claim; to calumniate.

calumniators. Persons who make false accusations maliciously.

calumniatrix. A female slanderer.

calumny. Libel; slander; defamation.

"There was a word called 'calumny' in the civil law, which signified an unjust prosecution or defense of a suit, and the phrase is still said to be used in the courts of Scotland and the ecclesiastical and admiralty courts of England, though we do not find cases of the kind in the reports." See Lanning v Christy, 30 Ohio St 115, 117.

See **oath of calumny.**

Calvinism. The theological doctrine of the Presbyterian church, of which doctrine John Calvin was the first expounder. Its polity consists in self-government through chosen representatives, rejecting alike the rule of one man, and the rule of the extemporized and irresponsible assembly. Ramsey v Hicks, 174 Ind 428, 91 NE 344.

Calvin's Case. An action in which it was held that Calvin, though born in Scotland after the English crown descended to James the First, who was also king of Scotland, was entitled to hold land.

camara. A chamber; a vault; a treasury.

camarage. Rent paid for storage.

cambellanus. A chamberlain.

cambiator. A cambist.

cambio. An exchange; a bourse.

cambipartia. Champerty.

cambiparticeps. A person who is a party to the offense of champerty.

cambist. A dealer in negotiable paper.

cambium. (Civil law.) An exchange; an exchange of lands.

camera. Same as **camara.**

See **in camera.**

cameralistics. The science of finance.

camera regis. A harbor.

camerarius. A treasurer; a chamberlain.

camera scaccarii. The exchequer chamber.

camera stellata. The star-chamber.

camino. A highway.

camorra. An Italian secret society.

camouflage. The art of disguising or concealing the nature of objects. Palmer v Commonwealth, 240 Ky 175, 41 SW2d 936; deception, particularly by concealing ultimate purpose.

campana. A church-bell; a bell.

campana bajula. A hand-bell used by court criers.

campanile. A bell tower.

campartum. A part of a field.

Campbell's Act. An English statute giving a remedy for death by wrongful act, 9 & 10 Victoria c 93.

campers. A share, particularly a share by a champertous division.

campertum. A grain or corn field.

campfight. A duel; a battle.

camphor. See **spirits of camphor.**

campias in withernam. A writ to seize other goods of equal value when the plaintiff's goods have been taken out of the county.

campi-partitio. A champertous division of the land.

campus. A field; the grounds of a school, college, or university.

campus maii. May day -- a Saxon anniversary.

can. Verb: To have ability or power to accomplish. Sometimes confused with "may." As used in an oil lease for a stated number of years and as much longer as oil and gas "can" be found in paying quantities, the word has the same meaning as "is". Lowther Oil Co. v Miller-Sibley Oil Co. 53 W Va 501, 44 SE 433.

Noun: A container, especially for liquids and soft substances. A slang term for jail, also for lavatory.

Canada. The great nation, an independent nation of the British Commonwealth of Nations, on the northern boundary of the United States.

Canadian money. Legal currency in Canada. Thompson v Sloan (NY) 23 Wend 71.

The words "Canada money" in which a note is expressed to be payable may be shown to mean Canadian bank bills and not specie, by proof of a custom. Thompson v Sloan (NY) 23 Wend 71.

canal. An artificial waterway, public or private in character, which is usually, although not necessarily, used for navigation. If a canal is navigable and its situation is such as to form a continuous waterway for interstate or foreign commerce, it constitutes navigable water of the United States to which the admiralty jurisdiction of the Federal courts attaches. 13 Am J2d Can § 3.

canalized river. A natural stream which is a part of a canal or system of canals, for example the Genesee river in New York. In the language of engineers, rivers are "canalized" when dams or locks are so constructed and operated in them as to raise their water level along certain stretches by means of backwater, so as to render them, to the extent of the raising, artificial canals instead of natural waterways. United States v Cress, 243 US 316, 61 L Ed 746, 37 S Ct 380.

Canal Zone. A reservation of the United States Government on the Isthmus of Panama, under a treaty with the Republic of Panama, consisting of a strip of land which contains the Panama Canal

cancel. To annul or strike out; to set aside. Otterbein v Babor & C. Co. 272 NY 149, 5 NE2d 71, 107 ALR 510. As applied to a contract, the words cancel and terminate are not synonymous, but the infinitive "to cancel" is embraced by the infinitive "to terminate." A contract cannot be cancelled without being terminated, although it may be terminated in any of several methods, one of which is by cancellation. A claim that a contract has been cancelled is an admission that it was terminated. Acme Mills v Tanner-Brice Co. (CA5 Ga) 112 F2d 910.

See **cancellation.**

cancellaria. Chancery. The high court of chancery, says Blackstone, has its name from the judge, the lord chancellor or cancellarius who presides there and who was so termed from cancelling the king's letters patent when granted contrary to law, which is the highest point of his jurisdiction. See 3 Bl Comm 46.

cancellarius. A chancellor.

cancellation. An erasure, blotting out, striking out, or crossing out of some portion of a written instrument. Dowling v Gilliland, 286 111 530, 122 NE 70, 3 A T,R 829; the nullification of a contract by agreement of the parties or by one of the parties under a cancellation clause contained in the contract; a remedy whereby a court of equity in exceptional cases exercises its jurisdiction to decree the surrender and cancellation of written instruments 13 Am J2d Cane Inst § 2.

See **rescission.**

cancellation clause. The provision in a contract for the termination thereof by one of the parties, as illustrated in contracts of insurance; a clause in a charter-party whereby the charterer reserves the right to cancel the charter-party if the ship shall fail to arrive on a specified day at a named port ready for cargo. Disney v Furness, Withy & Co. (DC Md) 78 F 810, 814.

cancellation of insurance. The rescission or nullification of a contract of insurance under statutory provisions or stipulations of the insurance contract itself, including provisions for cancellation upon notice or request; by the mutual consent or acquiescence of the parties; or because of fraud, misrepresentation, mistake, an adjudication of insolvency of the insurer, or the making of an assignment for the benefit of creditors by the insurer. Otterbein v Babor & C. Co. 272 NY 149, 5 NE2d 71, 107 ALR 1510.

cancellatura. A cancellation.

cancelled check. A check paid by the bank upon which it is drawn and delivered to the drawer with his monthly statement.

cancelli. The railing inclosing the bar of a court; cancellation marks.

candidate. A person who seeks office and who, in the case of a public office to be filled by election, has taken the steps required by the election law to have his name presented at the election so that the voters may vote for him. 25 Am J2d Elect §§

128 et seq. A person who, after having been nominated as a candidate, is presented in that capacity to the voters at an election. State v Hirsch, 125 Ind 207, 24 NE 1062. A person who seeks a nomination for public office at a primary election.

A man is a candidate for an office when he is seeking such office. It is begging the question to say that he is only a candidate after nomination, for many persons have been elected to office who were never nominated at all. Leonard v Commonwealth, 112 Pa 607, 624, 4a 220.

See **independent candidate**; **party candidate**.

Another meaning of the term "candidate" is that of a person proposed for an award or for initiation into a fraternal order.

candle. See auction by inch of candle; sale by the candle.

Candlemas Day. February second.

cane. The plant from the stalk of which juice is taken for the manufacture of sugar or molasses; the stem of a plant; (Scotch.) a tax; rent paid in produce.

canem et lupum. See **inter canem et lupum.**

cannabis. A narcotic drug derived from the marijuana plant. People v Yeargin, 3 Ill 2d 25, 119 NE2d 753. As defined in the Uniform Narcotic Drug Act, it includes (a) The dried flowering or fruiting tops of the pistillate plant Cannabis Sativa Linne from which the resin has not been extracted, (b) the resin extracted from such tops, and (c) every compound, manufacture, salt, derivative, mixture, or preparation of such resin, or of such tops from which the resin has not been extracted. Anno: 119 ALR 1402.

canning barge. A fishing vessel equipped for canning the catch.

cannot. A word so mandatory in a statute as to preclude a choice. Burtnett v King, 33 Cal 2d 805, 205 P2d 657, 12 ALR2d 333.

canon. A law; a church officer who took revenue for conducting service.

canonic. Pertaining to a canon or church law.

canonical. Same as canonic.

canonical impediments. The personal relationships or defects which under the ecclesiastical law rendered voidable a marriage of one who possessed them. Among these impediments were consanguinity, affinity and impotence, while the so-called civil disabilities, such as want of age, idiocy, lunacy, and the like, made a marriage void ab initio. 35 Am J1st Mar § 85.

canonical purgation. An ancient proceeding wherein a defendant charged with crime was permitted to

[171]

clear himself by denying the charge under oath. See 4 Bl Comm 342.

canonicate. The office of a canon.

canonicus. A canon.

canon law. A body of Roman ecclesiastical law, relative to such matters as the church of Rome either had, or pretended to have jurisdiction over. See 1 Bl Comm 82.

canon law of England. A kind of national canon law composed of legatine and provincial constitutions, and adapted only to the exigencies of the church and kingdom of England. See 1 Bl Comm 82.

canony. The office or benefice of a canon.

canons of descent. The rules of descent; the English rules of descent during the feudal period. 23 Am J2d Desc & D § 7.

canons of inheritance. Same as canons of descent.

Canons of Judicial Ethics. A concise statement, in numbered canons of paragraphs, by the American Bar Association, of its views in reference to the principles and ethical standards which should govern the personal practice of members of the judiciary in the administration of their office, offered as a proper guide and reminder for judges, and as indicating what the people have a right to expect from them. Am J2d Desk Book, Document 67.

Canons of Professional Ethics. The rules and principles adopted by the American Bar Association for the guidance of lawyers in reference to their duties and standard of conduct in litigation and all the relations of professional life. Am J2d Desk Book, Document 91; rules and principles prescribing ethical standards for lawyers adopted by local or state bar associations.

cant. Jargon; insincerity. (Civil law.) Also called "licitation," --a mode of dividing property held in common by two or more persons; which may be avoided by the consent of all those who are interested, in the same manner that any other contract may be avoided, which is entered into by consent of the parties. Hayes v Cuny (La) 9 Mart 87, 89.

Cantaur. Latin for "Canterbury."

cantel. The excess over full measure.

canton. A hundred; district.

cantred. (Welsh.) A district; a hundred.

canum. A Scotch duty paid in produce.

canvass. Air examination. The solicitation of votes, orders for goods, etc., by going from house to house or from place of business to place of business; the tabulation prior to an election of probable votes for the purpose of predicting the outcome of the election; the opening and examination of election returns and the compiling of a summarized statement of the several returns, showing the result of the election within the territorial unit composed of the smaller units from which the returns are made. 26 Am J2d Elect § 298. "To canvass the votes" cast at an election is an expression used in the election statutes which frequently has the same meaning as "to canvass the returns" of the election, and does not necessarily include the counting of the ballots cast at the election. People v Sausalito, 106 Cal 500, 40 P 11.

canvasser. One of a class of persons who, in a given town or city or county, go from house to house in their efforts to take orders for goods. They are not to be confused with "traveling salesmen." Price Co. v Atlanta, 105 Ga 358, 367. One who goes from house to house seeking votes, signatures on a petition, contributions, or support for a religious society.

See **canvass**.

canvass of election returns.

See **canvass**.

CAP. Abbreviation of Civil Air Patrol.

cap. See **black cap.**

capable. Susceptible; competent; qualified; fitting; possessing legal power or capacity. *United States v Sischo* (DC Wash) 262 F 1001.

capable of being used as a beverage. A term familiar in liquor legislation which includes within its scope those liquids which, although not generally considered as beverages, are yet capable of being so used, such as fruits preserved in alcohol, but not liquors which are so compounded with other substances or ingredients as to lose their character as intoxicating liquors. 30 Am J Rev ed Intox L § 7.

capable of producing intoxication. A beverage having intoxicating quality. 30 Am J Rev ed Intox L § 5.

capacity. Holding space, as the capacity of a ship or freight car; ability; legal competency; a person's ability to understand the nature and effect of the act in which he is engaged and the business which he is transacting. *Tiger v Lozier*, 124 Okla 260, 267, 256 P 727; the status in which one acts, for example, as an agent or an attorney.

See **business capacity; competency; criminal capacity; legal capacity; mental capacity; representative capacity; testamentary capacity.**

capacity of corporation. The capacity to act, akin to that of the capacity of a person, not the authority to perform an act. 19 Am J2d Corp § 952.

capacity of testator. See **testamentary capacity.**

capacity to labor. See **physical inability to work.**

capacity to sue or be sued. The status of a person which permits him to be a party to an action.

capax. A holder, capable.

capax doli. Capable of committing crime.

capax negotii. Capable of transacting business; capable of contracting.

cape. A judicial writ to recover land on the tenant's default.

Capehart Act. A federal Statute designed to provide urgently needed housing for military personnel on government property. 42 USC § 1594.

cape magnum. A judicial writ which lay to recover the possession of land when the tenant defaulted in a real action.

cape parvum. A judicial writ to recover the possession of the land in a real action in which the defendant had appeared.

caper. A Dutch privateer.

capias. A writ to be executed by seizing, in some instances, the property, in other instances, the person of the defendant.

capias ad audiendum judicium. A writ issued to bring a defendant found guilty of a misdemeanor before the court to receive sentence. See 4 Bl Comm 375.

[172]

capias ad computandum. A writ commanding a defendant to account, upon his refusal to do so.

capias ad respondendum. A writ directing the arrest of the defendant in a civil action and his production in court on a day certain. 5 Am J2d Arr § 52.

capias ad satisfaciendum. A writ for the arrest and imprisonment of a judgment debtor until the claim against him shall be satisfied or otherwise discharged according to law. 30 Am J2d Exec § 28.

capias in withernam. A writ which issued against the goods or beasts of a distrainer who had eloigned-unlawfully removed out of the county, or concealed -the goods or beasts which he had distrained. Thus, there was a distress against a distress by way of reprisal for the eloignment, and the goods or beasts seized under the writ could not be replevied by their owner until the original distress was forthcoming. See 3 Bl Comm 148.

capias nomine districtonis. "If an accountant failed to render his accounts, a process was issued, termed a *capias nomine districtonis*, against the body, goods, and lands of the accountant." Murray v Hoboken Land Co. (US) 18 How 272, 15 L Ed 372.

capias pro fine. A writ for the arrest of a person who had not paid a fine which had been imposed upon him.

capias utlagatum. A writ which issued in a civil action for the arrest of a defendant who had absconded and had been outlawed and under which he could be committed until the outlawry was reversed. The purpose of the process being to secure the appearance of the defendant, such a reversal was usually secured as a mere formality. See 3 Bl Comm 284.

capita. Heads; persons; persons regarded as individuals and not as belonging to an ancestral root or stock. See 2 Bl Comm 218. The word is the plural of "caput."

See **in capita; per capita; per stirpes or per capita.**

capital. In economics, money or property used for the production of wealth; used broadly, the entire assets of a corporation; ordinarily, that portion of the assets of the corporation, regardless of their source, which is utilized for the conduct of the corporate business and for the purpose of deriving therefrom gains and profits. Sohland v Baker, 15 Del Ch 431, 141 A 277, 58 ALR 693; Parkinson v State Bank, 84 Utah 278, 35 P2d 814, 94 ALR 1112; a fund so set apart and devoted to the corporate uses and the security of creditors that the law jealously guards it from the encroachment of directors in the declaration of dividends; it is in no way open to the directors to return it to the stockholders. 33 Am J1st Life Est § 405.

See **floating capital; invested capital; moneyed capital; nominal capital.**

capital asset. For income tax purposes, all the assets held by the taxpayer, whether or not connected with his trade or business except for certain assets listed in the statute. IRC § 1221.

capital crime. Same as capital offense.

capital expenditures. An unlawful encroachment upon the capital of a corporation by declaring a distribution or dividend of capital to stockholders; an income tax term for certain unusual expenditures, not deductible as ordinary and necessary business expenses, such as expenditures by a lessee for permanent improvements. 34 Am J2d Fed Tax ¶ 6061.

capitale. A thing which is stolen, or its value. -Blount.

Expenditures made in defense of title to property, or to remove claims of others against property, or to perfect title to property are capital expenditures and not deductible, for income tax purposes, from gross income as expenses. Addison v Commissioner (CA8) 177 F2d 521, 23 ALR2d 897.

For income tax purposes, amounts paid out for new buildings, permanent improvements, or betterments, made to increase the value of property, or an amount spent to restore property or to make good the exhaustion of the property for which a deduction is or has been made for depreciation, amortization or depletion. IRC § 263.

capital gain. For income tax purposes, a gain realized only from sale or exchange of capital assets.

A taxable gain is conditioned upon the presence of a claim of right to the alleged gain and the absence of definite obligation to repay or return that which would otherwise constitute a gain, and does not accrue from the mere receipt of property or money which one is obliged to return or repay to the rightful owner. Commissioner v Wilcox, 327 US 404, 90 L Ed 752, 66 S Ct 546, 166 ALR 884, 887.

See **capital asset; gain derived from capital.**

capital improvement. An expense to be charged against principal, not income, of a trust. NY EPTL § 11-2.1, 1 (4)(B).

capitalis. Capital.

capitalis baro. Chief baron.

capitalis custos. Chief magistrate or warden.

capitalis debitor. The principal debtor.

capitalis dominus. The chief lord.

capitalis justiciarius. The chief justice.

capitalis justiciarius banci. Chief justice of the bench.

capitalis justiciarius totius Angliae. The chief justiciar of all England, a special magistrate who presided over the aula regia, was the principal minister of state and guardian of the realm in the absence of the king. His great power was considerably weakened by Magna Charta and was further curtailed under Henry III. See 3 Bl Comm 39.

capitalis plegius. A chief surety.

capitalis redditus. Chief rent.

capitalization. The structure of a corporation in reference to the stock and bonds issued by it; the term is often applied in corporate reorganization cases, one aspect being the fairness of the allocation of securities under a plan of reorganization, the other being the feasibility of the new capital structure. 9 Am J2d Bankr § 1590.

capitalize. To compute periodical payments by reckoning their value as a sum in hand, as where earnings are capitalized for the purpose of ascertaining

[173]

value for inheritance tax purposes. 28 Am J Rev ed Inher Tax § 373.

capital loss. For income tax purposes, a loss resulting only from a sale or exchange of capital assets.

See **capital assets.**

capital of a corporation. See **capital.**

capital offense. An offense which may be punished capitally, that is, by the execution of the death penalty. The test of a "capital crime" is not the punishment which is imposed, but that which may be imposed. 21 Am J2d Crim L § 18.

capital punishment. A punishment for crime by the infliction of the death penalty. 21 Am J2d Crim L § 595.

capital stock. In common parlance, the shares of stock issued by a corporation and outstanding. Precisely, the amount of money, property or other means authorized by the charter of the corporation and contributed, or agreed to be contributed, by the shareholders as the financial basis for the prosecution of the business of the corporation, such contribution being made either directly through stock subscription or indirectly through the declaration of stock dividends. Dodge v Ford Motor Co. 204 Mich 459, 170 NW 668, 3 ALR 413; the total of all the corporate wealth, subject to all corporate liabilities and obligations. Anno: 45 ALR 1505; 51 Am J1st Tax § 826.

See **authorized capital stock; net capital stock; stock.**

capital stock tax. A term applied to two taxes of different kinds: one a tax on the property represented by stock in the hands of an individual stockholder, the other a tax on the privilege of existing or doing business in the corporate form which is measured for the purpose of the exaction by the amount of capital stock. 51 Am J1st Tax § 825.

capitaneus. One holding land in capite.

capitas diminutio. Civil death.

capitatum. By heads; per head.

capitation grant. A grant of a certain quantity of land per head or person.

capitation tax. A poll tax; a direct tax imposed without regard to property, profession, or any other external circumstance of the taxpayer. 51 Am J1st Tax § 412.

capite. See **in capite.**

capite doli. See **ex capite doli.**

capite fraudis. See **ex capite fraudis.**

capite minutus. A person who is undergoing civil death.

capitis diminutio maxima. A complete loss of civil status.

capitis diminutio media. A partial loss of civil status.

capitis diminutio minima. A slight loss of civil status.

capitula. Laws and ordinances collected under appropriate headings or divisions.

capitula coronis. Detailed schedules.

Capitula de Judaeis. An embodiment of political decrees concerning the Jews which was compiled during the reign of Richard I, and a copy of which was preserved by Roger of Hoveden. See 2 Bl Comm 342.

capitular. A law or canon passed by in ecclesiastical chapter; a chapter member.

capitulary. Same as **capitular**.

capitulate. To make heads for divisions of an article; to give brief sketches of a discussion; to surrender to an enemy under terms.

capitulum. A chapter or section of a book.

capitur pro fine. Same as **capias pro fine**.

capper. A person employed by an attorney to solicit business for him; a sham bidder at an auction sale. McMillan v Harris, 110 Ga 72, 35 SE 334.

Capper-Volstead Act. A federal statute which authorizes producers or agricultural products to act together in collectively processing, preparing for market, handling, and marketing their products in interstate commerce, to have marketing agencies in common, and to make the necessary contracts and agreements to effect such purposes, and gives to the Secretary of Agriculture the powers of regulation and visitation where he has reason to believe that any such enterprise in co-operation has monopolized or restrained trade to the extent that the price of an agricultural commodity has been unduly enhanced. 7 USC §§ 291 et seq.

caprice. A turn of mind without substantial cause, implying wilfulness or wantonness in some degree. Waller v Skelton, 186 Term 433, 211 SW2d 445.

capricious. Changeable in purpose or view; freakish; whimsical. United States v Carmack, 329 US 245, 91 L Ed 209, 67 S Ct 252.

capsizing. Overturning, especially the overturning of watercraft.

captain. The officer in command of a company or troop of soldiers; a naval officer who commands a ship; the chief in command of a merchant vessel.

captation. A term adopted in the laws of Louisiana from the Code Napoleon and having a meaning practically synonymous with "undue influence." Zerega v Percival, 46 La Ann 590, 606, 15 So 476.

captator. A person who exercises undue influence over another.

captio. A caption.

caption. A taking; a seizure; literally, a heading, but of variable meaning in the law of practice. In some jurisdictions, the title of the court and the style of the cause as formed from the names of the plaintiff and defendant, their relation on the record being indicated by the familiar "vs." or the equivalent "against." Jackson v Ashton (US) 8 Pet 148, 8 L Ed 898; in other jurisdictions, all that appears at the head of a pleading or order of court, including the title of the court, the names of the parties, the docket number, and such other entries respecting the nature of the suit and the process under which it is maintained as may be required by statute or rule of court; in still other jurisdictions, the phrasing at the head of an order showing how, when, and where the cause arose came on for trial or hearing, the name of the judge or justice presid-

[174]

ing, and the presence of the officers of the court, the statement of venue in a certificate of acknowledgment. 1 Am J2d Ack § 46; the heading of all affidavit which states the title of the court and the cause in which it is to be used and the names of the parties. 3 Am J2d Affi § 13; the heading of a deposition which usually contains the authority under which the deposition is taken, the name and description of the supervising officer, the court in the case in which it is intended to be used, the name of the deponent and the fact that he was sworn, the time and place of the taking, and the names of the parties and attorneys present, such being the matters to which the supervising officer must certify. 23 Am J2d Dep § 69; the history or record of a criminal case up to the finding of an indictment, appearing as a preamble to the indictment. 27 Am J1st Indict § 36; the designation of court and parties in an assignment of errors. 5 Am J2d A & E § 659; in a deed, the part of the instrument, otherwise known as "the premises," which precedes the habendum clause, in effect, the part of the instrument in which the property is really granted. 23 Am J2d Deeds § 33.

captive mine. A mine in which coal rights are held under lease and the coal is extracted directly by the lessee. Powell v Gray (CA4) 114 F2d 752.

captor. One who takes or seizes property in time of war; in a stricter sense, the one who takes a prize at sea. Oakes v United States, 174 US 778, 43 L Ed 1169, 19 S Ct 864.

capture. A taking; that which is taken; booty; the seizure of property or soldiers of an enemy in time of war; a prize of war where the taking meets the condition imposed by law. Manila Prize Cases, 188 US 254, 47 L Ed 463, 23 S Ct 415; the seizure of an enemy vessel accompanied by acts indicative of an intention to seize and to retain her as a prize. The Grotius, 9 Cranch 368, 3 L Ed 762; a taking by the enemy of a vessel or cargo as prize in time of war or by way of reprisal with intent to deprive the owner of it, also the taking of a neutral ship and cargo by a belligerent, and also the taking forcibly by a friendly power in time of peace, and even by the government itself to which the insured belongs. 29A Am J Rev ed Ins § 1327.

In Texas, according to conventional doctrine, the holder of an oil lease "owns" the oil in place beneath the surface. But equally recognized is the "rule of capture" which subjects the lessee's interest to his neighbors' power to drain his oil away. Therefore, to speak of ownership in its relation to oil, is to imply a contingency of control not applicable to ordinary interests in realty. Railroad Corn. v Rowan & Nichols Oil Co. 310 US 573, 84 L Ed 1368, 60 S Ct 1021.

capus lupus. A wolf's head; -an outlaw.

caput. A head; a chief; a principal. Latin: Life; existence. Top; summit.

Strangely enough, this word has become slang for finished or dead.

caputagium. Head, money.

caput baroniae. A nobleman's mansion-house.

caput genere lupinum. To bear the head of a wolf. The expression was anciently applied to an outlaw, and its meaning was that anyone might knock him on the head as a wolf, in case he would not peaceably surrender himself when taken. Drew v Drew, 37 Me 389, 391.

caputium. A headland.

caput lupinum. Same as **callus lupus**.

caput mortuum. A deadhead; a nullity.

caput portus. The chief town of a port, from which the port takes its name.

caput, principium, et finis. The head, the beginning, and the end. The king was said to bear this relation toward the body politic of the kingdom. See 1 Bl Comm 153.

CAR. Abbreviation of Civil Air Regulations.

car Any vehicle adapted to the rails of a railroad or railway, including freight cars, passenger cars, locomotives, construction cars, terminal cars, hand cars, and street cars. 44 Am J1st RR § 272.

The Federal Safety Appliance Act (45 USC § 11) requiring "all cars" to be equipped with efficient hand brakes uses the term in its generic sense to mean all kinds of cars running on the rails and applies to a track motorcar used by railroad maintenance employees, even though such car is not attached to a train or used as a part of a train movement. Martin v Johnston (Fla) 79 So 2d 419, 49 ALR2d 1297.

In modern times, the word "car" is correctly and most frequently used for "automobile." So used, it is a generic term embracing a number of different types of vehicles with certain basic similarities. 29A Am J Rev ed Ins § 1239.

See **cars**.

carack. A bulky ship for both commerce and war.

carat. A weight of four grains.

caravan. A motor vehicle in tow of another motor vehicle, usually for transporting the towed vehicle to a place where it is to be sold or offered for sale. 7 Am J2d Auto § 134.

See **trailer**.

caravanning. A technical term in many modern statutes, meaning the transportation of any motor vehicle operating on its own wheels, or in tow of another motor vehicle, for the purpose of selling the same or offering the same for sale. 7 Am J2d Auto § 134,

A typical statute provides that caravanning shall mean the transportation from without the state of any motor vehicle operating on its own wheels, or in tow of another motor vehicle, for the purpose of selling or offering the same for sale to or by any agent, dealer, manufacturer, representative, purchaser, or prospective purchaser, whether such agent, etc., be located within or without the state. Wallace v Pfost, 57 Idaho 279, 65 P2d 725, 110 ALR 613.

carbolic acid. A poisonous acid, obtained from coal tar, and used as an antiseptic, although not as much as formerly.

carbon copy. A copy of a letter, document, or other paper made at the same time as the original by impression upon carbon paper.

carbon monoxide. A gas which is highly dangerous to life because of its asphyxiating quality; the type of gas which comes from the exhaust of an automobile engine. 29A Am J Rev ed Ins § 1279.

[175]

carcan. A kind of collar worn as a punishment for crime.

carcare. To load.

carcata. Freighted or loaded.

carcelage. Prison fees.

carcer. A jail.

Career ad homines custodiendos, non ad puniendos, dari debet. A jail ought to be devoted to the custody of men, and not to their punishment.

card. A token of membership in a labor union, political party, fraternal order, or a credit-guaranty organization.

card games. Games, such as bridge, poker, pitch, pinochle, etc., played with a deck, or part of a deck, of cards, and which come within the prohibition of statutes which penalize gambling, where the play is for a stake. 24 Am J1st Gaming § 20.

cardinal. A high officer in the church of Rome.

card-playing. See **card games.**

care. A word of most variable meaning, but usually to be interpreted easily in the context. Noun: Custody; safekeeping, charge, Ker v People, 110 Ill 627, 649; support and maintenance, Kelly v Jefferis Del (3 Penn) 286, 50 A 215; professional attendance, as by a physician or in a hospital, Re Swinson's Estate, 167 Pa Super 293, 74 A2d 485, 18 ALR2cI 1231; caution; heed; watchfulness. Verb: To have a liking or affection for something or someone; to furnish support and maintenance; to be watchful and diligent for protection and well-being of one's self or another.

See **degrees of care; maintenance and cure.**

carecta. A cart.

careless. A word of broad significance, including negligence, wantonness, arid recklessness. The word is synonymous with the word "negligent," but "negligent" is probably the preferable word when used in legal pleadings and proceedings. Delmore v Kansas City Hardwood Flooring Co. 90 Kan 29, 133 P 151.

careless driving. Negligent driving. 7 Am J2d Auto § 272.

See **reckless driving.**

carelessly and wantonly. Without that degree of care an ordinarily prudent person would use under like and similar circumstances, and in reckless disregard of the consequences thereof, or of the effect of the act done upon the person or life of another. Hollingsworth v Warnock, 112 Ky 96, 104, 65 SW 163.

carelessness. See **careless; negligence.**

carena. A quarantine.

care of physician or surgeon. Charge, oversight, watchful regard, and attention. *Lustenberger v Boston Casualty Co.* 300 Mass 130, 14 NE2d 148, 115 ALR 1055.

ca. resp. An abbreviation of **capias ad respondendum.**

caretta. A cart.

Carey Act. The popular name for the Federal Desert Lands Act which sets forth a plan for aiding the reclamation of arid lands in the public land states. 30 Am J Rev ed Irrig § 101.

car float. A vessel for transporting railroad cars, used as an adjunct to railroad transportation. 2 Am J2d Adm § 33.

cargo. The load or lading of a ship or other vessel, having no more than a transitory connection with the vessel, the intent being to unload it at the destination or port of call of the vessel. 48 Am J1st Ship § 2. In marine insurance, the word cargo signifies the "contained," whereas the word body or hull signifies the "container." Therefore, insurance upon cargo does not insure the ship, and conversely, insurance upon a vessel does not cover its cargo. In America, separate forms of marine policies usually are provided for ship and cargo. 29 Am J Rev ed Ins § 304.

cargo lien. A lien on account of salvage, demurrage, general average, freight, or other maritime service or obligation.

While the lien on cargo is frequently spoken of as a maritime lien, the prevailing view is that it has not such quality but is no different from a common law lien, continuing only while the goods are in the possession of the person having the demand or performing the service. 48 Am J1st Ship § 562.

See **carrier's lien; demurrage lien; salvage lien.**

carl. Same as **churl.**

car lease. See **drive-it-yourself system; freight line company.**

Carlisle tables. Tables of life expectancy compiled at Carlisle, England, in 1870.

Carmack Amendment. An amendment to the Interstate Commerce Act, applicable to railroad carriers and other common carriers, including motor carriers and freight forwarders, which prescribes the liability of the carrier for loss, damage, or injury caused to the property carried, where the shipment is interstate, to the District of Columbia, or to an adjacent foreign country. 14 Am 32d Car § 518.

carnal. Sensual; lustful.

carnal abuse. The term has been held to be synonymous with "carnal knowledge." *State v Sebastian*, 81 Conn 1, 69 A 1054. Other authority draws a distinction between the two terms, saying "carnal abuse" is an act which does not amount to penetration, while "carnal knowledge" constitutes penetration, the offense commonly called statutory rape consisting of "carnal abuse" and not of "carnal knowledge." *State v Huggins*, 84 NJL 254, 87 A 630.

carnaliter. Carnally; sensually; lustfully.

carnaliter cognovit. He carnally knew; he had sexual intercourse with.

carnal knowledge. Sexual intercourse, Noble v State, 22 Ohio St 541, 545; synonymous with "carnal abuse," according to some authority, State v Sebastian, 81 Conn 1, 69 A 1054; but distinguished from that term by other authority on the ground that while penetration is an essential element of "carnal knowledge," "carnal abuse" may be inflicted without penetration. State v Huggins, 84 NJL 254, 87 A 630.

carnet. A notebook. A check book. A book containing memorandums authenticating the ownership of an automobile and the existence of insurance thereon which may be used severally at international borders by the owner or driver of the automobile in obtaining permission to enter a country.

[176]

carno. An immunity or privilege.

Carn's Act. An English statute authorizing the award of damages in equity suits.

carpenter. An artisan who works in wood, constructing and repairing buildings and wooden articles.

carpenter's lien. An artisan's lien. 8 Am J2d Bailm § 229; a maritime lien. 12 Am J2d Boars § 30.

car pool. An arrangement whereby two or more persons ride to work in a single car, usually rotating from the car of one to the car of another, but on a share-the-expense agreement if only the car of one is used.

car port. A structure attached to a dwelling house, often consisting of no more than a roof and supports therefor, wherein an automobile or automobiles may be sheltered. 20 Am J2d Cov § 222.

carriage. A horse drawn vehicle, normally for four passengers; but the term, appearing in a statute, is sufficiently elastic to cover an automobile so as to give to the Statute the meaning which its context demands. Anno: 37 ALR2d 717, 726; 7 Am J2d Auto § 3. Transportation of freight or passengers; the service of a horse and cart. The posture of a person, even of a horse in movement. A term peculiar to equity, meaning the right to condition or control a suit where other persons are involved on the same side.

Carriage of Goods by Sea Act. A federal statute relieving an owner of a vessel of liability for loss or damage to merchandise on board the vessel by means of a fire not due to the design or neglect of the owner. 46 USC § 1406.

carrier. A transporter of passengers or freight; one who undertakes to transport persons or property from place to place. 13 Am J2d Car § 1.

See **common carrier; express company; ferry; forwarder; motor carrier; pick-up service; private carrier; railroad; sleeping car company; shipping; street railway.**

carrier by air. One who engages, whether directly or indirectly by a lease or any other arrangement, in air transportation. 49 USC § 1301(3).

carrier by railroad. A railroad company acting as a common carrier. Chicago, M.Y. & I. Refrigerator Co. v Interstate Commerce Com. 265 US 425, 68 L Ed 1087, 44 S Ct 560.

See **railroad.**

carrier for hire. Either a private or a common carrier receiving or charging compensation in some form for transportation. Huron Portland Cement Co. v Woodworth (DC Mich) 19 F2d 530. Under an exclusion clause in an automobile liability policy prohibiting the carrying of passengers for a consideration, a few cases have held that the word "Passenger" as so used includes only passengers transported by a public carrier, but more cases have held to the contrary. Myers v Ocean Acci. & Guarantee Corp. (CA4 NC) 99 F2d 485. Where the arrangement for compensation under which the person is carrying his passengers is more than a reimbursement for the gas and oil used by all in common on the trip, but goes to the additional extent of compensating him for the use of the car, he is carrying passengers for hire. Gross v Kubel, 315 Pa 396, 172 A 649, 95 ALR 146.

carrier of goods. A common carrier engaged in transporting commodities, as distinguished from one carrying livestock or passengers.

carrier of livestock. A common carrier of goods which transports livestock is as to the latter property also a common carrier, but in some states carriers of livestock are not regarded as common carriers unless they have expressly assumed the responsibilities of common carriers by special contract. 13 Am J2d Car § 346.

carrier of passengers. See **carrier**; **carrier for hire**.

carrier's acceptance. See **delivery to carrier**.

carrier's demurrage lien. See **demurrage lien**.

carrier's lien. The lien of a carrier upon the goods in a shipment for the charges of transportation and such storage charges as it may be entitled to collect. 13 Am J2d Car § 497. The lien of a carrier by water upon the cargo for freight and all lawful charges, whether the vessel is operated under charter of affreightment or a general ship. 48 Am J1st Ship § 436.

See **baggage lien**; **common carrier's lien**; **demurrage lien**.

carrier's receipt. A bill of lading for goods to be transported by land. Dodge v Meyer, 61 Cal 405, 418.

See **delivery to carrier**.

carry. To transport, as to carry a passenger; to hold or possess, as to carry insurance, Metropolitan Life Iris. Co. v Dimick, 69 NJL 384, 55 A 291; to extend credit; to extend one's credit to another. State v Capital City Bank, 32 NM 369, 257 P 993,

carryback. An income tax law term for applying a net operating loss for one year in the recomputation of tax for an earlier year. 9 ALR2d 352, Later Case Service.

carriers. Men who "in ancient times of corrupt politics" undertook for money to get titles and honors for those who agreed to pay them for their influence. Montefiore v Menday Co. (Eng) 2 KB 241.

carrying a debtor. Extending credit; liberality in extensions of time for payment.

carrying away. The asportation or complete removal of goods.

carrying capacity. The number of passengers who may be carried in a particular automobile without crowding; sitting capacity. 7 Am J2d Auto § 66.

carrying charges. Charges for interest, insurance, filing fee, and attorney's fee included in a conditional sale or instalment sale contract, chattel mortgage, or trust receipt.

carrying concealed weapon. See **carrying weapon; concealed weapon.**

carrying costs. Awarding costs, a judgment which includes the costs as a part thereof.

See **carrying charges.**

carrying goods. See **carrier; carrier of goods.**

carrying on business. A term with a meaning variable according to the context within which it appears and the circumstances under which it is used, but in any event it is something more than isolated transactions. *Kirkwood v Gadd* (Eng) [1910] A.C. 422, 432. It is the pursuing of business as an enterprise embracing many transactions and to which one usually devotes both time and skill. 27 Am J1st H & W § 474. The carrying on of a liquor business invokes transactions extending over a considerable period of time, except where one has made all

[177]

preparations, holds himself out as a dealer, and has solicited trade. 30 Am J Rev ed Intox L § 217.

See **doing business; doing business in state.**

carrying on liquor business. See **carrying on business.**

carrying passengers. See **carrier; carrier for hire.**

carrying passengers for a consideration. See **carrier for hire.**

carrying sail. See **under sail.**

carrying weapon. Any method of carrying which renders the weapon readily accessible and available for use, irrespective of whether the person moves from place to place while having the weapon in possession. 56 Am J1st Weap § 10. A statute against carrying a pistol was held not to be violated if one finds or buys a pistol and takes it home or to his place of business, or if he takes it to and from a shop for repairs, whether loaded or not, and even though he fires it off on the way. *Pressler v State*, 19 Tex Crim 52.

See **concealed weapon.**

carryover. An income tax term for using a loss occurring in one year as a deduction in a later year. An item of an inventory, or of the accounts of a business for one year which is transferred to the inventory or accounts of the following year.

carry the iron. To carry a piece of red-hot iron of from one to three pounds weight in the hand, in a trial by fire-ordeal. See 4 Bl Comm 342.

cars. A generic term for some purposes, including even locomotives. *Baltimore & Ohio R. Co. v Jackson*, 353 US 325, 1 L Ed 2d 862, 77 S Ct 842.

See **car.**

car service. The use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, and other vehicles used in the transportation of property, including special types of equipment, and the supply of trains. 49 USC § 1(10). The term imports the instrumentalities of the service of transportation, not transportation itself. Cars and locomotives, like tracks and terminals, are the instrumentalities. The Esch car service act made these instrumentalities available in emergencies to a carrier other than the owner, making provision for the movement, distribution, exchange, interchange, and return of locomotives,

cars, arid other vehicles used in the transportation of property. *Peoria & Pekin Union Railway Co. v United States*, 263 US 528, 533, 68 L Ed 427, 430, 44 S Ct 194.

Car Service Act. See **car service**.

car service association. An association of railroad companies formed to facilitate the collection of charges for demurrage and to make such charges uniform throughout the United States. 13 Am J2d Car § 48 1.

car spotting. See "spotting service."

cart. A small horse drawn vehicle, carrying not more than two passengers; the term is also applied to a two-wheeled, horse-drawn vehicle suitable for carrying no person other than the driver; sometimes construed to include a four-wheeled vehicle. *Favers v Glass*, 22 Ala 621; even a motor vehicle. Anno: 37 ALR2d 717; a small vehicle, two-wheeled or four-wheeled, to be pushed or pulled by manpower.

carta. A deed or charter.

carta de foresta. Laws of the forest.

cartage. Services in transporting property by truck; the charges for transportation of property.

cart-bote. The right of a tenant to take from the premises in amount of wood reasonably necessary for the making and repair of his farming tools. See 2 Bl Comm 35.

carte blanche. A blank card; a signed blank instrument intended by the signer to be filled in and used by another person, without restriction; freedom to act in a situation as one thinks best.

cartel. An association of industrialists or financiers for a purpose, usually secret, and sometimes ulterior. Such as fixing prices, creating a monopoly, or cornering the market; a challenge to combat.

carter. One who hauls or transports property for another.

cartis reddendis. See **de cartis reddendis**.

cartman. See **carter; drayman**.

carton. A container for cigarettes and other merchandise.

cartoon. A caricature, often uncomplimentary, sometimes derogatory, and occasionally libelous. 33 Am J1st L & S § 55.

car trust. A partnership association formed by a number of persons for the purpose of buying, selling and leasing railroad rolling stock to be leased to a railroad company. *Ricker v American Loan & Trust Co.* 140 Mass 346, 347.

cartway. A way for the free passage of all persons on foot or horseback, carts and wagons. *Cozad v Kanawha Hardwood Co.* 139 NC 283, 51 SE 932.

See **iter**.

caruca. A plough.

carticae. See **affri carucae; averia carucae.**

carucage. A tax on land ploughable with one plough.

carucata. A plough.

carve. To carve is to segregate; to cut out, as a smaller estate or parcel from a larger one. As used in criminal cases involving former conviction or acquittal, the verb to carve seems to import the selection from the facts of the transaction any one or more of such facts as may, taken singly or together, constitute a criminal offense, for the purpose of embodying such fact or facts in an indictment or information. "Although, when a man has done a criminal act, the prosecutor may carve as large an offense out of the transaction as he can, yet he is not at liberty to cut but once." People v Stephens, 79 Cal 428, 21 P 856.

cas. An abbreviation of "case; also of **cas fortuits.**

ca. sa. An abbreviation of **capias ad satisfaciendum.**

case. A contested question in a Court of justice. See 34 Am J1st Lim Ac § 64; an action variously known as "case," "action on the case" and "trespass on the case," 52 Am J1st Tresp § 2; a controversy presented according to the regular course of judicial proceedings, so that the judicial power is capable of acting upon it to determine and decide the issues presented by the allegations of the parties. *Muskrat v United States*, 219 US 346, 356, 357, 55 L Ed 246, 250, 31 S Ct 250. The term includes a habeas corpus proceeding. *King v*

[178]

McLean Asylum of the Massachusetts General Hospital (CA1 Mass) 64 F 331; but, as used in a statute respecting the right to a jury trial, not a special proceeding. Anno: 21 Ann Cas 670.

case agreed. See **agreed case.**

case and controversy. See **case; case or controversy; controversy.**

case certified. A distinct point or question of law certified by a lower court and submitted to a higher court for decision. *Fire Assur. Asso. v Wickham*, 128 US 426, 32 L Ed 563, 9 S Ct 113.

case in law or equity. A judicial proceeding at law or in equity presenting a question in such form that relief at the hands of the court is obtainable. 1 Am J2d Actions § 4; but not embracing a case within the jurisdiction of admiralty. 2 Am J2d Adm § 5.

case in point. A precedent.

case law. The law as laid down in the decisions of the courts; that is, in the cases which have been decided.

case made. See **bill of exceptions; case reserved.**

case of first impression. See **first impression.**

case of novel impression. See **res integra.**

Case of the Seven Bishops. An English case decided in 1688, wherein the primate and six bishops were charged with libel for petitioning against the king's order that "his declarations for liberty of conscience" be read in the churches.

case or controversy. AD actual controversy over an issue, not merely a desire for an abstract declaration of the law. *Re Summers*, 325 US 561, 89 L Ed 1795, 65 S Ct 1307.

A "case" was defined by Chief Justice Marshall to be a suit instituted according to the regular course of judicial procedure and in the jurisdiction clause of the Federal Constitution the word "controversy" is held to have the same meaning. If the two words as there used are distinguishable at all, it is possibly because "Controversies" are confined to suits of a civil nature. *Muskrat v United States*, 219 US 346, 55 L Ed 246, 31 S Ct 250.

case primae impressionis. A case of first impression; a case for the determination of which no precedent can be found. *Vaughan v Menlove*, 3 Bingham's New Cases 468.

case reserved. A decision rendered pro forma for the purpose of obtaining the opinion of the same court in bank or that of a higher court.

cases. See **case; case in law or equity; case or controversy.**

case stated. Another term for agreed case. 3 Am J2d Agr C § 1.

case system. The method of the study of law, now prevailing in the United States, by the analysis of actual cases in court and the opinions rendered therein by the justices.

case to move for a new trial. The losing party's statement of the case prepared for use on his motion for a new trial.

cas fortuit. A fortuitous event; an event caused by a force that one cannot resist; an unforeseen accident; an irresistible force; an inevitable accident. *Viterbo v Friedlander*, 120 US 707, 30 1, Ed 776, 7 S Ct 962.

cash. Coin; money; ready money or money in hand, either in current coin or other legal tender, or in bank bills paid and received as money. *Palliser v United States*, 136 US 257, 34 L Ed 514, 10 S Ct 1034; the antonym of credit; it includes coins, currency, a cashier's check, and a certified check. *Greenberg v Alter Co.* 255 Iowa 899, 124 NW2d 438. Under provision, of statutes or corporation charters requiring stock subscriptions to be paid in cash or in money, the general American rule is that payment cannot be made in services or property. Whether a check constitutes cash payment under such provisions is disputed, although a certified check is generally considered cash. 18 Am J2d Corp §§ 257, 265.

cash account. An account in it bank subject to draft or check.

cash basis. Reporting income for taxation when cash or property is actually or constructively received and taking deductions in the year cash or property is paid or transferred. IRC § 451(a).

cash-book. A book of account of money received and paid out.

cash customer. A Customer who pays when the purchase is made, so is not billed; a customer of a broker who has paid the full price for identifiable Securities left in the hands or the broker but to which the customer is entitled upon the bankruptcy or the broker. 9 Am J2d l3ankr § 1099.

cash dividend. A distribution to the stockholders of a corporation, its the reward of the corporate enterprise, of the profits or surplus assets of the corporation, usually, but not necessarily in cash; it may be in other property, in which event, the terminology is appropriate nevertheless to indicate it distinction from a stock dividend. 19 Am J2d Corp § 801).

See **dividends; stock dividend.**

cash flow. A modern term in accounting, being the aggregate of net income plus the amounts allowed for depreciation of plant and equipment and amortization of patents and licenses for the use of patents.

cashier. An employee or a restaurant, store, or other place of business, whose duty it is to have charge of the cash register and take payments front the customers, ordinarily at a position near the exit from the place of business; the chief executive officer of a bank, who transacts the bank's business under the orders and supervision of its board of directors. Martin v Webb, 110 US 7, 28 L Ed 49, 3 S Ct 429. The cashier of a bank is at least an executive officer rather than a mere employee. Blanc v Paymaster Mining Co. 95 Cal 524, 531, 30 P 765; of course, the authority actually exercised by a bank cashier depends upon the plan of operation of the particular bank. In some banks, the cashier follows closely the directions of the president or chairman of the board, looking to one or the other for advice in important transactions.

cashier's check. A bill of exchange, drawn by a bank upon itself, and accepted by the act of issuance.

The bank is the debtor and its obligation to pay the check is like that of the maker of any other negotiable instrument payable on demand. 10 Am J2d Banks §308.

cash note. A promissory note payable in cash.

cash on hand. Money on hand or a deposit in a solvent bank subject to check. Re Banfield, 137 Or 282, 3 P 116.

cash or its equivalent. Money or that which is convertible into money on presentation for payment,

[179]

such as a check; but not the promissory note of the debtor himself given in payment of an obligation. Eckert v Commissioner, 283 US 140, 75 L Ed 911. 51 S Ct 374.

cash or order. See pay cash or order.

cash sale. A sale by the terms of which payment of the purchase price and delivery of the goods sold are to be concurrent. Western Seed Marketing Co. v Pfost, 45 Idaho 340, 262 P 514; a sale for the money in hand.

Upon such a sale the owner is not bound to deliver the goods until the price is paid. If the price cannot be ascertained until the goods are weighed or measured, ordinarily no property passes to the purchaser until that is done. Steward v Scudder, 24 NJL 96, 101.

cash surrender value. The cash value of a life insurance policy as ascertainable by established rules, where the policy has been abandoned and given up for cancellation to the insurer by the person having a contractual right to do so. 29 Am J Rev ed Ins § 620; the reserve, less a surrender charge. And in case of a single-premium policy, the reserve is the face amount of the contract discounted at a specified rate of interest on the basis of the insured's expected life. Guggenheim v Rasquin, 312 US 254, 85 L Ed 813, 61 S Ct 507.

A life insurance policy having a cash surrender value is property within the meaning of the Bankruptcy Act provision that title to property of the bankrupt vests in the trustee in bankruptcy. 9 Am J2d Bankr § 914. In bankruptcy proceedings the term "cash surrender value" has been regarded as covering any and every insurance policy under which the insured, by his own efforts and unassisted by any beneficiary or assignee, can obtain a sum from the insurer in cash, on cancellation of the policy at the date of the filing of the petition in bankruptcy, the amount being determined in accordance with a fixed and definite method

of compensation, uniform in all cases; and it is immaterial whether the amount which the insured can obtain is secured to him by statute or rests upon the mere willingness of the insurance company to purchase the policy at the particular time, the material and important fact being that at the time of the adjudication the policy has a value which the company is willing to pay and which the bankrupt by his own act can obtain. 9 Am J2d Bankr § 916.

cash value. The amount for which an article or piece of property may be sold at a sale which is not forced or compelled upon the seller where the terms of sale call for cash, no credit being extended to the purchaser; market value, fair market value, or clear market value. 28 Am J Rev ed Inher T § 359.

See **actual cash value; fair cash value; full cash value; true cash value.**

casing head gas. Natural gas from an oil well. The term does not include gasoline or gas manufactured artificially from the natural product of the well. See Wilson v King-Smith Refining Co. 119 Okla 256, 250 P 90.

cassare. To nullify; to annul; to dismiss.

cassation. Annulment; abatement; dismissal.

See **court of cassation.**

cassetur billa. That the bill quashed. See 3 Bl Comm 303.

See **judgment of cassetur billa.**

cassetur breve. Same as **cassetur billa.**

cast. Verb: To decide against; to convict; to allege; to proffer: to deposit, as a ballot; to form a solid piece, such as iron, from molten metal; to devolve by operation of law, as in the descent of an estate to the heirs. Estate of Donahue, 36 Cal 332. Noun: A solid piece, such as iron, made from molten metal in a form; a covering of a limb which has been fractured, applied, for the purpose of keeping the severed bone pieces of the broken bone in proper alignment, in a soft plaster which hardens after application.

castaway. A shipwrecked person; a thing thrown away; a person abandoned; an outcast.

cast away. To throw away; to abandon.

castellan. The governor of a castle.

castellarium. Same as **castlewick.**

castellorum operatio. The maintenance of castles.

castigation. Chastisement.

castigatory. A contrivance for punishing common scolds.

See **cucking-stool.**

casting descent. See **descent case.**

casting lots. Determining something by chance, as by a throw of dice or the drawing of straws.

casting vote. Literally, the act of depositing a paper ballot or voting upon a voting machine, but in modern usage, the term means the expression of a choice in any election to choose officers or determine policies and by any means appropriate for the occasion. By the common law, the term sometimes signifies the single vote of a person who never votes, as where the presiding officer is given the casting vote; but in the case of an equality, sometimes the double vote of a person who first votes with the rest, and their, upon an equality, creates a majority by giving a second vote. *People v Rector, etc., of Church of the Atonement* (NY) 48 Barb 603, 606.

castle. A fortified building; a fortress; the dwelling place of a king, prince, or nobleman.

castleguard. Feudal services or payments toward the maintenance of the lord's castle.

castlery. The government or tenure of a castle.

castleward. Same as **castleguard**.

castlewick. The district under the jurisdiction of a castle.

castration. The severance of the testicles by accident or surgery; a necessary operation in animal husbandry but constituting cruelty where performed unnecessarily or with unnecessary cruelty. 4 Am J2d Am § 28.

casual. Occasional; irregular, or incidental, in contradistinction from stated or regular. Anno: 33 ALR 1452.

casual ejector. A fiction whereby the old common law action of ejectment was utilized for the purpose of determining title to real estate. 25 Am J2d Eject § 2.

casual employee. A person employed temporarily, occasionally, intermittently, seasonally, not regularly. *Mitchell v Main Feldspar Co.* 121 Me 455, 118 A 287, 33 ALR 1447; Anno: 33 ALR 1452.

For sonic purposes, particularly that of the ap-

[180]

plication of a workmen's compensation act, a "casual employee" is one working for an employer but not in the usual and normal course of the business or industry regularly pursued by the employer. This distinct meaning of the term in compensation cases is based upon definitions of "casual employment" in compensation acts.

See **casual employment**.

casual employment. Literally, employment which is temporary, seasonal, sometimes fortuitous, in any event, not employment which is to continue for it fixed period of time of considerable duration. *Blake v Wilson*, 268 Pa 468, 112 A 126, 15 ALR 726. The meaning of the term in workmen's compensation statutes is variable because of the variance in statutory definitions. Under some statutes, casual employment is employment for something other than trade or business. *Thompson v Twiss*, 90 Conn 444, 97 A 328; under other statutes, it is employment not in the usual course of the employer's trade or business. *Cardillo v Mockabee*, 70 App DC 16, 102 F2d 620; *Oliphant v Hawkinson*, 192 Iowa 1259, 183 NW 805, 33 ALR 1433, 1436; and under still other statutes, it is employment at work of a duration of not more than a specified number of days, such as ten, fifteen, or twenty days, or at work, the cost of which is not more than a specified amount, such as one hundred, two hundred, or even five hundred dollars. *Moody v Industrial Ace. Corn.* (Cal App) 260 P 967, 969.

casual fence. A temporary fence.

casualis. Casual.

casualiter. Casually; accidentally.

casualiter et per infortuniam, et contra voluntatem suam. Accidentally and involuntarily. *Stanley v Powell* (Eng) LR 1 QB Div 86.

casual negligence. Slight negligence or, at most, no more than ordinary negligence.

casual pauper. A pauper who receives aid outside the jurisdiction of his domicil or residence.

casualties. Sums due from a vassal to his superior on the happening of certain events, the plural of "casualty."

See **casualty.**

casualty. A disastrous occurrence by chance or accident; a serious mishap or misfortune; an accidental death or disablement. *Morris & Co. v IndUstrial Board of Illinois*, 284 Ill 67, 119 NE 944. For the purpose of the Federal Hours of Service Act, an occurrence which proceeds from an unknown cause, or is an unusual effect of a known cause. 31 Am J Rev ed Lab § 803. For the purpose of a deduction in computing net income subject to federal income tax, a complete or partial destruction of property resulting front an identifiable event of a sudden, unexpected, or unusual nature. 34 Am J2d Fed Tax 116605.

See **inevitable casualty; unavoidable casualty.**

casualty insurance. Literally, this term is inclusive of insurance of all kinds except life insurance. In the insurance business, however, it has been a trade term applied with considerable variation as between insurance companies, often as a catch-all for new types of insurance as they are developed, such as plate glass insurance, hail insurance, boiler insurance, and insurance on domestic animals, Employers' Liability Assur. Corp. v Merrill, 155 Mass 404, 29 NE 529; and in more recent years to various forms of liability or indemnity insurance.

casualty loss. A deduction in an income tax return for a loss arising from fire, storm, shipwreck or other casualty to property owned by the taxpayer. IRC § 165(c)(3).

casualty of war. One killed or wounded in combat, or taken as a prisoner of war. As the term was used in a life insurance policy exempting the insurer from liability for death caused by the casualties or consequences of war or rebellion, such exemption included only death from casualties or consequences of war or rebellion, carried on or waged by authority of some government which was at least de facto. *Welts v Connecticut Mut. Life Iris. Co.* 48 NY 34.

casual worker. See **casual employee.**

casu consimili. In a similar case; a writ of entry to recover a reversion in land alienated by the tenant.

See **in casu consimili.**

casu proviso. A writ of entry to recover a reversion against a tenant in dower.

See **in casu proviso.**

casus. A case; an event; a happening.

casus belli. An occasion of war.

casus foederis. A case falling within the provisions of a treaty.

casus fortuitus. Same as **cas fortuit.**

Casus fortuitus non est sperandus, et nemo tenetur divinare. A chance happening is not to be expected, and no one is held to foresee it.

Casus fortuitus non est supponendus. A chance happening is not to be expected.

casus major. An unusual event.

See **vis major.**

casus omissi. plural of **casus omissus.** See 4 Bl Comm 85.

casus omissus. A case omitted. Where a statute attempts to cover a subject and a case arises which the statute should have provided for, the case is sometimes spoken of as it "casus omissus." See 2 Bl Comm 260.

Casus omissus et oblivioni datus dispositioni communis juris relinquitur. An omitted and forgotten case is left to the disposal of the common law. See Broom's Legal Maxims 40.

cat. A small domesticated animal with soft fur, white, black, gray, colored, stripped or multi-colored, which is a household or barnyard pet, any of the carnivorous mammals related to the household cat, such as lion, tiger, leopard, or puma: a sharp - tongued or gossip-peddling woman; a whip, otherwise known as a cat-o-nine tails. Slang for a caterpillar tractor. Teenage slang for a clever person. In the slang of an older day, a woman who makes trouble.

A cat is a domestic animal which if kept as a household pet is a thing of value which ministers to the pleasure of its owner. As such it is the proper subject of a civil action, such as trover; it is prop-

[181]

erty subject to taxation and is such an animal as is included in statutes against cruelty, although it was not the subject of larceny at common law. Thurston v Carter, 112 Me 361, 92 A 295.

cattala. Chattels.

Cattala juste possessa amitti non possunt. Chattels lawfully possessed cannot be lost.

cattala otiosa. Idle cattle or beasts.

Cattala reputantur inter minima in lege. Chattels are regarded in law among things of lesser importance (than land).

catallis captis nomine districcionis. A writ to distrain doors, windows or gates of a house for rent.

catallis reddendis. For the return of the chattels.

catallum. A chattel.

catalog. A list of the articles to be offered for sale at auction, including representations as to the character of particular articles. 7 Am J2d Auct § 16. A listing of merchandise for sale, sometimes with a secret code or system of letters, figures, and characters which show the cost and selling price. 18 Am J2d Copyr § 16.

cataneus. A tenant in capite, that is, on holding directly under the king.

catchall. A clause in a contract, will, or statute, intended to broaden the application of the instrument or statute; a provision in a statute, following an enumeration of various things and contingencies, intended to broaden the application of the statute beyond dispute, such as a provision in a statute fixing venue, following an enumeration of specific cases, that in all other cases the action shall be tried in the county in which the defendant, the defendants, or any of them reside.

catching bargain. A bargain or agreement of an expectant heir, remainderman or reversioner for the sale of his expectancy at a grossly inadequate price and under circumstances rendering the transaction an unconscionable one. 41 Am Rep 713, note.

catchland. Land, the tithes from which went as a right to the first of two persons who claimed them.

catch point. A derailing switch on a railroad siding used to prevent cars on the siding from running downgrade into the main line. See McDowall v Great Western Railway Co. (Eng) [1903] 2 KB 331.

catchpole or catchpoll. A bailiff; a constable.

catch time charter. A term which relates simply to the amount of compensation to be paid by the charterer of a boat. Ordinarily, when a boat is hired, the rent is so much a day. When "catch time" is followed, it is paid for when and as actually used, accounting being at some subsequent period. Under such a charter, however, the custody of the charterer commences at once whether the boat is actually being used by him or not, and the owner ceases to have any control over it. Schoonmaker-Conners Co. v New York Cent. R. Co. (DC NY) 12 F2d 314.

catena. A chain; a connected series; as, a catena of authorities cited to sustain a point of law.

cater-cornered. From corner to corner; diagonal.

cater-cousin. A fourth cousin.

cathedral. The church of a bishop; in common parlance, any large and imposing church.

catheter. A tube used to withdraw fluid from a cavity of the body, especially urine from the bladder, by way of relieving a stoppage of flow or of obtaining a sample for analysis in conducting a physical examination. O'Brien v La Crosse, 99 Wis 421, 75 NW 81.

catholic. Universal; broad-minded and liberal in understanding and sympathies.

See **Roman Catholic.**

Catholic Bible. The Bible of the Roman Catholic Church.

See **Douay Bible.**

catholic creditor. A creditor whose debt is secured by more than one property of the debtor.

Catholic Emancipation Act. An English statute, enacted in 1829, by which Roman Catholics were assured of all civil rights with the exception of appointment to ecclesiastical offices and certain high public offices.

Catoniana regula. A Roman law rule that lapse of time will not cure that which was invalid at the outset.

cats. See **cat; custos horrei regii.**

cattery. A place for the care or homeless animals. *Re Graves*, 242 Ill 23, 89 NE 672.

cattle. Domestic bovine animals; cows, bulls, steers or oxen, including heifers and in the generic sense of the term even calves; farm animals collectively, that is livestock, although even in this broad sense not including poultry. *First Nat. Bank v Home Sav. Bank*, 88 US (21 Wall) 294, 22 L Ed 560. Some authority, especially older authority, confines the term to neat cattle, that is, cattle of the bovine species, thereby excluding horses, mules, etc. *Brown v Bailey*, 4 Ala 413.

See **neat cattle.**

cattle-gate. A right to pasture animals on the land of another.

cattle guard. Such an appliance as will prevent cattle and other farm animals from going from a highway or private way crossed by a railroad track onto the track or right of way of the railroad. *Ford v Chicago Rock Island & Pacific Railway Co.* 91 Iowa 179, 59 NW 5.

cattle range. A large area where cattle may roam and pasture; a large stretch of country, consisting generally of many square miles, which is usually uninclosed, and has no definite or fixed boundaries, on which cattle are permitted to run at large during the entire year. *Big Butte Horse & Cattle Asso. v Anderson*, 133 Or 171, 289 P 503, 70 ALR 399.

Caucasian. A person of the white race; the white race.

caucus. A local political meeting; a meeting of persons of the same political party or of the same views in general, called and conducted for the purpose of determining a course of action which the participants should follow as a group in a larger meeting to be held later.

causa. A cause; an action; a reason; a consideration.

[182]

causa adulteri. By reason of adultery.

causa belli. A cause of war.

causa causae est causa causati. A cause of a cause is the cause of the effect.

causa causans. The causing cause; the efficient cause.

causa causantis causa est causati. The cause of the thing causing is the cause of the effect; a maxim which obviously leads to "a labyrinth of refined and bewildering speculation." *Gilman v Noyes*, 57 NH 627.

causa data et non secuta. Consideration given and not followed.

Causa ecclesiae publicis aequiparatur; et summa et ratio quae pro religione facit. The cause of the church is equal to that of the public; and most important of all is the reason which makes for religion.

Causae dotis, vitae, libertatis, fisci sunt inter favorabilia in lege. The cases of dower, life, liberty and public moneys are among those favored in law.

Causa et origo est materia negotii. The cause and its origin are the gist of the transaction.

causa honoris. See **honoris causa**.

causa hospitandi. For the purpose of being received as a guest.

causa impotentiae. By reason of impotence.

causa jactitationis matrimonii. An action which a person might maintain in the ecclesiastical court to enjoin another of opposite sex from continuing to boast or give out that he or she is married to the plaintiff, contrary to the fact. See 3 Bl Comm 93.

causal relation. See **compensable injury; proximate cause**.

causa lucrativa. See **ex causa lucrativa**.

causa matrimunii praelocuti. An ancient writ which a woman had when she had given land in fee or for life to her affianced suitor who refused to marry her. See 3 Bl Comm 183, note.

causam nobis signifies quare. A writ against a town mayor directing him to give seisin to a grantee of the king.

causa mortis. In expectation of death.

See **gift causa mortis**.

causa patet. The cause or reason is apparent.

causa pracallegata. For the aforesaid reasons.

Causa propinqua, non remota spectatur. The proximate, and not the remote, cause is regarded. *Wood v New England Ins. Co.* 14 Mass 31.

causa proxima. The proximate cause.

causa proxima, non remota spectatur. The proximate, and not the remote cause, is regarded.

No court is bound to "stick in the bark" of the maxim. Proximate cause should be determined upon mixed considerations of logic, common sense, policy, and precedent. 38 Am J1st Neg] § 53.

causa qua supra. For the reason above stated.

causare. To litigate.

causa rei. The accessions, appurtenances, or fruits of a thing.

causa remota. A remote cause.

See **causa proxima, non remota spectator**.

causa scientiae patet. The reason of the knowledge is apparent.

causa sine qua non. A cause without which the thing would not have happened; a cause which if it had not existed, the injury would not have been sustained. 38 Am J1st Negl §§ 53, 166.

causation. A matter of being the cause of an occurrence, the producing of a result. Derosier v New England Tel. & Tel. Co. 81 NEI 451, 130 A 145, 61 ALR 1178.

See **chain of causation; proximate cause.**

causator. A party to an action.

causa turpis. For a base or evil cause or reason.

Causa vaga et incerta non est causa rationabilis. A vague and uncertain cause is not a reasonable one.

cause. An action or suit. 1 Am J2d Actions § 4; including a criminal prosecution. Anno: 20 ALR 606; a cause of action; a consideration; motive; origin; that which produces or effects a result, even though unintended. United States v Weisman, (CA2 NY) 83 F2d 470, 107 ALR 293; that from which anything proceeds, and without which it would not exist; that which supplies a motive; that which decides action or constitutes the reason why anything is done.

The word "cause" and the word "case" are frequently used synonymously. Ward v Town Tavern, 191 Or 1, 228 P2d 216, 42 ALR2d 662. In any legal sense, "action," "suit," and "cause" are convertible terms. Ex parte Milligan (US) 4 Wall 2, 112, 18 L Ed 281, 293. Even an ex parte proceeding constitutes a cause for some purposes, as in the case of a statute disqualifying a judge from sitting in any "cause," under circumstances specified in the statute. 30A Am J Rev ed Judges § 93.

See **good cause; procuring cause; proximate cause; reasonable cause.**

cause celebre. (French.) A celebrated case. cause list. A Court calendar or docket.

cause list. A court calendar or docket.

cause of a cause. See **causa causantis causa est causati.**

cause of action. A term difficult of precise definition, perhaps best defined as the fact or facts which establish or give rise to a right of action, in other words, give to a person a right to judicial relief. Fielder v Ohio Edison Co. 158 Ohio St 375, 109 NE2d 855, 35 ALR2d 1365. More summarily defined, a cause of action is the right which a party has to institute a judicial proceeding. 1 Am J2d Actions § 1. A cause of action is to be distinguished

[183]

from right of action. A right of action is the right to enforce presently a cause of action, that is, a remedial right; a cause of action, on the other hand, is the operative fact or facts which give rise to a right of action. 1 Am J2d Actions § 2. A cause of action is a matter of substance concerned with the violation of a right, not a matter of remedy. 34 Am J1st Lim Ac § 45. But "cause of action" is synonymous with "action" in the sense that the survival of an "action" is the survival of a "cause of action." 1 Am J2d Abat & R § 1.

See **accrual of cause of action; identity of causes of action; joinder of causes of action; misjoinder of causes of action; separate cause of action; splitting a cause of action.**

cause of loss. See proximate cause; risks and causes of loss.

causeway. Webster defines the word as a way raised above the natural level of the ground by stones, earth, timber, fascines, etc., serving as a dry passage over wet or marshy ground, or as a mole to confine water to a pond or restrain it from overflowing lower ground. O. & R. V. R. Co. v Severin, 30 Neb 318, 322.

causidical. Relating to pleading.

causidicus. An advocate; a pleader.

cautela. Caution; vigilance.

cauti juratoria. Caution juratory.

cautio. Caution; care; security.

cautio fidejussoria. Security by way of a surety bond.

caution. Care; prudence; regard for danger; a written notice filed in the office of the registrar of land titles warning against dealing with the land without giving notice to the person filing the caution.

cautionary. By way of pledge or security; admonishing or warning.

cautionary instruction. An instruction to the jury in which the court admonishes the jury to be vigilant against external influence; to refrain from conversing with anyone about the case while the trial is in progress; etc.

cautionary judgment. A judgment entered against a defendant as a lien against his property, in order to secure the plaintiff for the amount which may become due him on the final disposition of the case, where it appears that the defendant is about to remove or fraudulently transfer his property. Seisner v Blake, 13 Pa 333.

cautio admittenda. See **de cautio admittenda.**

cautioner. A surety.

caution juratory, Security by means of an oath.

caution-money. Money paid as security for the performance of an obligation or contract.

cautionry. Suretyship; becoming surety.

cautio pignoratitia. Security by way of pledge.

cautio pro expensis. Security for expenses.

cautious. Prudent; in a secondary sense, the term, standing without the qualification of "reasonably," implies, to some people at least, the idea of being fearful, timorous, or overly prudent. Jenkins v Gilligan, 131 Iowa 176, 108 NW 237.

There may be an infinitesimal shade of difference between "cautious" and "prudent," but a reasonably prudent person and a reasonably cautious person are substantially the same, and possess identical significance for all practical purposes. Certainly the words "cautious" and "prudent" are used interchangeably in defining negligence. Malcolm v Mooresville Cotton Mills, 191 NC 727, 730, 133 SE 7.

cautio usufructuaria. Security against a tenant's waste.

cav. An abbreviation of **cavalry**.

c. a. v. An abbreviation of "curia advisare vult," the court wishes to deliberate.

cavalry. Soldiers mounted on horses or, in modern times, on motorized vehicles.

caveat. Literally, a notice to beware; a notice given or placed on file to prevent action until the caveator can be heard; a statement of opposition to the probate of a will, or against its probate in a particular form, filed at any time prior to the hearing of proof of the will. 57 Am J1st Wills § 842. A notice filed by an inventor in the United States patent office, describing the invention and praying the protection of his right to a patent until he shall have matured his invention. The purpose of a caveat is to secure an opportunity to have questions of priority between rival inventors determined before the issue of a patent. Electric Railway Co. v Jamaica & Brooklyn Railroad Co. (CC NY) 61 F 655, 671.

(Ecclesiastical law) A notice usually entered with the bishop by a party of his intended opposition to prevent the institution of his antagonist's clerk in a living. By the ecclesiastical law, an institution after a caveat entered is void. See 3 Bl Comm 246.

Caveat actor. Let the doer beware.

caveatee. The person propounding an instrument for probate as a will. 57 Am J1st Wills § 793; more broadly defined as a person bound by the caveat of another.

Caveat emptor. Let the buyer beware; a maxim of the common law expressing the rule that the buyer purchases at his peril. Implied warranties in the sale of personal property are exceptions to the rule thus expressed. 46 Am J1st Sales § 337. The maxim is applicable to sales of real estate in respect of conditions of the premises open to observation. 55 Am J1st V & P § 79. The doctrine of the maxim applies in its utmost vigor and strictness to judicial sales, so that the purchaser takes upon himself the risk of finding outstanding rights that could have been asserted against the parties to the proceedings and which necessarily affect the title conveyed to him. 30A Am J Rev ed Jud S § 180.

Caveat emptor; qui ignorare non debuit quod jus alienum emit. Let the buyer beware; he who should not ignore the fact that he is purchasing the right of another.

caveator. (Patent law.) A person who files a caveat; a person who opposes the probate of an instrument propounded for probate as a will. 57 Am J1st Wills § 793.

Caveat venditor. Let the seller beware, Caveat venditor is not the law if by it is intended anything more than that it is the seller's duty to do what the ordinary man would do in a similar situation. Pantebakos v Rockingham Light

[184]

& Power Co. 81 NH 441, 128 A 534, 38 ALR 1063, 1065.

Caveat viator. Let the traveler beware.

Cavendum est a fragmentis. Beware of fragments.

caver. In Derbyshire, a thief who stole ore from a mine.

cavere. To beware; to take care; to be cautious.

cay. A quay or wharf; a sandbank or reef off a shore.

cayagium. Wharfage duties.

C. B. An abbreviation of "common bench"; "chief baron."

cc. Abbreviation for cubic centimeters.

C. C. An abbreviation of "county commissioner," "county court," "cepi corpus," "civil code," "criminal cases," "civil cases," "crown cases," "circuit court."

C. C. A. Abbreviation for Circuit Court of Appeals.

CCC. Abbreviation for Commodity Credit Corporation, also for Civilian Conservation Corps.

ccm. Abbreviation for centimeter.

C. C. P. An abbreviation of "court of common pleas;" "code of civil procedure."

c.d. Abbreviation of discount for cash.

ce. See **en ce.**

ceapgild. The payment of an animal.

cease. To stop; to discontinue; to go out of existence. *Oakland Paving Co. v Hilton*, 69 Cal 479, 11 P 3.

cease and desist order. An order by an administrative agency which requires that certain practices specified be stopped. 2 Am J2d Admin L § 467. Thus, an order of a National Labor Relations Board restraining an employer from an unfair labor practice. 31 Am J Rev ed Lab § 301.

cede. The precise meaning of the word depends somewhat on the subject matter with which it is connected. In some instances, it is used in the sense of "grant," but ordinarily it means to yield; to surrender; to give up. *Mayor & City Council v Turnpike Road*, 80 Md 535, 542. Thus, a person grants, conveys, or deeds land, whereas a nation transfers territory by "ceding it." The word is also familiar in the law of reinsurance, expressing the act whereby an insurer, by contract known as a "treaty," transfers its risks or some of its risks to, or reinsures them with, another insurer.

See **cession.**

cedent. An assignor.

cedo. The word of grant in a Mexican conveyance. *Mulford v Le Franc*, 26 Cal 88, 108.

cedula. (Spanish.) A promissory note.

Cedunt arma togae. Let arms yield to the toga, that is, let war yield to peace.

ceiling. The top part of a room, opposite the floor. A top or limit, as a ceiling on the price of a specific article.

celation. The concealment by a woman of her pregnancy.

celebrate. To solemnize; to give due publicity to an event.

celebration of marriage. The performance of the ritual of a marriage publicly and solemnly; in the modern terminology of the law, the taking of the marriage vows before a person authorized to perform marriage ceremonies; the performance of the formal act or ceremony by which a man and woman contract marriage and assume the status of husband and wife. 35 Am J1st Mar § 25; giving utterance to and public evidence of the contract of marriage. Howard v Kelly, 111 Miss 285, 71 So 391.

celibacy. The state of being unmarried, particularly of one under vow to remain unmarried.

cellar. A storeroom; an underground space, usually but not necessarily below a building.

cemetery. A place or area set apart, either by governmental authority or private enterprise, for the interment of the dead. 14 Am J2d Cem § 1. The term is used interchangeably with "graveyard", "burial ground", and "place of burial". Anno: 50 ALR2d 907. It includes not only lots for depositing the bodies of the dead, but also avenues, walks, and grounds for shrubbery and ornamental purposes. The controlling circumstance in the creation of a cemetery is not the burial of the dead, but the act of setting the ground apart for burial and distinguishing it from the surrounding territory as a place of burial. Villa Park v Wanderer's Rest Cemetery Co. 316 Ill 226, 147 NE 104.

cemetery lot. See **burial lot.**

cemetery purposes. Use for a cemetery in the conventional sense, also use for a crematory for the reduction of dead bodies to ashes and a columbarium for the preservation of the ashes. Moore v United States Cremation Co. 275 NY 105, 544, 9 NE2d 795, 11 NE2d 743, 113 ALR 1124.

cenegild. A fine paid by a murderer to his victim's relatives.

cenninga. A notice given by a vendee to his vendor that the goods sold have been claimed by a third person.

cens. An annual payment to a superior lord made as a tribute to his superiority.

censaria. A farm, or house and land, let at a standing rent. -Cowell.

censarii. Farmers.

cense. An assessment; a tax; a census.

censitaire. A tenant who paid "cens."

censive. The land the tenant of which paid a "cens."

censo. Spanish for ground rent. Trevino v Fernandez, 13 Tex 630, 655.

censor. Noun: A high Roman officer who with his co-censor kept the census, attended to matters involving public manners and morals, and administered public finances; in modern usage, a person authorized to view a picture, read a book or article, or see a musical play or dramatic production, and determine whether or not such picture, book, article, or production is objectionable

as indecent, obscene, or immoral; also, an officer of the armed forces authorized to read letters written by servicemen for the purpose of deleting portions from which the enemy might gain intelligence. Verb: To strike out as objectionable.

censo reservativo. In Spanish-American grants, -the right to receive from an-

[185]

other an annual pension by virtue of having transferred land to him by full and perfect title. *Trevino v Fernandez*, 13 Tex 630, 656.

censorship. An examination of a picture, article, book, motion picture, or play for the purpose of appraising its decency and prohibiting publication or production where the same is found objectionable as indecent, obscene, or immoral; striking from letters of men in the armed services portions which might give intelligence to the enemy.

censuere. A judgment or decree of the Roman senate.

censumethidus. In the dead hand.

See **mortmain**.

censure. Severe criticism; condemnation; obloquy. *Bettner v Holt*, 70 Cal 270, 275, 11 P 713.

census. An official enumeration of the population of inhabitants of a country, state, county, city, or other political subdivision or administrative district. 14 Am J2d Census § 1; a decennial official count by the government of the United States of the inhabitants and wealth of the country and the taking of other statistics.

Census Bureau. An agency within, and under, the jurisdiction of the Department of Commerce, having the function of administering the federal census laws. 14 Am J2d Census § 3.

census regalis. The royal revenue, including forfeitures to the Crown.

cent. A penny; an abbreviation of "centum," one hundred; centime, centigrade.

cental. An English weight measure of one hundred pounds.

centena. A hundred.

centenarii. Plural of **centenarius**.

centenarius. A term of early France, later introduced to England, meaning the head of it "hundred," that is, a military force of one hundred freemen.

centeni. The principal inhabitants of a district composed of different villages, originally in number a hundred, but afterwards only called by that name; and who probably gave the same denomination to the district out of which they were chosen. See 3 Bl Comm 34.

center of gravity theory. A theory in the subject of conflict of laws, that the execution, validity, construction, and performance of a contract should be governed by the law of the place with which the matter in dispute has the most significant contacts, instead of looking to the place of execution or of performance, or to the intention of the parties, to determine which law shall govern. 16 Am J2d Conf L § 42.

center of intersection. The point where the center line of one street or road meets the center line of the other, both lines being drawn parallel to and halfway between the curbs and projected to the point of meeting. *Stewart v Olson*, 188 Wis 487, 206 NW 909, 44 ALR 1292.

center of road. A point in the middle of the road equidistant from the termini. If the road has not been surveyed it is impossible to locate the point with exactness. *Rice v Douglas County*, 93 Or 551, 183 P 768.

centesima. One one-hundredth part; one per cent.

centime. A coin representing the one hundredth part of a franc.

centimeter. A linear measure of the metric system, equivalent to 0.3937 inches.

centner. A hundredweight.

Central Bank. A bank in a foreign country which is the fiscal agent of the foreign country. *Bank of China v Wells Fargo Bank & Union Trust Co. (Two Cases)* (CA9 Cal) 209 F2d 467, 48 ALR2d 172; a bank established by statute in 1933. with 12 regional banks to provide a source of credit for farm co-operatives, operating under the Farm Credit Administration. 12 USC §§ 1134 et seq.

See **International Bank for Reconstruction and Development.**

Central Intelligence Agency. A federal agency operating to coordinate all intelligence activities of the United States, to obtain information vital to the security of the country from military and diplomatic sources, and also from its own field agents, to sift and analyze the reports obtained from the various sources, draw conclusions therefrom, and present such conclusions to the National Security Council.

centralization of schools. A modern movement in the interest of economy, more efficient administration, and improvement in education, whereby all the schools of an entire area, such as a township, a part of a county, two or more townships, or part of one township and part of another township, sometimes part of one county and part of another county, are brought together into one centralized district, in which one or more, usually several, public schools shall be maintained, the most common system being to have one high school and a number of separate schools, each of which is equipped for the education of one or two grades, from kindergarten or first grade through the eighth grade, transportation of pupils in busses being provided all pupils.

centralized district. A school district established in the centralization of schools.

See **centralization of schools.**

central time. See standard time.

centum. One hundred.

centumviri. The one hundred and five Roman judges who were appointed to decide common causes among the people. See 3 Bl Comm 515.

century. The Roman hundred; a period of one hundred years; the twentieth century.

ceorius. A churl.

cepi. I have taken.

Cepi corpus. I have taken the body; a form of return of a warrant for the arrest of a debtor.

Cepi corpus et est in custodia. I have taken the body and it is in custody;-a form of return of an officer upon executing a writ for the seizure of a person.

Cepi corpus et paratum habeo. I have the body and I have it ready; formal words used in the return on a writ for the arrest of a person.

Cepit. He took.

[186]

Cepit et abduxit. He took and led away.

Cepit et asportavit. He took and carried away.

Cepit in alio loco. He took in another place; a form of plea in a replevin action.

ceppagium. The stumps of felled trees.

ceps. The stocks in which offenders were confined.

cere. Wax; a wax seal.

cerebral embolism. A blood clot in a blood vessel of the brain. Anno: 20 ALR 81.

cerebral hemorrhage. A flooding of the brain by blood, resulting from the breaking of a blood vessel.

cerebral palsy. A most pitiful affliction, suffered at birth usually, arising from an injury to the brain, and causing paralysis.

cerebral vascular disability. See **cerebral hemorrhage**.

ceremony. See **celebration of marriage**.

Certa debet esse intentio, et narratio et certum fundamentum, et certa res quae deducitur in judicium. The intention, declaration, foundation, and matter brought to judgment ought to be certain.

certain. Free from doubt.

certain information that a felony has been committed. Information of circumstances sufficiently strong to warrant a cautious man in the belief that the person arrested has committed a felony were held sufficient. Burton v McNeill, 196 SC 250, 13 SE2d 10, 133 ALR 603.

certain is that which can be rendered certain. Leaving no scope for application of rule of construction against the grantor. Elterich v Leicht, Real Estate Co. 130 Va 224, 107 SE 735, 18 ALR 441.

certain services. Base services, stinted in quantity and not to be exceeded. See 2 Bl Comm 61.

certainty. Clarity; accuracy; precision; particularity.

See **definiteness**.

certainty of allegation. Precision and particularity, as opposed to ambiguity and generality, but reasonable certainty is all that can be demanded of the pleader. *David v David's Admr.* 66 Ala 139, 148.

certainty of damages. Having a basis for a reasoned conclusion; a reasonable basis for computation; absolute exactness of calculation is not a requisite. *Palmer v Connecticut Railway & Lighting Co.* 311 US 544, 85 L Ed 336, 61 S Ct 379.

certa res. A certain matter or thing.

certa scientia. See **ex certa scientia**.

certifiable questions. Single or particular questions, as to distinct propositions of law actually presented in the case, and which are material, and will aid the lower court in determining the case before it. 5 Am J2d A & E § 1026.

certificando. See **de certificando**.

certificate. A formal statement intended as an authentication of the fact asserted and set forth, usually under seal where made by a public officer.

See **license**.

certificate into chancery. The decision of a court of law on a matter submitted for such decision by a court of chancery.

certificate of abstracter. A statement appended by an abstracter of titles at the end of an abstract prepared by him, showing the records of title covered by the search, and, in addition, the date from which the search made by him ran and the day and hour at which it terminated. 1 Am J2d Abstr T § 5.

certificate of accountant. An accountant's license to practice as a certified public accountant. 1 Am J2d Accts § 2; the statement by a certified public accountant, or other accountant, employed to examine the books of a corporation, partnership, or individual engaged in business, or of a charitable corporation, appended to the financial statement of the corporation, partnership, or individual, that he has examined the books and accounts of the corporation, partnership, or individual, and that the financial statement is a true representation of the financial condition of the business conducted or the charity administered.

certificate of acknowledgment. The written evidence of an acknowledgment by the officer who takes the acknowledgment, which states in substance that the person named therein was known to and appeared before him and acknowledged the instrument to be his act and deed. 1 Am J2d Ack § 1. The certificate is to be signed by the officer taking the acknowledgment. 1 Am J2d Ack §48. Whether or not a seal is required depends upon the provisions of local statute. If the statute does not in express terms or by clear implication require a seal, the want of a seal does not invalidate the certificate, even when it is executed by a notary public or commissioner of deeds. But if the attributable statute requires that the certificate bear the seal of the officer or requires that the officer taking the acknowledgment authenticate his acts by the use of his seal, the omission of the seal from the certificate is fatal. 1 Am J2d Ack § 50.

certificate of architect or engineer. A formal approval in writing by architect or engineer of the performance by the contractor under a building contract, usually required under the terms of a building or construction contract as a condition of the contractor's right to compensation. 13 Am J2d Bldg Contr § 32. The certificate is either one of completion or of progress, the latter being one given during the progress of the work, certifying as to the extent or value of the work done or materials

furnished, its purpose being to enable the contractor to collect, under the terms of the contract, the portion or instalment of the contract price for work performed or materials furnished to date. 13 Am J2d Bldg Contr §§ 32 et seq.

certificate of arrival. A certificate which, under a former statute, was required of an alien seeking citizenship, the requirement being that the certificate be filed with the petition for citizenship. 3 Am J2d Aliens § 148.

certificate of assize. A writ under which a second trial of the same cause by the same jury was had because of a failure of justice through an error of the court. See 3 Bl Comm 389.

certificate of authentication. The certificate of an officer of a court of record, or like official, to the effect that the officer taking an acknowledgment or proof by affidavit was, at the date thereof, such officer as he claimed to be, and authorized to take

[187]

the acknowledgment or proof, and that signature appended to the acknowledgment or proof is the genuine signature of the officer. Such certificate is sometimes known as a county clerk's certificate. 1 Am J2d Ack § 78; the authentication of a document or copy by the officer, such as a clerk of court, who has custody of the document. 30 Am J2d Ev § 997.

certificate of birth. See **birth certificate**.

certificate of citizenship. A certificate issued by a court of naturalization that a person has been admitted to citizenship on application made and proceedings had thereon; a certificate by the Attorney General of the United States that a person has acquired citizenship by the naturalization of his parents, or circumstances other than by application and proceedings for naturalization, and the taking of an oath of allegiance. 3 Am J2d Aliens § 156.

certificate of completion. See **certificate of architect or engineer**.

certificate of conformity. A certificate by an officer of a court, usually the clerk of court, or other proper officer, that an acknowledgment or proof by affidavit is in conformity with law. Such certificate is often combined with a certificate of authenticity. 1 Am 12d Ack § 78. **certificate of corporate stock.** See **stock certificate**.

certificate of costs. A certificate of the trial judge in an action of trespass attesting the fact that the trespass complained of was wilful and malicious. When such a certificate was made, the plaintiff became entitled to full costs, whether they exceeded his damages or not. See 3 Bl Comm 214.

certificate of death. See **death certificate**.

certificate of deposit. A written acknowledgment by a bank or banker on the receipt of a sum of money on deposit which the bank or banker promises to pay to the depositor, to the order of the depositor, or to some other person or to his order, whereby the relation of debtor and creditor between the bank and the depositor is created. 10 Am J2d Banks § 455: a writing having the requisites of negotiability and consisting of an acknowledgment by a bank of receipt of money with an engagement to repay it. UCC § 3-104(2).

Certificates of deposit are divided into two classes as regards time of payment, that is, demand certificates and time certificates. 10 Am J2d Banks § 455.

certificate of engineer. See **certificate of architect or engineer**.

certificate of entry. A certificate issued by the government upon the making of an entry of public land. 42 Am J1st Pub L § 34.

certificate of graduation. A certificate given upon graduation from a school.

certificate of identity. A certificate, otherwise known as a certificate of alien registration, which a alien obtains upon registration. 3 Am J2d Aliens § 112.

certificate of incorporation. Same as **articles of incorporation**.

certificate of indebtedness. An instrument issued by a building and loan association for borrowed money. 13 Am J2d B & L Assoc § 10: an obligation issued by a receiver, trustee, or debtor in possession, for money borrowed for the purpose of continuing the operation of the bankrupt's or debtor's business while bankruptcy proceedings or reorganization proceedings continue. 9 Am J2d Bankr §§ 1308, 1357, 1555; one of an issue of instruments by a public body to obtain funds for carrying on the administration of government, being similar to a bond in the respect that both are promises to pay a sum certain at a definite time or times. 43 Am J1st Pub See § 12. For many years the form of obligation used to raise money for municipal improvements when the loan was for a large sum and intended to cover a long term of years was an instrument under seal known as a "certificate of loan," with certificates of interest attached, payable to the bearer at particular times within the year, at some particular place, being a part of the contract from which they must be cut off to be presented for payment. These certificates of loan are now known as coupon bonds. *Amey v Allegheny City (US)* 24 How 364, 16 L Ed 614.

certificate of loan. See **certificate of indebtedness**.

certificate of membership. Sometimes called a benefit certificate, issued to a member of a mutual benefit society, constituting the contract between him and the corporation, but construed and governed by its charter constitution, and bylaws.

The certificate is in effect a policy of life insurance, albeit of a distinctive character. *Supreme Council Catholic Knights of America v Densford*, 21 Ky LR 1574, 56 SW 172. Certificates are also used to represent membership in fraternal orders, social clubs, and various societies organized for charitable purposes.

certificate of mutual benefit society. See **certificate of membership**.

certificate of naturalization. See **certificate of citizenship**.

certificate of notary public. See notary's certificate.

certificate of partnership. A certificate showing the names of all of the members of the partnership, the filing of which is required by law in a number of states, under penalty of not being entitled to maintain or defend actions in the courts unless the statutes are complied with. See 40 Am J1st Parti § 431.

Certificate of progress. See **certificate of architect or engineer**.

certificate of protest. See **protest**.

certificate of public convenience and necessity. A certificate from a public service commission as a prerequisite to the construction or extension of a public utility plant or system. 43 Am J1st Pub Util § 198; a certificate, issued by the appropriate regulatory commission to a common carrier by motor vehicle, which confers the privilege of operating upon the public highway, sometimes regarded as a rebuttable license, but in other states deemed to be a definite economic asset, and a franchise. 13 Am J2d Car § 78; a certificate issued by the Interstate Commerce Commission evidencing its permission to the holder thereof to operate as a common carrier between named points in different states upon the conditions and in the manner set forth in the certificate. *Inland Motor Freight v United States (DC Idaho)* 36 F Supp 885.

certificate of qualification. See **license**.

certificate of receiver. See **certificate of indebtedness**.

certificate of registration. The certificate obtained by an alien upon registration. 3 Am J2d Aliens § 112; an authorization, otherwise known as a license, to use a designated motor vehicle upon the highways of the state. 7 Am J2d Auto § 53.

[188]

certificate of sale. A certificate given by the sheriff or other officer conducting a sale under execution, in a jurisdiction where such a sale is subject to redemption by the owner or execution defendant for a fixed period of time, which declares the making of a sale to a designated purchaser and the right of the purchaser to receive a deed from the sheriff or other officer upon presentation of the certificate after the expiration of the redemption period. 30 Am J2d Exec § 393 et seq. certificate of sale for taxes.

See **tax certificate of sale**.

certificate of stock. See **stock certificate**.

certificate of teacher. See **teacher's certificate**.

certificate of title. An instrument, issued by a registrar or other public officer, intended to show who is the owner of the motor vehicle described in the instrument. 7 Am J2d Auto § 24; the certificate issued by the registrar of titles, in a jurisdiction where titles to real estate are registered under the Torrens or a similar system, after a proceeding for registration or, in a case of the transfer of a registered title, upon the filing of a transfer of title by a grantee or purchaser.

certificate of trustee. See **certificate of indebtedness**.

certification. The return of a writ; a formal attestation of a matter of fact, that is, the making of a certificate of any kind.

certification of bond. The identification of a bond by a mortgage trustee as one of the series of bonds mentioned and described in the mortgage. Bauernschmidt v Maryland Trust Co. 89 Md 507, 43 A 790.

certification of check. See **certified check**.

certification of question. A practice, based on a procedure first developed in the federal courts, under which an entire case or a specific question of law involved in a case, may be sent from a lower to a higher court for decision. 5 Am J2d A & E § 1025.

certification of record on appeal. The signature by the judge to the bill of exceptions and attestation by the clerk of court, under the seal of the court, to the signature. 4 Am J2d A & E §§ 466, 467.

certification proceeding. A proceeding of a nonadversary, fact-finding character in which the National Labor Relations Board acts the part of disinterested investigator seeking merely to ascertain the desires of the employees as to their representation. Southern S. S. Co. v NLRB (CA3) 120 F2d 505.

certified case. See **case certified; certification of question**.

certified check. A check upon which the drawee bank has stamped or written the words "certified," "good," accepted," or an equivalent expression, with the signature of the certifying officer, the effect of which stamp is equivalent to an acceptance of a bill of exchange by the drawee. 10 Am J2d Banks § 587.

The certification of a check by a bank that it is good, is similar to the accepting of a bill, for the banker thereby admits assets, and makes himself liable to pay. By the law merchant such certification is equivalent to acceptance. It implies that the check is drawn upon sufficient funds in the hand of the drawee, that they have been set apart for its satisfaction, and that they shall be so applied whenever the check is presented for payment. It is an undertaking that the check is good then, and shall continue good; and this agreement is as binding on the bank as its notes of circulation, a certificate of deposit payable to the order of the depositor, or any other obligation it can assume. First Nat. Bank v Currie, 147 Mich 72, 110 NW 499.

certified copy. A copy certified as true by the officer to whose custody the original is entrusted. 29 Am J2d Ev § 910.

See **certificate of authentication.**

certified public accountant. One who has received from a commission, board, or proper officer a certificate qualifying him to practice as a certified public accountant. Frazer v Shelton, 320 111 253, 150 NE 696, 43 ALR 1086.

certified question. See **certification of question.**

certify. To authenticate by a certificate; to vouch for a thing in writing; a certificate is an authoritative attestation, and any form which affirms the fact in writing is sufficient. Re Kostohris' Estate, 96 Mont 226, 29 P2d 829; to assert in writing the correctness of identity of an instrument. Sawyer v Lorenzen, 149 Iowa 87, 127 NW 1091.

certiorando. See **de certiorando.**

certiorari. A method of review of the action taken by an administrative agency. 2 Am J2d Admin L § 625; a writ issued by a superior to an inferior court of record, or to some other tribunal or officer exercising a judicial function, requiring the certification and return of the record and proceedings in order that the record may be revised and corrected in matters of law. It is a common law writ, but usually provided for by statute. 14 Am J2d Cert § 1.

cert money. Yearly payments made to the lord of the manor for the keeping of the leet.

Certum est quod certum reddi potest. That is certain which is capable of being rendered certain. Wells v Alexandre, 130 NY 642, 29 NE 142.

cervisia. Beer.

cervus. A stag.

cesionario. An assignee.

cess. To neglect a legal duty; a tax.

Cessante causa, cessat effectus. The cause ceasing, the effect ceases.

Cessante ratione cessat, et ipsa lex. The reason for the law having ceased, the law itself ceases.

Cessante ratione legis cessat, et ipsa lex. Where the reason for the existence of a law ceases, the law itself should also cease. The maxim means that no common-law rule can survive the reasons on which it is founded. It needs no statute to change

it; it abrogates itself. If the reasons on which a law rests are overborne by opposing reasons, which, in the progress of society, gain controlling force, the old law, though still good as an abstract principle, and good in its application to some circumstances, must cease to apply or to be a controlling principle to the new circumstances. *Beardsley v Hartford*, 50 Conn 542.

Cessante statu primitivo, cessat derivatus. The primary state ceasing, the derivative ceases also.

cessare. To cease; to stop.

[189]

Cessa regnare, si non vis judicare. Cease to rule, if you do not wish to judge.

cessavit per biennium. He ceased for two years,-a writ, also called a "cessavit" which lay by statute for a landlord to recover land from his tenant after two years of failure to pay rent or to render the prescribed services. The writ also lay for the donor of land to a religious house on condition of performing some religious service, after neglect of such service for two years. See 3 Bl Comm 232.

cesse. Same as **cess**.

cesser. A ceasing or stopping.

cesser clause. A stipulation in a charter party that the charterer's liability thereunder shall cease when the vessel is loaded and the bills of lading are signed, the owner agreeing to settle with the consignees of the cargo all questions regarding freight, demurrage, and other liabilities, under the protection of his lien for charges. It is intended to free the charter, on his furnishing a full cargo, from possible liabilities cast upon him by the terms of the charter party, which, by its terms, he might otherwise personally be called on to discharge after the full cargo had been shipped on board. 48 Am J1st Ship § 325.

cesset executio. An order directing a stay of execution.

cesset processus. An order directing a stay of proceedings in the action.

cessio. A cession.

cessio bonorum. (Roman law.) The right of an impoverished debtor to anticipate his creditors by voluntarily ceding his estate to them and thereby exempt himself from imprisonment and from infamy. It was doubtless the ancestor of our modern bankruptcy law. *Sturges v Crowninshield* (US) 4 Wheat 122, 4 L Ed 529.

cession. A surrender; a giving up; a relinquishment of jurisdiction by a board in favor of another agency. 31 Am J Rev ed Lab § 213; the transfer of territory by one nation to another.

See **cede**.

cessionary. An assignee.

cessionary bankrupt. An assignor for the benefit of his creditors.

cession des biens. An assignment for the benefit of one's creditors.

cessment. An assessment or tax.

cessor. A tenant who by neglect to pay rent was liable to a writ of *cessavit*.

cessure. Same as **cesser**.

c'est ascavoir. (French.) That is to say.

C'est le crime qui fait la honte, et non pas l'echafaud. It is the crime which brings disgrace, not the scaffold.

cestui. A short form for *cest in que* trust; the beneficiary of a trust.

cestui que trust. The beneficiary of a trust; the person for whose benefit property is held in trust by a trustee. See 54 Am J1st Trusts § 136.

cestui que use. Also spelled *cestuy que use*. -A person for whose use land was granted to another. See 2 BL Comm 328.

cestui que vie. A person for the duration of whose lifetime an estate has been granted.

cestuis que trustent. Plural of **cestui que trust**.

cestuy. Same as **cestui**.

Cestuy, que doit inheriter al pere, doit inheriter al fils. He who should inherit from the father, should inherit from the son.

cet. That.

cetera. See **et cetera**.

ceux. Those.

cf. An abbreviation of "confer," "compare."

c/f. Bookkeeping abbreviation for carried forward.

C. F. Abbreviation for cost and freight.

C. F. I. Abbreviation for cost, freight, and insurance.

CFR. Abbreviation of Code of Federal Regulations.

eg. Abbreviation for centigram.

C. G. Abbreviation of Coast Guard, also of Consul General.

c.h. Abbreviation for custom house.

Ch. Abbreviation for chapter.

c. h. An abbreviation of "courthouse."

chace. A chase; a hunting preserve.

chacea. A chase; a hunting preserve.

chaceable. Subject to the sport of hunting, as chaceable animals.

chacea est ad communem legem. A chase exists by the common law.

chafewax. A chancery officer who attended to the wax used in sealing writs.

chaffer. Goods; wares; merchandise.

chain. A series of metal links or rings, connected or fitted into one another, used as a hitch or as a secure binding of a load otherwise not stable, for example, the binding of a truckload of logs; a watch chain; a gold or silver chain on a locket; a linear measure of 100 links, each 7.92 inches long, or 66 feet in all. This, known as Gunter's chain, is in common use and is used in public land surveys. Another much less common chain is the engineer's chain of 100 links each one foot long.

chain-gang. A number of convicts chained together, usually for labor; a work gang of convicts or jail prisoners working on a highway, canal, or other public improvement.

chain of causation. Such a succession of events as link an act or legal cause with a result or damage; an element of proximate cause. 38 Am J1st Negl § 56.

chain of title. The successive conveyances and devolutions of title, commencing with the patent from the government or some other source and ending with the conveyance or devolution to the person claiming title presently. Capper v Poulsen, 321 Ill 480, 482, 152 NE 587, 588.

chain reaction. A series of events, each of which is productive of or influential upon the succeeding event; a term applied especially to nuclear reaction.

chairman. The presiding officer of a deliberative body.

[190]

chairman of the board. The person in the chair, that is, the person who presides at the meeting of the board of a corporation of any kind. Although the nature and the duties of this office varies as between corporations, usually the top executive is the president rather than the chairman of the board.

chaldron. A coal measure of thirty-six bushels.

challenge. Noun: An objection; an exception. Verb: To object; to take exception to.

challenge for actual bias. Same as challenge to the favor.

challenge for cause. An objection to a juror, made on voir dire for cause stated, that is, pointing out the ground upon which the juror is disqualified.

See **challenge for principal cause; challenge to the favor.**

challenge for favor. Same as **challenge to the favor.**

challenge for principal cause. An objection lodged against a juror on voir dire on the ground of an absolute disqualification, such as consanguinity or relationship within the prohibited degree, leaving nothing to the discretion of the court in reference to the determination of the likelihood of actual bias. 31 Am J Rev ed Jur § 147.

challenge of judge. See **rescusation.**

challenge propter affectum. A challenge to a juror on the ground of bias or partiality. 31 Am J Rev ed Jur § 157.

challenge propter defectum. A challenge to a juror for cause on account of some deficiency in the man himself, as that he is an alien or an ex-convict. 31 Am J Rev ed Jur § 157.

challenge propter delictum. The challenge to a juror on the ground of infamous crime. 31 Am J Rev ed Jur § 157.

challenge propter honoris respectum. A challenge to a lord of Parliament on the jury panel. 31 Am J Rev ed Jur § 157.

challenge to duel. See **challenge to fight.**

challenge to fight. To confront a person, either directly or through another known as a second, with writing, spoken words, or conduct which conveys the intention, at least somewhat formally, to duel or fight with him. 25 Am J2d Duel § 2.

Challenge to juror. An objection to a juror made on voir dire.

See **challenge for cause; peremptory challenge.**

challenge to the array. See **challenge to the panel.**

challenge to the favor. An objection lodged against an individual juror for bias, such to be determined by the trial court acting in the exercise of a sound discretion. 31 Am J Rev ed Jur § 147.

challenge to the panel. An objection lodged against the entire panel from which the trial jury in a particular case is to be selected, based on some legal defect, partiality, or other misconduct of an officer in summoning the panel. 31 Am J Rev ed Jur § 147.

challenge to the poll. A challenge to an individual juryman. 31 Am J Rev ed Jur § 147.

chamber. See **bill chamber; coal chamber.**

chamber business. A term applied to all such judicial business as may properly be transacted by a judge in his chambers or elsewhere, as distinguished from such as must be done by the court in session; all business done out of court by the judge. Atchison, T. & S. F. Ry. Co. v Long, 122 Okla 86, 251 P 486.

chamber-counselor. A lawyer who counsels and advises, but does not appear in court.

chamberlain. A treasurer.

chamberlaria. A chamberlain.

chamber of accounts. A French court corresponding to the English court of exchequer.

chamber of commerce. A board of trade; an association of business men or industrialists of a city and its environs, organized and operating to promote and safeguard the commercial interests of the city and surrounding territory.

Chamber of Commerce Arbitration Court. See **Court of Arbitration of the Chamber of Commerce.**

chamber of deputies. The popular house of the English parliament; the assembly, in France, Italy and Spain.

chambers. The place, other than the courtroom, where a judge transacts the business of the court. 30A Am J Rev ed Judges § 35; a judge's private office, usually near, but not a part of, the courtroom; the private room or office of a judge where, for the convenience of parties, he hears such matters and transacts such business as a judge in vacation is authorized to hear, and which do not require a hearing by the judge sitting as a court; the office or private rooms of a judge, where parties are heard and orders made in matters not required to be brought before the full court. Atchison, Topeka & Santa Fe Ry. Co. v long, 122 Okla 86, 251 P 486.

chambers decision. A decision rendered by a judge acting in vacation. Floyd v Smith, 63 Ga App 524, 11 SE2d 719.

chambers judgment. A judgment rendered by a judge in a proceeding at chambers. 30A Am J Rev ed Judgm § 53.

The proceedings of a session are properly part of the record on appeal, although the session was held in chambers. Gibson v Southern Pacific Co. 137 Cal App 2d 337, 290 P2d 347, 63 ALR2d 1205 (motion for directed verdict, heard outside presence of jury).

chambers of the king. The harbors of England.

chambers order. An order rendered by a judge sitting in chambers.

champart. A French law term signifying a division of profits, being a part of the crop annually due the landlord by bargain or custom. See 4 Bl Comm 135.

champarty. Same as **champerty**.

champertia. See **de champertia**.

champertor. A person who commits champerty; the person who makes champertous agreement with a plaintiff or defendant. 14 Am J2d Champ § 3.

champertous. Partaking of or tainted with champerty.

champertous assignment. An assignment of a chose in action with the sole intent and purpose of having the assignee bring a suit thereon. 14 Am J2d Champ § 10.

champertous contract. A contract having a tendency to foment or protract litigation, or transferring the control and management of a suit to one having no right or interest in the subject of the action other

than such as was derived from the litigious agreement, especially a contract by an attorney at law for a contingent fee in the proceeds of an action, whereby the attorney agreed to save the client harmless from costs and expenses of the proposed litigation. 14 Am J2d Champ § 4.

champerty. A species of maintenance, being a bargain made by one called the champertor with a plaintiff or defendant for a portion of the matter involved in a suit in case of a successful termination of the action, which the champertor undertakes to maintain or carry on at his own expense. 14 Am J2d Champ § 3.

chance. Hazard, risk, or the result or issue of uncertain and unknown conditions or forces, Dixon v Plans, 98 Cal 384, 33 F 268; the possibility of something occurring without design or effort to make it occur. 34 Am J1st Lot § 6.

See **game of chance.**

chancellor. A judge of a court of chancery; in Scotland, the foreman of a jury.

chancellor of a diocese. An ecclesiastical officer appointed by a bishop to hold his courts for him and to assist him in matters of ecclesiastical law. See 1 Bl Comm 382.

chancellor of the exchequer. The chief financial minister of England.

chance-medley. A casual affray; such killing as happens in self-defense upon a sudden encounter. See 4 Bl Comm 184.

chancery. See **court of chancery; equity; master in chancery.**

chance verdict. A verdict reached by tossing a coin, drawing lots, or any method wherein the reasoning and understanding of the individual jurors plays no part in determining the result. 53 Am J1st Trial § 1029.

chandler. A retailer of groceries and other merchandise.

Chandler Act. An amendatory act approved by the President on June 22, 1938 and effective September 22, 1938, intended to modernize the law of bankruptcy, especially by adding provisions whereby debtors might be rehabilitated in their fortunes without the necessity of a complete liquidation of their assets. 9 Am J2d Bankr § 2.

change. Noun: Coin; another term for "exchange," a place for the transaction of business. Verb: To mean to put one thing in the place of another; to exchange; to alter or make different; to cause to pass from one state or place to another. Territory ex rel. Smith v Scott, 3 Dak 357, 432.

See **exchange; vary.**

changed conditions. Appearing in a contract for the construction of a public improvement, the term means conditions differing materially from those stated in the contract, and also unknown conditions of an unusual nature not ordinarily encountered in the kind of work provided for in the contract. Anno: 85 ALR2d 213.

change in title. See **change of title.**

change of abode. See **change of domicil.**

change of beneficiary. A clause in a life insurance policy which changes the interest of the beneficiary named from a vested to a contingent interest by reserving to the insured the right to change the beneficiary in accordance with requirements prescribed in the policy. 29A Am J Rev ed Ins § 1675; the effecting of a change of beneficiary of a life insurance policy, such being

dependent upon the capacity of the insured and the observance of the conditions for a change prescribed by statute or terms of the policy. 29A Am J Rev ed Ins §§ 1677-1689.

change of county seat. The transfer of the seat of government of a county from one place to another in the county, usually after an election on the question of change.

change of domicil. The physical abandonment of a domicil together with an intent not to return to it as a domicil, and the acquisition of a new domicil in another place by actual residence in such place with the intention of making it a permanent home. 25 Am J2d Dom § 16.

change of grade. The lowering or elevating of the degree in which a highway inclines or declines by excavating, filling, or grading. 25 Am J1st High § 39; a change in the inclination or declination of an area, such as a city lot, by excavating or filling, often made for purpose of drainage, sometimes resulting in controversies with adjoining owners in reference to the obstruction of the flow of surface waters. 56 Am J1st Wat §§ 67 et seq.

change of identity. An intermingling or intermixture of goods owned by different persons so that the property of each can no longer be distinguished; a change made in the form of an article, a transmutation in the species; the combining or uniting of materials into one single, joint product. 1 Am J2d Access § 1.

change of interest. See **change of title.**

change of name. The taking and adoption of a new name by a person or a business, which, in either case is usually regulated rather closely by statute. 38 Am J1st Name §§ 28-35. A change of name of a corporation requires resort to formal proceedings. 18 Am J2d Corp § 145.

change of occupation. A familiar condition in a life or accident insurance policy, normally being a condition against a change in insured's occupation to one of more hazards to life or limb, the condition having reference to the nature of duties performed, not the precise designation given to an employment. 29 Am J Rev ed Ins § 766.

change of possession. A conventional clause or condition of a contract for the sale of real estate. 55 Am J1st V & P § 323; a clause, in a policy insuring property against loss by fire, windstorm, etc., which provides that the policy shall become void in the event of a change in the possession of the property without the consent of the insurer. 29A Am J Rev ed Ins § 825.

See **change of title; delivery.**

change of residence. See **change of domicil.**

change of title. That which takes place where there is a change in ownership which carries the legal right of possession and property. 42 Am J1st Prop § 37; an instrument, filed by requirement of law, by a personal representative of a decedent's estate upon the completion of the administration, for the purpose, among other things, to show the new ownership of the estate property resulting from the death of the former owner and the devolution of the property under his will or by the laws of descent, so that the new ownership will appear in the tax records; a clause, usually appearing in policies

[192]

of fire insurance or the other insurance on property to the effect that the policy shall become void in case of a sale, conveyance, or a change in the interest, title, or possession of the property insured, without the insurer's consent. 29A Am J Rev ed Ins § 825; a breach of the foregoing clause or condition, that is, a change of title or interest by sale or conveyance which places the risk of loss of the property upon the buyer or grantee, creates a motive for the destruction of the property, or lessens the interest of the insured in protecting it. Mackintosh v Agricultural Fire Ins. Co. 150 Cal 440; 89 P 102.

change of venue. The removal of a cause for trial from one county to another county. See 56 Am J1st Ven § 42.

change of voyage. A common term in marine insurance policies, meaning a voluntary departure, without necessity or justifiable cause, from the regular and usual course of the voyage. 29A Am J Rev ed Ins § 1000.

channel. The bed of a stream, with well defined banks, cut through the turf and into the soil by the flowing of water, presenting on a casual glance the evidences of the frequent action of running water, and not a mere depression. 56 Am J1st Wat § 76; the part of a navigable waterway which is traversed by the traffic thereon. The Arlington (CA2 NY) 19 F2d 285.

chantry. A church endowed with land for the support of priests who prayed and sang for the welfare of the soul of the person named in the gift.

chapel. A small church.

chapel of ease. A secondary church for the use of parishioners living at a distance from the principal one.

chapelry. The legal precincts of a chapel.

chapitre. The summary of matters to be inquired of by, or presented before, justices in Byre, justices of assize, or justices of the peace; articles delivered orally or in writing by the justice to the inquest.-Wharton.

chaplain. The person who officiated in a chapel.

chaplaincy. The office of a chaplain.

In the Roman Catholic Church it is an institution founded by an individual for the purpose of celebrating or causing to be celebrated annually a certain number of masses conforming to the will of the founder. They are commonly divided into two classes-lay and ecclesiastical. Gonzalez v Roman Catholic Archbishop, 280 US 1, 74 L Ed 131, 50 S Ct 5.

chapman. An itinerant merchant.

See **petty chapmen.**

chap-money. Money repaid by a seller to a buyer upon full payment of the purchase price.

chappelage. The vicinity or precinct of a chapel.

chapter. A bishop's council.

See **dean and chapter.**

chap-woman. A female trader.

char. To reduce wood to coal by burning. Anna: 1 ALR 1169, note.

character. That which a person is as demonstrated by his acts and utterances, whether good or bad from the standpoint of morals; reputation. Michelson v United States, 335 US 469, 93 L Ed 168, 69 S Ct 213.

Character consists of the qualities which constitute the individual, while reputation is the aura of opinions entertained concerning him. The former is interior; the latter external. The one is the substance; the other the shadow. Character is what a

person is. Reputation is what people say of him. But notwithstanding this distinction which is everywhere agreed upon, the two words are sometimes used, even by judges, as synonymous. *United States v Hrasky*, 240 Ill 560, 88 NE 1031.

"Character" is frequently used interchangeably with "reputation." In a legal sense, it means reputation as distinguished from "disposition." Character grows out of particular acts, but is not proved by them, since a person may, under the stress of special circumstances, do a thing which is contrary to his ordinary disposition and practice. The method of proving character is by showing the general reputation of the person in the neighborhood in which he lives. What is thus proved, therefore, is not a person's real character, but his character as reputed among his neighbors, or what the consensus of opinion of the neighbors is as to his character. Anna: 10 ALR 9.

Another and distinct meaning of the term "character" is that of a recommendation given an employee upon his leaving service. 35 Am J1st M & S § 39.

character evidence. Testimony relating and confined to the general reputation which the person who is subject of the inquiry sustains in the community or neighborhood in which he lives or has lived. 29 Am J2d Ev § 347.

characterization. A statement of the distinguishing characteristics of a person by way of representing him to others. A technical term for determining the nature of the question before the court, as one of tort, contract, etc. in order to determine the law applicable as between the laws of two or more jurisdictions. 16 Am J2d Contr § 3.

charbon. Another name for the disease of anthrax. *Stedman v United States Mut. Acci. Asso.* 123 NY 304, 25 NE 399.

charge. Noun: An obligation or indebtedness to be paid, as a charge for merchandise or services. *MERCHANTS EXCHANGE NAT. BANK v COMMERCIAL WAREHOUSE CO.* 49 NY 635, 639; a form under which interest taken in advance. 55 Am J1st Supp Usury § 41; *Houchard v Berman*, 79 Ariz 381, 290 P2d 735, 57 ALR2d 627; an expense incurred in an enterprise; an item of costs or expenses in litigation; an accusation of the commission of a crime or offense, as in an information or indictment. *Hale v Henkel*, 201 US 43, 59, 50 L Ed 652, 659, 26 S CI 370; *Rhodes v McWilson*, 202 Ala 68, 79 So 462, 1 ALR 568, 577; *People v Ross*, 235 Mich 433, 444, 209 NW 663, 666; the technical term for the mere statement of the offense for which one is brought before a court-martial for trial, as distinguished from the "specifications" which set forth the specific acts or omissions of the accused constituting the offense. 36 Am J1st Mil § 98; a pleading in an administrative proceeding corresponding to the complaint in an action. 2 Am J2d Admin L § 371; a provision in a will which subjects real estate of the testator to the payment of debts, of the testator or of legacies under the will. 57 Am J1st Wills §§ 1470, 1484; sometimes to the payment of annuities. 4 Am J2d Annui § 12; sometimes to the payment of taxes. Anna: 37 ALR2d 135; a lien or encumbrance upon land. *First Nat. Bank v Elliott*, 125 Ala 646, 27 So 7; an instruction to the jury to

[193]

aid them in their deliberations and assist them in arriving at a proper verdict. *Gardner v State*, 27 Wyo 316, 196 P 750, 15 ALR 1040, 1046; an admonition directing the jury in respect of proper conduct in their deliberations. Verb: To impose an obligation; to enter the charge made for goods or services in an account book or by any method used in keeping the accounts of customers; to accuse one of the commission of a crime or offense; to impose against a devise the obligation of paying debts of the testator or legacies provided by his will. To instruct or advise, particularly to instruct the jury.

chargeable. Capable of being charged, subject to be charged, liable to be charged, proper to be charged, or legally liable to be charged. *Walbridge v Walbridge*, 46 Vt 617, 625.

charge and discharge. The complainant's delivery of his account to the master in chancery and the defendant's filing of his defense thereto.

charge and specifications. The general allegation of the commission of the crime by the defendant, and the detailed facts thereof; the statement of the offense for which one is brought before a courtmartial for trial, followed by a statement of the specific acts or omissions constituting the offense. 36 Am J1st Mil § 98.

charge-back. A setting off of one debt against another.

charge d'affaires. A diplomatic representative, either a charge d'affaires ad hoc, an officer originally sent by his government, or a charge d'affaires per interim, an officer substituted in the place of the ambassador or minister to represent the nation during the latter's absence. 4 Am J2d Ambass § 1.

A consul may be appointed charge d'affaires and thus occupy a double political capacity. Ex parte Baiz, 135 US 403, 34 L Ed 222, 10 S Ct 854.

charge d'affaires ad hoc. A diplomatic representative originally sent in such status by his government. 4 Am J2d Ambass § 1.

charge d'affaires ad interim. See **charge d'affaires**.

charged with crime. Accused of the commission of a crime, either formally, as by indictment, information, or affidavit, or informally, as by the statement in writing or by word of mouth that a person is guilty of a specified crime. In an extradition proceeding, the question, whether an accused is "charged with crime" in the demanding state or country, is one of law and open to judicial inquiry. 31 Am J2d Extrad § 54. As the expression is used in the Federal extradition statutes, a person is charged with crime when an affidavit is filed, alleging the commission of the offense, and a warrant is issued for his arrest; and this is true whether a final trial may or may not be had upon such charge. Re Strauss, 197 US 324, 331, 49 L Ed 774, 778.

charged with notice. The condition of a person who has information which should have put him upon inquiry, if, by following up such information, with diligence and understanding, the truth could have been ascertained. 39 Am J1st Notice § 6.

charge off. An accounting term for the elimination from assets of an item of corporeal property or of an account receivable, because of loss of value rendering the corporeal property worthless or the insolvency of the person indebted upon the account rendering it uncollectible. Rubinkam v Commissioner (CA7 Ill) 118 F2d 149; a bad debt deduction for income tax purposes. 34 Am J2d Fed Tax 6450.

charge of indictment. That part of an indictment which states the facts constituting the offense of which the defendant is accused. See 27 Am J1st Indict § 54.

charge on. An income tax term, applying in accrual accounting for taxpayer's business to accrued tax exempt interest, such interest not being permitted to be accrued for any taxing purpose. District Bond Co. v Commissioner (CA9 Cal) 113 F2d 347.

charges. See **charge**.

charge-sheet. A police station blotter upon which are entered the names of and charges against prisoners, and the names of their accusers; a day book upon which charges are entered, later to be entered in journal or ledger.

charges upon land. See **charge**.

charge to enter heir. (Scotch.) A writ summoning an heir to take possession of his inheritance upon the death of his ancestor.

charge to jury. See **instructions to jury**.

charging lien. The lien of an attorney at law, upon a judgment, decree, or award obtained for his client in an action or proceeding, to secure the attorney for his disbursements, and his compensation for services on behalf of the client, in the action or proceeding. 7 Am J2d Attys § 281.

An attorney's special or charging lien is one which arises in favor of the attorney for his bill of costs as compensation for his services for procuring judgment, decree, or award to which it attaches. Norrell v Chasan, 125 NJ Eq 230, 4 A2d 88, 120 ALR 1238.

charging order. A term of the English practice for a court order subjecting the stock or funds in a public company, belonging to the judgment debtor, to the satisfaction of the judgment.

charging part. The part of a bill in equity following the confederating clause, under the old chancery practice, in which is a statement of all matters of evidence in regard to which discovery is desired. 27 Am J2d Eq § 181.

chariot. A half coach with four wheels, used for convenience and pleasure. Cincinnati, Lebanon, & Springfield Turnpike Co. v Neil, 9 Ohio 11, 13; a vehicle of the ancients used in war, in races, and in parades.

charitable. Having the inclination to relieve others from the burden of pain, poverty, or ignorance, and to promote the betterment of the public.

See **charity**.

charitable corporation. A corporation not for profit; a corporation organized for a charitable purpose, such as the relief of the poor, the care of the sick, maimed or injured, and the education of children, and adults as well, who do not have the means to educate themselves. 18 Am J2d Corp § 10.

charitable gift. A gift for a charitable purpose; something given from the love of God or of fellowmen, free from consideration of self or of gain or profit to self. Hoeffer v Clogan, 63 Am St Rep 249 and note; in its broadest meaning, something done or given for the benefit of fellowmen or the public. Taylor v Hoag, 273 Pa 194, 116 A 826, 21 ALR 946.

[194]

charitable immunity doctrine. The principle that relieves a charitable organization or trust from tort liability. 15 Am J2d Char § 152.

charitable institution. An institution organized for benevolent and charitable purposes, free from any element of private or corporate gain, and which devotes its entire revenue to the payment of current expenses and the relief of the poor and needy, albeit it may confine its benefits primarily to its own needy members and their families. Hibernian Benevolent Soc. v Kelly, 28 Or 173, 192, 42 P 3.

See **charitable corporation; charity**.

charitable purpose. A purpose in making a gift which comes within the definition of the term "charity"; a purpose evidenced by concrete, practical, objective charity, manifested in things actually done for the relief of the unfortunate and the alleviation of suffering, or in some work of practical philanthropy, as contrasted with the sentimental or ethical viewpoint. Scottish Rite Bldg. Co. v Lancaster County, 106 Neb 95, 182 NW 574, 17 ALR 1020, 1023.

See **charity**.

charitable trust. A trust for the benefit of an indefinite class of persons constituting some portion or class of the public or, more broadly defined, a trust limiting property to some public use; a gift in some manner dedicated to the ultimate benefit or betterment of the public, or some significant portion thereof, not necessarily involving illegal activities or a use contrary to public policy, for promotion of something within a recognized field of general welfare. 15 Am J2d Char § 5; a gift for the benefit of

persons, either by bringing their hearts and minds under the influence of education or religion, by relieving their bodies of disease, suffering, or constraint, by assisting to establish them for life, by erecting or maintaining public buildings, or in other ways lessening the burdens or making better the condition of the general public, or some class of the general public, indefinite as to names and numbers, or, in short, a gift to a general public purpose. State ex rel. Emmert v Union Trust Co. 227 Ind 571, 86 NE2d 450, 12 ALR2d 836.

charitable trusts acts. Statutes regulating the administration of charities by the trustees thereof.

charitable use. A use for the benevolent, educational, or religious purposes or for the ultimate benefit or betterment of the public or some significant portion thereof. 15 Am J2d Char §§ 5, 6.

The Statute of Uses, 43 Elizabeth, Chapter 4, in its preamble, names twenty-one distinct charitable uses, "but upon examining the earlier English statutes and decisions, Mr. Justice Baldwin found forty-six, including all that are enumerated in the statute." A list of the twenty-one uses and also of the forty-six is to be found in note to Hoeffer v Clogan, 63 Am St Rep 252, 253.

See **charitable trust**.

Charitable Uses Act. An English statute of 1861, favoring conveyances for charitable uses. Am J2d Desk Book, Document 113.

charity. One of the three great virtues preached by the Apostle Paul. In law, a gift, to be applied consistently with existing laws, for the benefit of an indefinite number of persons, by bringing their hearts under the influence of education or religion, by relieving their bodies from disease, suffering, or constraint, by assisting them to establish themselves for life, or by erecting or maintaining public buildings or works, or otherwise lessening the burdens of government. 13 Am J2d Char § 3.

The scope of the word "charity" changes and enlarges with the needs of men and must advance with the progress of civilization so as to encompass varying wants of humanity properly coming within its spirit. Re Tarrant, 38 Cal 2d 42, 237 P2d 505, 28 ALR2d 419.

See **works of charity**.

charity child. A child reared by a charity.

charity school. A school operating on a charitable basis in giving instruction in the useful branches of learning by methods common to schools and institutions of learning, as distinguished from schools conducted primarily for teaching dancing, riding, deportment, etc. Anno: 95 ALR 63.

charivari. A mock serenade in which the "musicians" play on tin pans and kettles, old buckets, and the like for the purpose of calling persons out from their homes, particularly young married couples. Cherryvale v Hawman, 80 Kan 170, 101 P 994.

charlatan. A cheat; an impostor; a quack.

charnel. A charnel-house --a place where dead bodies are deposited.

charnel-house. See **charnel**.

chart. A map used by mariners, showing the seas, lakes, or rivers to be traversed on a voyage, the harbors, shoals, courses, and distances; a representation by lines and figures of developments in production and prices.

charta. A charter; a deed; a writing.

charts communis. A common deed, -an indenture.

charts cyrographata. A deed executed in two parts and divided in the middle.

Charts de feoffamento. A deed or charter of feoffment. See 2 Bl Comm 313.

Charts de Foresta. One of the two famous charters of English liberties--the other of which was Magna Charta--to which King John, and afterward his son, Henry the Third, consented. Its purpose was to redress many grievances and encroachments of the crown in the enforcement of the forest laws. See 4 Bl Comm 423.

Charts de non ente non valet. A deed of a thing not in being is void.

chartae libertatum. The charters of liberties,-the Magna Charts and the Charts de Forests. See 4 Bl Comm 423.

charta partita. A charter-party.

Chartarum super fidem, mortuis testibus, ad patriam de necessitudine, recurendum est. If the witnesses are dead, the credibility of deeds must of necessity be referred to the country.

chartel. A challenge to single combat.

charte partie. (French.) A charterparty.

charter. A grant of power to act as a corporation under a special act of the legislature, Humphrey v Pegues, (US) 16 Wall 244, 21 L Ed 326; a grant of

[195]

power to act as a corporation given by Congress; articles of incorporation, considered together with the statutes and laws respecting corporate powers. 18 Am J2d Corp §§ 26 et seq; the organic law of a mutual or fraternal benefit society; the organic law of a city or town, and representing a portion of the statute law of the state, C. J. Kubach Co . v McGuire, 199 Cal 215, 248 P 676. The demise of a vessel. 48 Am J1st Ship § 296.

See **charter of affreightment; charter party.**

chartered by law. Corporations organized under either a general or special law. 34 Am J1st Logs § 114.

charterer. A person who in his own right, is entitled to possess, use, and have the benefits resulting from the use of the thing hired or chartered, and those rights must be acquired by contract with persons having such dominion over the thing hired or chartered as enables them to confer on the hirer or charterer the right to use the thing hired or chartered, and to have the benefits resulting therefrom. Turner v Cross, 83 Tex 218, 18 SW 578.

A person who by contract acquires the right to use a vessel belonging to another person, in other words the lessee or grantee of a vessel under a charter or charter party of the vessel.

See **charter party.**

charter governments. English colonial governments in the nature of civil corporations, having power to make by-laws for their own internal regulation, not contrary to the laws of England and with such rights and authority as are specially granted to them by their charters of incorporation. Their form of government was generally borrowed from that of England. See 1 Bl Comm 108.

charter-land. Also called "book land," -land which was held by deed under certain rents and free services and which in effect did not differ from the free socage-lands. See 2 Bl Comm 90.

charter-master. A coal mining contractor.

charter money. The compensation to be paid for the use of a vessel which is generally specified in the charter party and which may be a fixed sum, or made ascertainable by a defined rule of calculation, or it may be left dependent on the profits of the adventure. 48 Am J1st Ship § 320.

charter of affreightment. An agreement, contract, lease or commitment by which the possession or services of a vessel are secured for a period of time, or for one or more voyages, whether or not a demise of the vessel. 48 Am J1st Ship § 296. Contracts of affreightment are of two kinds which differ widely in their nature and legal effect. Charterers or freighters may become the owners for the voyage without any sale or purchase of the ship, as in cases where they hire the ship and have by the terms of the contract, and assume in fact, the exclusive possession, command and navigation of the ship, and contracts for a specified voyage, as, for example to carry a cargo from one port to another, the arrangement in contemplation of law is a mere affreightment sounding in contract, and not a demise of the vessel, and the charterer or freighter is not clothed with the character or legal responsibility of ownership. Reed v United States (US) 11 Wall 591, 20 L Ed 220.

charter of bank. The general laws under which banks are created, taken together with their articles of incorporation or, where a former general practice still prevails, a special charter which authorizes the bank to do business, prescribes its powers, and regulates the manner of doing business. 10 Am J2d Banks § 20.

charter of demise. The charter of a vessel wherein the vessel is hired or rented out for a specific period or voyage without a crew, or with a crew paid by and responsible to the charterer. A demise charter is often called a "bare boat charter," notwithstanding the fact that the demised vessel may be hired with a complete staff of servants and employees on board. The Steel Inventor (DC Md) 35 F Supp 986.

Charter of Liberties. See **Magna Charta**.

charter of pardon. A charter granting a pardon to a person convicted of a criminal offense. Such a charter has been likened to a deed, in the sense that it is of no force and effect until it has been delivered and accepted. See 39 Am J1st Par § 13.

Charter of the Forest. See **Charta de Foresta**.

charter party. A maritime contract within admiralty jurisdiction. 2 Am J2d Adm § 67; a contract by which an entire ship, or some principal part thereof, is let by the owner to another person for a specified time or use. 48 Am J1st Ship § 296.

See **charter of affreightment; charter of demise**.

charter party representation. A stipulation in a charter party which does not go to the whole consideration on either side and is not such an essential condition that nonperformance thereof will permit the other party to declare the contract at an end. See 48 Am J1st Ship § 303.

charter party warranty. A covenant in a charter party that goes to the whole consideration on either side, on the failure or nonperformance of which the party aggrieved may repudiate the whole contract, and the plaintiff must perform the condition before he can maintain an action to enforce the liability of the other party. 48 Am J1st Ship § 303.

charter rolls. Old records of charters.

chartis reddendis. A writ to secure the return of deeds.

chartophlyax. A keeper of records or public instruments.-Spelman.

chase. Verb: To pursue. Noun: The pursuit of beasts of the chase; a hunting ground.

See **beasts of the chase.**

chase women. See **woman chaser.**

chasm. A gorge; an abyss; as a figure of speech, an omission, an event or condition which has been omitted or left unprovided for in a contract or statute.

chaste. One in a state of chastity.

See **chastity.**

chaste character. Actual virtue, not mere reputation for virtue. 47 Am J1st Seduc § 12.

See **chastity.**

chaste female. See **chaste.**

chastise. To punish corporally, as by whipping. People v Kehoe, 123 Cal 224, 229, 55 P 911.

chastisement. See **corporal punishment.**

chastity. As applied to an unmarried person, undefiled, which, in the case of a female, means one who has retained her virginity. State v Dacke, 59 Wash 238, 109 P 1050. Purity of body in the sense

[196]

of never having had meretricious relations. State v Holter, 32 SD 43, 142 NW 657. Some authority applies the additional condition in respect of the unmarried female that she never have indulged in obscenity of language, indecency of conduct, or undue familiarity with men. 47 Am J1st Seduc § 13. Other authority takes the contrary view that so long as the unmarried female is a virgin, she is to be considered chaste, notwithstanding her conduct, permitting familiarities and liberties to be taken with her by men, at the thought of which, some women blush.

Married persons are chaste where faithful to the marriage vows. State v Carron, 18 Iowa 372, 375. So, a widow or divorcee may be chaste, notwithstanding she is no virgin. 47 Am J1st Seduc § 14.

chattel. See **chattels.**

chattel fixture. A chattel affixed to land with no express or implied intention on the part of the annexor that the chattel is to become a part of the land.

chattel interest. Any interest in land of less dignity than a freehold estate.

chattel mortgage. An instrument whereby an owner transfers title to, or creates a lien upon, personal property as security for the performance of an act, which is usually the payment of money, with the title or lien subject to defeasance upon performance. 15 Am J2d Chat Mtg § 1; more summarily defined, with accuracy, under the law of some jurisdictions, as a bill of sale with a defeasance clause. 15 Am J2d Chat Mtg § 1. Constituting an interest in the mortgaged property. Moody v Shuffleton, 203 Cal 100, 262 P 1095.

chattel paper. A writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods. UCC § 9-105(1)(b).

chattels. Property which is movable and not so connected with the ground as to become a part of the real estate. State v Donahue, 75 Or 409, 144 P 755, 147 P 548, 5 ALR 1121; visible, tangible, movable, personal property. 42 Am J1st Prop § 24.

chattels personal. Things which have no concern with land, such as mere movables and rights connected with them, the term being used in distinction to "chattels real." 42 Am J1st Prop § 24.

chattels real. Interests in real estate less than freehold, such as estates for years, at will and by sufferance, which are personality except as modified by statute. 42 Am J1st Prop § 25.

A lease of real estate for a term of years constituting an estate less than a freehold estate is a chattel real which passes a present interest in real property. Abraham v Fioramonte, 158 Ohio St 213, 107 NE2d 321, 33 ALR2d 1267.

chaud-medley. An affray in the heat of blood or passion. See 4 Bl Comm 184.

chauffeur. A person whose business or calling it is to operate and propel an automobile along the public highway. Christy v Elliott, 216 111 31, 74 NE 1035; State v Swagerty, 203 Mo 517, 603, 102 SW 483. Better defined, according to modern usage, as a person who drives a motor vehicle for another as an occupation. 7 Am J2d Auto § 103.

chauntry. Same as **chantry**.

Chausse'e. A levee of earth, which is made along the stream to retain the water of a river or pond; a levee which is made in low, wet and swampy places to serve as a road or way. De Armas v Mayor, etc. of New Orleans, 5 La 132, 152.

Chautauqua. Meetings of an educational and entertaining character, from a sophisticated viewpoint, conducted by a literary and scientific circle or assembly at Chautauqua Lake in the southwestern part of New York State; meetings conducted elsewhere in the United States in imitation of the meetings at Chautauqua Lake. Radcliffe v Query, 153 SC 76, 150 SE 352.

cheat. See **cheating; cheating or swindling**.

cheating. Defrauding; obtaining an advantage by deception; a common law offense, otherwise known as "cheat," less than a felony, effected by means of some token or device having the semblance of public authenticity, such as spurious money of the realm or bank notes circulating throughout the country as a medium of exchange, fake weights and measures, or false impersonation, to the injury of one in some pecuniary interest. 22 Am J2d § 3; a slang term for being unfaithful to the marriage vows in reference to fidelity.

cheating or swindling. As the words are ordinarily used, they relate to the fraudulent causing of pecuniary or property loss. United States v Cohn, 270 US 339, 346, 70 L Ed 606, 619, 46 S Ct 251.

check. An order directed to a bank in writing for the payment of money to a person named in the instrument. Brown v Eastman Nat. Bank (Okla) 291 P2d 828, 55 ALR2d 971; a draft drawn on a bank and payable on demand. UCC § 3-104(2)(b); 10 Am J2d Banks § 538. A simple contract in writing. 34 Am J1st Lim Ac § 84.

As between the drawer and the payee, it is an evidence of indebtedness. Usually a check is given for money borrowed or a debt contracted, and, in commercial transactions, as well as in law, it is equivalent to the drawer's promise to pay, and an

action may be brought against him thereon as on a promissory note. *Camas Prairie State Bank v Newman*, 15 Idaho 719, 99 P 833.

The verb "check means to examine for accuracy for example, the addition in an account, or for defects in a manufactured article; to draw on funds in a bank.

See **cashier's check**.

checkbook. A book of blank bank checks.

check cashing exchange. A business, usually located near a large industrial plant, which cashes checks for a fee.

checker. Exchequer; an American term for one whose duty it is to examine a manufactured article for possible defects.

See **plant checker**.

checking out. Termination of the status of a person as guest in a hotel. 29 Am J Rev ed Innk § 25; the operation in a supermarket whereby the customer's purchases are totaled, payment made by him, and the merchandise placed in bags for convenience in transporting it.

checkoff. The deduction of union dues and assessments by the employer from the wages of the employee and the turning over of the amounts so deducted to the labor union. Anno: 14 ALR2d 177.

check-out. See **checking out**.

checkroom. A place in a hotel, restaurant, depot or other place of public accommodation where patrons may leave their luggage, articles of wearing

[197]

apparel, or small items of personality for safekeeping.

chef. A head or chief; a cook.

chemical test. A term of general application but most significant in the law respecting the method of determining intoxication. 7 Am 12d Auto § 259.

chemin. A road; a highway.

See **en chemin**.

chemin de fer. Railway; railroad; a game of chance which is prohibited as gambling where played for a stake. 24 Am J2d Gaming § 20.

cheque. A check; a bank check.

cherif. A sheriff.

Cherokee. The name of an Indian nation or tribe; a member of the Cherokee nation or tribe. *Ephraim v Garlick*, 10 Kan 280.

Chesterfield. See **Lord Chesterfield's Act**.

chevage. Same as **chiefage**.

chevaliers. See **bas chevaliers.**

chevantia. A loan of money.

chevisance. An agreement; an unlawful or usurious contract.

chicane. Trickery; fraud.

chicanery. Trickery; fraud of which the law takes cognizance where damage caused thereby to another.

Chickasaw. The name of an Indian nation or tribe; a member of the Chickasaw nation or tribe.

chicken hawk. A species of hawk which preys on chickens.

chicory. A plant noted for the root which is dried and ground to produce a substance, also known as "chicory," which is sometimes, particularly in some of the southern states, mixed with coffee; sometimes used as a substitute for coffee, and occasionally as an adulteration of coffee. *Arthur v Herold*, 100 US (10 Otto) 104, 25 L Ed 568.

chief. Noun: An officer of the highest rank or authority; a principal; a head; a leader of an Indian nation or tribe. Adjective: Primary; main; most important.

chiefage. An annual payment by villeins to their lord; a poll tax.

chief baron. The presiding judicial officer of the court of exchequer. See 3 Bl Comm 44.

chiefe. See **en chiefe.**

chief judge. The judge who directs the work of the court in assigning cases, instructing the officers of the court, and making the physical arrangements necessary for holding court, in a district or circuit where there is more than one judge.

See **chief justice**; **chief magistrate**.

chief justice. The presiding justice of a court with three or more justices or judges who sit together.

chief justiciar. A special magistrate or justice who presided over the Norman aula regis, being the principal minister of state and the second man in the kingdom. See 3 Bl Comm 38.

chief lord. The highest lord of the fee in the feudal system.

chief magistrate. As an executive officer, the highest officer, as the President of the United States or the governor of a state. *State ex rel. McNichols v Justus*, 84 Minn 237, 87 NW 770; as a judicial officer, the chief judge among police court judges.

chief petty officer. A noncommissioned officer of the Navy, ranking immediately above petty officer, 1st class, and immediately below senior chief petty officer.

chief place of business. As the term is used in a statute providing for the service of process on a corporation at its chief place of business, it means that service can be made either where the office of the corporation is located, or in the county where the

corporation is located and has its being. *Lorraine v Pittsburg, Johnstown, Ebensburg & Eastern Railroad Co.* 205 Pa 132, 54 A 580.

See **principal place of business**.

chief pledge. The borsholder or chief of the borough. -Spelman.

chief rents. Rent which was paid by a freeholder to his landlord in full discharge of all service. See 2 Bl Comm 42.

chiefry. Rent paid to the lord paramount.

child. A juvenile subject to parental control or guardianship. *State v Gonzales*, 241 La 619, 129 So 2d 796, 84 ALR2d 1248; one under the age of puberty, or not old enough to dispense with parental aid or care. *Central of Georgia R. Co. v Robins*, 209 Ala 6, 95 So 367, 36 ALR 10; a person of tender years, as distinguished from a youth, who, although legally an infant, possesses the size and strength of a man. 27 Am J1st Inf § 112; a son or daughter of a person, whether infant or adult. 2 Am J2d Adopt § 11; 39 Am J1st P & C § 2; a natural child, as distinguished from a child by adoption, unless the context of an instrument in question indicates an intention to include an adopted child or to use the term child in a more extensive sense than its natural import, or such intention is to be inferred from the attendant circumstances, or such a construction is required by a statutory definition. 2 Am J2d Adopt § 96; a word which is not a technical legal term having a fixed and definite meaning, but one which is flexible and subject to construction to give effect to the intention of the maker of the instrument in which it appears. *Conner v Gardner*, 230 Ill 258, 82 NE 640.

See **children; emancipation; grandchild; infant; in loco parentis; minor; parent**.

childbirth. See **birth**.

Childermas. Holy Innocents' Day, December twenty-eighth.

childishness. A mark of senility; a mature person acting in the manner of a child.

child labor. The employment of children, the legal significance of which is the prohibition of such employment in dangerous occupations, in places where they may be corrupted by the surroundings, at work which is of such nature as to tax the strength of the child and undermine his health, and for hours so long as to tire a child to the point of exhaustion and sickness.

Child Labor Amendment. A proposed amendment to the United States Constitution, granting to Congress the power to limit, regulate, and prohibit the labor of persons under 18 years of age; submitted to the states for ratification by Congress in 1924, but failing of ratification, being ratified by only 28 states.

[198]

childnit. The customary fine paid by a bastard's reputed father to the lord.-Cowell.

child of fourteen. The criterion at common law of presumptive capacity for the commission of a crime. 21 Am J2d Crim L § 27.

child of tender years. A child whose imprudences are usually due to the play of childish instincts, unenlightened by experience, and unrestrained by reason; hence, a child too young to be chargeable with contributory negligence. *Central of Georgia Railroad Co. v Robins*, 209 Ala 6, 95 So 367, 36 ALR 10, 12.

Even a child of tender years is held to liability in tort. 27 Am J1st Inf § 90.

See **minor of tender years**.

children. Persons of tender years; the sons or daughters of one, whether adults or infants; a word which is not a technical legal term having a fixed and definite meaning, but one which is flexible and subject to construction to give effect to the intention of the maker of the instrument in which it appears. *Conner v Gardner*, 230 Ill 258, 82 NE 640.

Not being the equivalent of "heirs," "children" usually is a word of purchase rather than a word of limitation in a deed, but becoming a word of limitation where the limitation in the instrument is to children of the grantee, and the grantee has no children in being at the time of the execution of the deed. 28 Am J2d Est § 43. It is also a word of purchase in a will, except as the context of the instrument or the force of surrounding circumstances, such as there being no children in existence at the death of the testator, may make it a word of limitation. 19 Am J1st Est § 44; 57 Am J1st Wills § 1364.

The word "children" appearing in a deed, trust indenture, or will, may, but does not necessarily, include an adopted child, the question being one of construction. 2 Am J2d Adopt §§ 92 et seq. It means, *prima facie*, legitimate offspring. Anno: 34 ALR2d 19; 10 Am J2d Bast § 137.

It has been held that an illegitimate child is a "child" within the provisions of inheritance, succession, or estate tax statutes respecting exemption and tax rates. *Whorff v Johnson*, 143 Me 198, 58 A2d 553, 3 ALR2d 160. But it has also been held to the contrary under some of such statutes. Anno: 3 ALR2d 166.

As a designation of beneficiaries in an insurance policy, the term "children" ordinarily means descendants of the first degree, not including grandchildren, but including an after-born child, even an adopted child. 29A Am J Rev ed Ins § 1658.

See **after-born child; child; grandchild; wife and children.**

children of full blood. See **full blood.**

children of her body. Words of purchase rather than of limitation, except as the entire context of the instrument applied to the circumstances of the case, makes it a word of limitation. 28 Am J2d Est § 43.

children's courts. Same as **juvenile courts.**

chilling bids. Any word or act preventing free competition among bidders at an auction sale. 7 Am J2d Auct § 25; controlling competition in bidding at an execution sale. 30 Am J2d Exec § 365; any act or word which stifles the bidding at a judicial sale, thereby preventing a free, fair and open sale. 30A Am Rev ed Jud S § 98. Chiltern hundreds. See steward of Chiltern hundreds.

chiltern hundreds. See **steward of children hundreds.**

chimin. Same as **chemin.**

chiminage. A toll paid on a forest road.

chimino. See **de chimino.**

chiminus. A private or other road over which the king, his subjects and persons who were under his protection might pass.

chimney-corner survey. A survey made by a land surveyor in his office, without planting his instrument or stretching a chain upon the ground. *Smith v Chapman*, 51 Va (10 Graff) 445, 457.

chimney-money. An ancient English tax which was laid on chimneys.

China Trade Corporation. A corporation chartered under the provisions of Chapter 4 of Title 15 of the United States Code. 15 USC § 142(c).

Chinese Exclusion Act. A former statute, enacted in 1882, amended in 1884, in pursuance of a policy since abandoned of forbidding the emigration of Chinese to the United States, except as the purpose of their coming, such as education, might provide a reason for relaxing the prohibition.

Chinese tong. See **highbinder**.

chippingavel. A toll paid for the privilege of buying and selling.

chirgemote. An ecclesiastical court.

chirograph. An instrument in pen; an indenture; a deed in two parts, cut from one parchment, the corresponding edges of which must fit.

Formerly, when deeds were more concise, it was usual to write both parts on the same piece of parchment, with some word or letters of the alphabet written between them, through which the parchment was cut, either in a straight line or an indented one, so as to leave half of the word or letters on one part and half on the other. Such deeds were called "syngrapha" by the canonists and by lawyers "chirographa" or handwritings, the word "cirographum" or "cyrographum" being the word customarily written and divided as above described. See 2 Bl Comm 295.

See **indenture**.

chirographa. See **chirograph**.

chirographer of fines. An officer in the court of common pleas who engrossed fines of land.

chirographum. A writing evidencing an indebtedness; a written obligation.

Chirographum apud debitorem repertum presumitur solutum. A written obligation found in the hands of the debtor is presumed to have been paid.

Chirographum non extans presumitur solutum. A written obligation which does not exist is presumed to have been paid.

chirography. See **handwriting**.

chiropodist. One who treats diseases or malformations of the hands or feet, especially a surgeon for the feet, hands, or nails---a cutter or extractor of corns and callosities. State v Armstrong, 38 Idaho 493, 255 P 491, 33 ALR 835.

chiropody. A limited branch of medicine or surgery; medicine or surgery as practiced by a chiropodist. American Policyholders Ins. Co. v Michota, 156 Ohio St 578, 103 NE2d 817, 35 ALR2d 448.

See **chiropodist**.

[199]

chiropractic. Derived from the Greek; manipulation by hand; a drugless method of treating human ailments. State v Hopkins, 54 Mont 52, 166 P 304; a system of healing that treats disease by manipulation of a spinal column. State v Gallagher, 101 Ark 593, 143 SW 98. It is the practice of medicine in a restricted form. Lowman v Kuecher, 246 Iowa 1227, 71 NW2d 586, 52 ALR2d 1380; the practice of medicine in the very broad aspect of the term "medicine." State v Johnson, 84 Kan 411, 114 P 390; not the practice of medicine in the more limited sense of prescribing and administering drugs. State v Gallagher, 101 Ark 593, 143 SW 98.

chiropractor. A person engaged in chiropractic.

chirurgeon. A surgeon.

chit. A promissory note; a voucher for a small sum of money, for example, the charge for a drink at a bar; a short letter or memorandum.

chivalry. Knight service; the medieval system of knighthood.

chloroform. An oily liquid of an aromatic etheral odor, consisting of carbon, hydrogen and chlorine; formerly much used as an anesthetic in surgery; not an intoxicant. Anno: 13 ALR2d 998.

In common parlance it is classed among the poisons and statutes have been passed requiring it to be labeled as poison. State v Baldwin, 36 Kan 1, 12 P 318.

Choctaw. An Indian tribe or nation; a member of the Choctaw nation or tribe.

choice. Noun: The opportunity or power to determine or select between alternatives. People v Mosher, 45 App Div 68, 61 NYS 452. Adjective: Meriting preference; of exceptional grade; fine. Brophy v Idaho Produce & Provision Co. 31 Mont 279, 78 P 493. A term applied to beef cattle of superior quality.

See **domicil of choice; election.**

choke-bail. Nonbailable. cholicystitis. See **acute choliceystitis.**

choose. To make a choice as between alternatives.

See **choice; elect.**

choosing-stick. A divining rod.

chop. Noun: A slice of pork, mutton. or veal; an oriental term for a license or permit; a shift in the wind. Verb: To cut into pieces; to shift or veer.

chop-church. A derogatory term for a person who sold his benefice or exchanged it for another.

chops. The mouth and cheeks of a person; the mouth of a harbor.

See **chop.**

chorepiscopi. Bishops whose powers were limited or restricted.

chose. A thing; a chattel; a personal right; a chose in action; a cause of action.

chose ex delicto. A right or cause of action arising out of the commission of a tort.

chose in action. An incorporeal right; the right of a creditor to be paid; a right not reduced to possession but recoverable by bringing and maintaining an action. 42 Am J1st Prop § 26.

chose in possession. A thing which a person has the right to enjoy or occupy and of which he has also the actual enjoyment or occupation. See 2 Bl Comm 396, 408, 443.

chose local. A chattel which is in a fixed location, annexed to a place. such as a mill.

chosen freeholders. A local term for a county or township board.

chose transitory. A movable chattel which may be taken or carried from one place to another.

Christian. A person who believes in the teachings of Christ.

Christian calendar. Another name for the Gregorian calendar, now in use in the United States and most of the world, which numbers the years from the birth of Christ, either before, by B. C., or after, by A. D.

Christian Era. The period from the birth of Christ to the present.

Christianitatis curia. A court Christian; an ecclesiastical court.

Christianity. The religion of those who believe that Jesus Christ is the true Messiah and the Savior of men, and who receive the Holy Scriptures of the Old and New Testaments as the word of God. Hale v Everett, 53 NH 9.

Christian name. The name given a person at his birth or formal christening, sometimes referred to as a first name in distinction from the surname or family name which comes last. 38 Am J1st Name § 4.

Christian Science. A comparatively new religion, best known to the world for the system of healing which is a part of the faith, the great principle of the religion being that all cause and effect in sickness, as well as sin, is mental, Eggleston v Landrum, 210 Miss 645, 50 So 2d 364, 23 ALR2d 696; that disease will disappear and physical perfection be attained as a result of prayer, or that humanity will be brought into harmony with God by right thinking and a fixed determination to look on the bright side of life. State v Mylod, 20 RI 632, 637.

Christian Science healer. One who treats disease by prayer. Re First Church of Christ, 205 Pa 543, 55 A 536; one who treats disease by prayer and mental suggestion, perhaps better stated as mental adaption, pursuant to the principles of the Christian Science religion. 41 Am J1st Phys & S § 30.

Some authorities hold that such a healer practices medicine within the meaning of statutes which provide for the licensing of such practicing physicians, but other authorities hold that the practice of medicine is not involved in healing or endeavoring to heal by Christian Science. 41 Am J1st Phys & S§30.

Christian Scientists. Believers in Christian Science.

Christmas. The birthday of Christ, December 25th.

Christmas club deposit. A type of bank deposit made in accordance with a plan which provides for the making of regular deposits during the year and withdrawal of the money for use at Christmas.

chronic. Long continued.

Chronic dementia. A type of insanity, usually of slow progress, marked in its early stages by general impairment and enfeeblement of the intellectual faculties, and ending in mental decay and idiocy. Re Will of Blakely, 48 Wis 294, 297.

chronic disease. A disease of long standing, deep

rooted, obstinate, persistent, and unyielding to treatment. State Medical Board v McCrary, 95 Ark 511, 130 SW 544. A disease is not to be held chronic for the fact alone that it continued for a period of four months immediately preceding the death of the afflicted. Williams v Southern Surety Co. 211 Mich 444, 179 NW 272, 15 ALR 1239.

chronic hemiplegy. See **hemiplegy**.

church. A religious society; an organization consisting of an indefinite number of persons, of one or both sexes, who have made a public confession of religion, and who are associated together by a covenant of church fellowship, for the purpose of celebrating the sacrament, and watching over the spiritual welfare of each other, 45 Am J1st Reli Soc § 2; a society of persons who unite in the profession of the Christian faith, Josey v Union Loan & Trust Co. 106 Ga 608, 611, 32 SE 628; Wiggins v Young, 206 Ga 440, 57 SE2d 486, 13 ALR2d 1237; any structure used principally for religious worship or bible study. 30 Am J Rev ed Intox L § 267; a building for religious worship and related activities, such as men's and women's social groups, religious teaching, boy and girl scouts, Sunday school, sleeping quarters for retreatants, and parking accommodations. Anno: 74 ALR2d 403.

See **religious society**.

church building acts. English statutes enacted for the promotion and extension of the Church of England.

church court. See **church judicatory**.

church door. See **ostium ecclesiae**.

churchesett. A certain measure of grain paid to the church on St. Martin's day.

church judicatory. An ecclesiastical court with judicial powers. A court of a church or religious society for the adjudication of questions relating to the faith and practice of the church over which legal or temporal tribunals do not have jurisdiction. 45 Am J1st Reli Soc § 40.

church land. Land belonging to the church or to an ecclesiastical corporation or body; more narrowly defined, for the purpose of a statutory exemption from taxation, as land upon which a church building stands and such land around the building as is required reasonably for convenient ingress and egress, light, air, parking for vehicles, and appropriate and decent ornamentation, but not lots adjacent to the church building, not reasonably needed for the convenient enjoyment of the building as a church, and leased for other purposes, or not used for any purpose. 51 Am J1st Tax § 615.

See **church property**.

church living. A benefice in an established church.

church meeting. The annual or other periodical meeting of a religious society for consideration of, and action upon, the affairs of the society and the church which it maintains; a special meeting called for the consideration of business of the church. 45 Am J1st Reli Soc § 20.

Church of England. The national church of England; the Episcopal Church in England.

church property. Property which is primarily—that is, principally and generally—used for religious purposes. It will not lose its character as church property by some part of it being incidentally used for some secular purpose connected with the church. Ramsey County v Church of the Good Shepherd, 45 Minn 229, 47 NW 783.

See **church land**.

church rate. A tax imposed upon a parish by a vote of a majority of the parishioners for the upkeep and maintenance of the parish church.

church reeve. A church warden.

church-scot. Customary obligations paid to the parson of a parish; services rendered by a tenant of church lands.

church society. A religious society; a society within an individual church, such as a ladies aid society or a sodality.

See **religious society.**

church tribunal. See **church judicatory.**

church wardens. The guardians or keepers of a church who are also the representatives of the body of the parish. Sometimes they are appointed by the minister, and sometimes by the parish, or by both. For some purposes they are the growth and efficiency of the work of corporation; they may by that name have property in goods and chattels, and sue for the use and profit of the parish. See 1 Bl Comm 394.

church-writ. A writ which issued out of an ecclesiastical court.

churl. A freeman of one of the lowest classes.

See **karl.**

chute. A conveyor using the force of gravity, such as a coal-chute from surface of the ground to basement or a hay chute from mow of a barn to the manger below; a device in amusement parks upon which children slide. 4 Am J2d Amuse § 93.

ci. So; as.

CIA. Abbreviation for Central Intelligence Agency.

cibaria. (Civil law.) Food.

ci bien. As well.

cider. The expressed juice of apples, either fermented or unfermented, that is, graphically stated, either hard or sweet. 30 Am J Rev ed Intox L § 17.

ci devant. Formerly.

C. I. F. An abbreviation for cost, insurance and freight. 1 Am J2d Abbr § 7.

See **cost, insurance, and freight.**

cigarette. A small cylinder of tobacco wrapped in paper. Some authorities regard fine tobacco rolled in tobacco leaves as cigarettes but there is a difference of opinion on such classification. Such creations are sometimes classed as little cigars, rather than cigarettes. Goodrich v State, 133 Wis 242, 246, note.

cigarette tax. An excise tax on cigarettes, one that seems to be ever-increasing both in the scope of its application and in amount.

cigar factory. A place where cigars are made. *Ludloff v United States*, 108 US 176, 27 L Ed 693.

cinerary urn. A receptacle for the ashes from a cremation.

cinque ports. The five seaports on the southern coast of England, which were formerly the most important. They were those of Hastings, Romney, Hythe, Dover and Sandwich.

CIO. An abbreviation for Congress of Industrial Organizations, an affiliation of labor unions. Such affiliation is now joined to the American Federation of Labor, the abbreviation for the consolidated group being AFL-CIO.

[201]

cippi. The stocks, a contrivance for discipline and punishment.

See **stocks**.

circa. About; around; concerning; in respect to; in the neighborhood of.

circa ardua regni. In respect to the arduous affairs of the kingdom. See 1 Bl Comm 219.

circle. See **traffic circle**.

circuit. The area within the jurisdiction of a particular court, the word deriving from the route or journey which a judge makes in holding court at the several places within his jurisdiction wherein court is held; any one of the eleven judicial circuits in which the United States is divided and in which there is a United States Court of Appeals. 20 Am J2d Cts § 10.

circuit breaker. A device, operating automatically, to cut off the electric current flowing through a line or wire when the current becomes excessive for the line or wire; a mechanical device for cutting an electric current intermittently by means of a movable contact moving to and from a stationary contact for such time as the machine which utilizes the device is being operated. *Re Frank*, 29 Cust & Pat App (Pat) 713, 123 F2d 820.

circuit court. A court presided over by a judge or by judges at different places in the same district; a name given to certain courts of general jurisdiction by constitution or statute. 20 Am J2d Cts § 16.

Circuit Courts of Appeals. The former designation of the intermediate federal appellate courts, such name having been changed to the present designation, Courts of Appeals. 20 Am J2d Cts § 6.

Circuitus est evitandus. Circuitry is to be avoided.

circuitry of action. Indirectness of remedy to be attained by unnecessary litigation.

circuitry of liens. A legal situation difficult of analysis, often presented in the examination of law students to puzzle and harass them, illustrated by the following: the lien of A has priority over the lien of B; the lien of B has priority over the lien of C; but the lien of C is prior, or at least equal in priority, to the lien of A. 30A Am J Rev ed Judgm § 529.

circular. A printed sheet used for the purpose of advertising or for the advocacy of political principles; a listing of articles to be offered for sale at auction, with representations as to the character and worth of the respective articles. 7 Am J2d Auct § 16.

circular notes. Letters of credit.

circulating notes. The terms "circulating notes," "notes used in circulation," and "circulation," as they are used in relation to the instrumentalities of banking operations, are equivalent and synonymous terms. The word "circulation" in this connection is defined by the lexicographers as "currency; or circulating notes or bills current for coin." United States v White (CC NY) 19 F 723, 724.

circulation affidavit. See **newspaper publicity law.**

circulation of bank. Certified checks and all notes and other obligations calculated or intended to circulate or to be used as money, but not including such money or other items as are in the vault of the bank or redeemed and on deposit for the bank. 26 USC § 4881(a)(1).

Sec **circulating notes.**

circulation of newspaper. See **newspaper of general circulation.**

circumduct. To make void; to nullify.

circumduction. Annulment; avoidance; cancellation.

Circumspecte Agatis. An English statute of an early period which conferred jurisdiction of suits for breach of faith upon the ecclesiastical courts. See 3 Bl Comm 52, note.

circumstantial evidence. Facts and circumstances surrounding a transaction from which the jury or Crier of the fact may infer other connected facts which reasonably follow, according to the common experience of mankind. 29 Am J2d Ev § 264.

circumstantibus. Bystanders, present in the courtroom. circumvention. Trickery; outwitting; fraud or deceit.

cirliscus. A churl; a lout.

cirographum. See **chirograph.**

citacion. (Spanish.) An order of the court commanding the defendant in an action to appear and defend.

citatio. A citation.

citatio ad reassumendam causam. A citation directed to the heir of a plaintiff who has died pending the action.

citatio est de jure naturali. A summons or citation is of natural right.

citation. A writ commanding a person to appear for some purpose specified. Sheldon v Sheldon, 100 NJ Eq 24, 30, 134 A 904, 907; a notice of a proceeding, especially a proceeding in a probate or surrogate's court; process in admiralty whereby notice is given of the institution of a suit in personam. 2 Am J2d Adm § 153; specifying a particular authority for a point of law, as a case by title, volume, and page of the report or reports in which the opinion appears, or an encyclopedic work, such as American Jurisprudence, by volume, title and section of article.

Citationes non concedantur priusquam exprimatur super qua re fieri debet citatio. Citations are not to be granted until it is shown concerning what matter the citation ought to be made.

cite. To summon or notify to appear in court, often by means of a citation served upon the party cited; to refer to as an authority or precedent, or case in point; to quote.

citizen. One who has acquired citizenship by birth, naturalization, or other lawful means; in a popular but nonetheless appropriate sense of the term, one, who by birth, naturalization, or other means, is a member of an independent political society. 3 Am J2d Aliens § 1.

See **corporate citizenship; denizen; expatriation; natural-born citizen; naturalization; naturalized citizen; oath of abjuration; United States citizen.**

[202]

citizen by naturalization. See **naturalized citizen.**

citizen of a state. A citizen of the United States, residing in any state of the Union; Fourteenth Amendment to the Constitution of the United States.

See **citizens resident in the state.**

citizen of the United States. A person born or naturalized in the United States and subject to the jurisdiction. 3 Am J2d Aliens § 116.

See **corporate citizenship; United States citizen.**

citizen's appeal. An appeal taken by a citizen which will be heard, not because of his status merely as a citizen, but because he shows a direct pecuniary interest in the proceeding. 4 Am J2d A & E § 202.

citizenship. The privilege of membership in a political society, implying a duty of allegiance on the part of the member and a duty of protection on the part of the society; the status of a citizen with its respective rights and duties. 3 Am J2d Aliens § 115.

citizens of different states. See **diversity of citizenship.**

citizens resident in the state. Natural persons who are citizens and residents and corporations chartered in the state. 30 Am J Rev ed Intox L § 126.

city. A municipal corporation of the largest and highest class, usually under a government in three branches, one the executive, headed by a mayor, the second a legislative body called a council or board of aldermen, and a third called the municipal court or city court, operating under a charter which gives it at least a measure of home rule, sometimes almost complete home rule, such organization having been altered in some instances under constitutional provision or statute to provide a city manager or commission form of government. 37 Am J1st Mun Corp § 5.

A city is a town in the broad sense and popular sense of the latter term. 37 Am J1st Mun Corp § 5.

See **municipal corporation** and other expressions beginning municipal.

city block. See **block.**

city court. A court the jurisdiction of which is confined to the limits of the city.

city directory. See **directory.**

city election. An election wherein officers of a city are elected; an election held in a city. Wing v Ryan, 255 App Div 163, 6 NYS2d 825.

city employee. An employee of a city; a person employed in city service, such as a person working on a municipal subway. *Colbert v Delaney*, 249 App Div 209, 291 NYS 801.

city lot. See **lot**.

city manager. The chief administrative officer of a city under a comparatively modern form of municipal government known as the city manager plan. 37 Am J1st Mun Corp §§ 72 et seq. **city officer.** See **municipal officer**.

city purpose. A familiar expression in contracts between a city and a public utility which means a purpose primarily for the benefit, use, or convenience of the city as distinguished from that of the public outside the city. 43 Am J1st Pub Util § 184.

city service. See **city employee**.

civic. Pertaining to the city or body politic, or to the citizen, or to citizenship. *Cleveland Grand Opera Co. v Cleveland Civic Opera Asso.* 22 Ohio St 400, 405, 154 NE 352, 353.

civics. A course of study better known at present as "political science" or "government."

civil. Pertaining to the citizen or to the community, for example, civil responsibility; pertaining to the ordinary status of an ordinary citizen, as distinguished from one in military service; pertaining to the remedies for enforcement of private rights, as distinguished from criminal prosecutions. *Brown & Allen v Jacobs Pharmacy Co.* 115 Ga 429, 41 SE 553.

civil action. An action brought to enforce a civil right; an ordinary action as distinguished from a criminal action, or a special proceeding. *Wurth v Affeldt*, 265 Wis 119, 60 NW2d 708, 40 ALR2d 1376; the ordinary proceeding in a court of justice by one party against another for the redress or prevention of a legal wrong or for the enforcement or protection of a private right. 1 Am J2d Actions § 43; more broadly defined as any proceeding in a court of justice by which an individual pursues that remedy which the law affords him. *Stoll v Hawkeye Casualty Co.* (CA8 SD) 185 F2d 96, 22 ALR2d 899; comprehending every conceivable cause of action, whether legal or equitable, except such as are criminal in the usual sense that the judgment against the defendant may be a fine or imprisonment, or both. 1 Am J2d Actions § 44.

Civil Aeronautics Act. A statute which preceded the Federal Aviation Act of 1958. 8 Am J2d Avi § 10.

Civil Aeronautics Authority. A federal agency with administrative functions respecting the operation of aircraft, since replaced by the Civil Aeronautics Board.

Civil Aeronautics Board. The federal agency with administrative functions respecting the operation of aircraft. 49 USC § 1321(a)(1).

civil aircraft. As defined by the Federal aviation Act, any aircraft other than a public aircraft. 49 USC § 1301(14).

See **public aircraft**.

civil aircraft of the United States. Any aircraft registered as provided in the Federal Aviation Act. 49 USC § 1301(15).

Civil Air Patrol. A corporation created by federal statute, the purposes of which are encouragement and aid to citizens in the contribution of their efforts, services, and resources in the development of aviation and the maintenance of air supremacy, and the making of provision for aviation education and training of senior and cadet members. 36 USC §§ 201, 202.

Civil Air Regulations. The detailed regulations for civil aviation adopted, written, and published by the Civil Aeronautics Board.

civil airway. See **airway**.

civil and criminal business arising in a county. All civil and criminal matters arising in a county which occupy the attention of men engaged in legal affairs. *Sherman v Droubay*, 27 Utah 47, 74 P 348.

civil arrest. A provisional or auxiliary remedy intended to secure the presence of the defendant in a civil action until final judgment. 5 Am J2d Arr § 52.

civil assault. An assault for which the assailant is liable in a civil action; an assault for which an action for damages may be maintained.

[203]

civil authority. The authority vested in civil, as distinguished from military, officers. As used in a fire policy exempting the insurer from liability for loss or damage by fire caused by order of any civil authority, the term includes civil officers in whom a portion of the sovereignty is vested and in whom the enforcement of municipal regulations or the control of the general interest of society is confided for the prevention of destruction by fire. Policemen and firemen are civil authorities within the meaning of the term thus employed. *Princess Garment Co. v Fireman's Fund Ins.Co.* (CA6 Ohio) 115 F2d 380.

civil bail. A bond or deposit given or made to secure the release of a person under civil arrest, the purpose of which is either directly or indirectly to secure the payment of a debt or the performance of some other civil duty. 8 Am J2d Bail § 3.

civil bill court. An Irish court the jurisdiction of which is similar to that of the county courts in England.

civil case. The legal means by which the rights and remedies of private individuals are enforced or protected, in contradistinction to the expression "criminal case" which refers to public wrongs and their punishment. *State ex rel. Kochtitzky v Riley*, 203 Mo 175, 101 SW 567

See **civil action; civil suit**.

civil commitment. The jailing of a person for debt or nonpayment of alimony; the confinement of an insane person, alcoholic, or drug addict for treatment or protection; the commitment of a person under civil arrest.

civil commotion. An uprising of citizens; an insurrection; interference with the powers of government by violent action. 29A Am J Rev ed Ins § 1368.

civil conspiracy. A combination of two or more persons by concerted action to accomplish an unlawful purpose, or a lawful purpose by criminal or unlawful means, to the injury of another. 16 Am J2d Consp § 43. To sustain an action, damage must have resulted from the combination. To warrant an injunction, damage must be threatened. *National Fireproofing Co. v Mason Builders' Asso.* (CA2 NY) 169 F 259.

civil contempt. The dividing line between civil and criminal contempt is indistinct. It can be said with some assurance, however, that where the primary purpose of a contempt proceeding is to provide a remedy for an injured suitor and to coerce compliance with an order, the contempt is civil. 17 Am J2d Contpt § 4. A civil contempt differs from a criminal contempt, the sentence for which is punitive in the public interest to vindicate the authority of the court and to deter other like derelictions. *Ex parte Grossman*, 267 US 87, 69 L Ed 527, 45 S Ct 332, 38 ALR 131.

civil contempt proceeding. A proceeding, summary in nature and *sui generis* in character, by which a party to an action is enabled to compel obedience to orders, judgments, and decrees rendered in the action which declare the rights to which he is entitled. In some jurisdictions, such proceeding is regarded as an independent proceeding, in others, it operates as a part of the suit in which the judgment, decree, or order to be enforced by the proceeding was rendered. 17 Am J Rev ed Contpt § 77.

civil corporation. A public corporation, such as a county, township, school district, or road district, otherwise known as a quasi corporation, of an involuntary character, being created by the state without the intervention of the people within its boundaries as an arm and instrumentality of the state for the administration of government locally. Dunn v Brown County Agricultural Soc. 46 Ohio St 93, 18 NE 496; Herald v Board of Education, 65 W Va 765, 65 SE 102.

Civil Damage Acts. Statutes which grant a right of action to persons injured in person, property, or means of support, by an intoxicated person, or in consequence of the intoxication of any person, against the person selling or furnishing the liquor which caused the intoxication in whole or in part. 30 Am J Rev ed Intox L § 525.

civil day. A period of twenty-four consecutive hours, beginning at midnight. Re Ten-Hour Law for Street Railway Corporations, 24 RI 603, 54 A 602.

civil death. The extinction of all civil rights, such as occurred at common law upon a person being banished, abjuring the realm, or entering a religious order, and to a certain extent upon conviction of any felony.

It has been held in the United States that the doctrine of civil death does not apply unless provided for by statute, but has also been held that the common-law consequences of a conviction, including civil death, continue until abrogated by statute. 21 Am J2d Crim L § 626.

civil defense. Concerted activities for the protection of civilians in time of war, particularly nuclear war, and emergencies fraught with danger to human life.

civil disability. See **disability**.

civil embargo. See **embargo**.

civilian. A scholar who is versed in the Roman law and the civil law; a person who is not in the armed forces. Discharged military prisoners, discharged enlisted men, and rejected applicants for enlistment in the army, all have the status of the civilian. United States v Union Pacific Railroad Co. 249 US 354, 358, 63 L Ed 643, 645.

civil injury. The infringement or privation of the civil rights which belong to the individual, considered merely as an individual. Anno: 23 ALR 529; in the broader sense of the term, a wrong for which redress may be had by a civil action.

civil interruption. Under the civil law--an interruption of a period of prescription by making a lawful claim of right thereto in a court of justice. Innerarity v Heirs of Mims, 1 Ala 660, 674.

civilis. Civil.

civilis possessio. See **possessio civilis**.

civiliter. Civilly, in a civil aspect.

civiliter mortuus. Civilly dead.

See **civil death**.

civil law. The body of law, sometimes called municipal law, adopted in a country or a state, as distinguished from the so-called natural law and international law; the body of law which determines private rights and liabilities, as distinguished from criminal law; a rule of civil conduct prescribed by the supreme power of a state. *Merchants' Exchange v Knots*, 212 Mo 616, 111 SW 565; the civil or municipal law of the Roman empire, as comprised in the institutes, the code and the digest of the Emperor Justinian, and the novel constitutions of himself and some of his successors. These form the body of Roman law, the *corpus juris civilis* (the body of civil law), as published about the time of

[204]

Justinian. It was under his auspices that the present body of civil law was compiled and finished by Tribonian and other lawyers, about 533 A. D. See 1 Bl Comm 80, 81.

civil liability. Liability to be sued in a civil action, as distinguished from criminal liability which is the liability to a criminal prosecution.

Civil Liability for Support Act. One of the uniform laws. 23 Am J2d Desert § 125.

civil liberties. Political liberties; the liberties of a member of society; the natural liberties of a person so far restrained by human laws as is necessary and expedient for the general welfare. *Dennis v Moses*, 18 Wash 537, 52 P 333; civil liberties, as guaranteed by the Constitution, imply the existence of an organized society maintaining public order without which liberty itself would be lost in the excesses of unrestrained abuses. *Cox v New Hampshire*, 312 US 569, 85 L Ed 1049, 61 S Ct 762. The concept of personal rights of liberty, equality etc., protected from abridgment by constitutional guaranties. 28 Am J Rev ed Inj § 80.

civil list. In England it is the fiscal appropriation for the maintenance and support of the royal family. In the United States, it is general governmental expense, not including the army and navy.

civil maintenance. An action for damages for maintenance. Such an action lies at common law at the instance of the party aggrieved, but such actions have rarely been brought and few modern examples are to be found. 14 Am J2d Champ § 17.

See **maintenance**.

civil nature. See **suits of a civil nature**.

See all expressions beginning **civil**.

civil obligation. An obligation which is enforceable through the means of a civil action.

civil office. A public office as distinguished from an office in the armed services; *State ex ref. Barney v Hawkins*, 79 Mont 506, 257 P 411, 53 ALR 583; any kind of a public office, whether legislative, executive, or judicial. 42 Am J1st Pub Of § 22.

civil officer. The incumbent of a civil office; any officer in the administration of government, except an officer of the armed forces.

See **civil office**.

civil officers of the United States. All officers of the United States, with the exception of officers in the armed services are civil officers. *State ex ref. Summerfield v Clarke*, 21 Nev 333, 31 P 545.

civil or municipal law. See **civil law**.

civil possession. A Roman law term for the possession under a claim of ownership which is requisite to the acquisition of title by prescription.

civil proceeding. See **civil action; special proceeding.**

civil remedy. A remedy sought in the prosecution of a suit or action by or at the instance of a private person for the assertion of a private right. *People ex ref. Raster v Healy*, 230 Ill 280, 82 NE 599.

civil responsibility. Same as **civil liability.**

civil rights. Broadly defined, such rights as the law will enforce, or as all those rights which the law gives a person. In the more restricted sense, however, in which the term is used most often, "civil rights" means the enjoyment of the guaranties contained in constitutional or statutory provisions designed to prevent discrimination in the treatment of a person by reason of his race, color, religion, or previous condition of servitude. 15 Am J2d Civ R § 1.

Civil Rights Acts. Statutes adopted by Congress in the aftermath of the Civil War and in the more recent years of 1957 and 1964, primarily intended to implement the constitutional guaranties against denial of due process and equal protection of the laws to all persons irrespective of race or color. 15 Am J2d Civ R §§ 11 et seq. Guaranties in constitutions and statutes against denial of the rights of a person by reason of his or her race, color, religion, or previous condition of servitude. 15 Am J2d Civ R §§ 3, 4; statutes which prohibit discrimination against a person by reason of his race or color in denying him access to places of public accommodation, such as hotels, restaurants, and lunch counters; places of amusement and recreation, such as parks, theaters, and public resorts; the cars and vehicles of common carriers; and educational facilities maintained by public funds; and provide an aggrieved party the right to recover a penalty for violations. 15 Am J2d Civ R §§ 18 et seq.

civil rights amendments. The Thirteenth, Fourteenth and Fifteenth amendments to the United States Constitution are often so referred to, because they constitute a substantial departure in the character of the constitutional protection accorded fundamental rights.

Civil Rights Bill. An act of Congress passed at the close of the Civil War in 1866, granting citizenship to persons born in the United States, including those who had been slaves.

See **Civil Rights Acts.**

Civil Rights Cases. These were five cases which originated in Federal Courts in Kansas, District of Columbia, Missouri, New York, and Tennessee, respectively, and which were heard and disposed of together in the Supreme Court, since each of them involved the rights of freedmen under the Civil Rights Act of March 1, 1875, providing for full and equal accommodations for all persons at hotels, theaters, public conveyances and places of amusement, without regard to race, color, or previous condition of servitude. The court held the statute to be unconstitutional and not to be within the scope of either the Thirteenth or the Fourteenth Amendment. See *Civil Rights Cases*, 109 US 3, 27 L Ed 836, 3 S Ct 18.

To the foregoing, there is to be added *Brown v Board of Education*, 347 US 483, 98 L Ed 873, 74 S Ct 686, 38 ALR2d 1180, supp op 349 US 294, 99 L Ed 1093, 75 S Ct 753, which, in holding that the denial to negro children of admission to public schools attended by white children, under state laws requiring or permitting segregation according to race, deprives them of the equal protection of the laws guaranteed by the Fourteenth Amendment to the United States Constitution, established a precedent for numerous later cases involving segregation of the races.

Civil Rights Commission. A commission in the nature of a fact finding agency established by federal statute. 42 USC §§ 1975-1975e; *Hannah v Larche*, 363 US 420, 4 L Ed 2d 1307, 80 S Ct 1502, reh den 364 US 855, 5 L Ed 2d 79, 81 S Ct 33.

Civil Rights Division of Department of Justice. A division of the justice department headed by an Assistant Attorney General. 5 USC § 295-1.

civil service. In the broad sense, civil service includes all civilian officers and personnel in the employment

[205]

of the state or federal government. The term, in a practical parlance, means the civil service system under which appointments to and tenure of, public office are determined by the merit system instead of the spoils system formerly operative under which appointment to public office was usually gained its a reward for political work, with the resulting evils of inefficiency, extravagance, interruption of public business by job hunters, corruption of the electoral franchise, and political assessments. 15 Am J2d Civ S § 1.

Civil Service Act. The act of Congress approved January 16, 1883, providing for the creation of the Civil Service Commission of the United States.

Civil Service Commission. A federal or state commission empowered to administer the rules and regulations embraced in the civil service system. 15 Am J2d Civ S § 6. The United States Civil Service Commission composed of three members appointed by the President by and with the advice and consent of the Senate. 15 Am J2d Civ S § 4.

civil service examination. An examination to fill at civil service position which, in some instances, may be open, and, in other instances, promotional, as where persons already in the service compete with one another for promotion to a more desirable office. 15 Am J2d Civ S § 10.

See **competitive examination.**

civil side. The civil department or calendar of a court having also a criminal department or calendar.

civil suit. A civil action; for the purposes of a venue statute, proceeding, action, or suit by which private rights are protected or enforced or their violation redressed. 56 Am J1st Ven § 52.

civil war. An armed struggle between opposing and contending forces of the same nation for the control of the government. 56 Am J1st War § 2. While protection of the law of war is not accorded to those engaging in an insurrection or rebellion against the constituted authority, unless a state of belligerency is recognized by the existing government, when hostilities attain dimensions which interfere with the exercise of the jurisdiction of the existing government in some of its territorial districts, a state of war exists. The War between the Federal government of the United States and the seceding Confederate States, although referred to as the "Civil War," sometimes as the "War of Rebellion" or "The Great Rebellion," was accompanied by the general incidents of an international war, and the rules of war, as recognized by the public law of civilized nations, were applied, even though the general principles and purposes of the Federal government were the re-establishment of national authority and the ultimate restoration of the seceding states and their citizens to their national relations without any view of subjugation by conquest. 56 Am J1st War § 3.

Civil War Claims. Claims arising under the captured and abandoned property act of 1863, which provided that property when captured should be sold and the proceeds paid into the United States treasury, and that any person claiming to be the owner of property thus captured and sold might at any time within two years after the close of the civil war bring suit in the court of claims for the proceeds and on satisfactory proof of certain facts recover its value, less some specified deductions. 54 Am J1st US § 109.

civil year. Same as **solar year.**

civis. (Roman law.) A citizen.

civitas. A state or government.

civitatus. See **defensor civitatus**.

C. J. An abbreviation of **chief justice**; also of **Corpus Juris**.

claim. A demand for money or property; the assertion of a demand, or the challenge of something, as a matter of right; a demand of some matter, as of right, made by one person upon another to do or to forbear to do some act or thing, as a matter of duty, *Vulcan Iron Works v Edwards*, 27 Or 563, 36 P 22; a challenge by a man of the propriety or ownership of a thing, which he has not in his possession, but which is wrongfully detained from him, *Prigg v Commonwealth of Pennsylvania* (US) 16 Pet 539, 10 L Ed 1060; a demand made by the owner, or on behalf of the owner, of a vessel for its return after a seizure of the vessel by way of perfecting a forfeiture thereof by a proceeding in admiralty. 48 Am J1st Ship § 30; a demand against an insurance company for payment of a loss; a writing which uses words showing an intention to claim benefits under veteran's insurance. 29A Am J Rev ed Ins § 1989; an assertion of ownership to a portion of the unappropriated soil of the public domain, protected by an entry in accordance with the federal statutes. 42 Am J1st Pub L § 19; a precise assertion of rights by an inventor respecting his discovery or invention. 40 Am J1st Pat § 92; a cause of action for some purposes. As used in a statute concerning claims against the state and providing for their enforcement by suit, the term is equivalent to "cause of action." *Northwestern & Pacific Hypotheek Bank v State of Washington*, 18 Wash 73 50 P 586.

The term does not include causes of action purely equitable and in which purely equitable relief is sought. *Ashbauth v Davis*. 71 Idaho 150, 227 P2d 954, 32 ALR2d 361.

See **adverse claim**; **mining claim**.

claim adjuster. See **adjuster**; **claimant adjuster**.

claim against decedent's estate. A debt or demand of a pecuniary nature which could have been enforced in law or equity against the decedent in his lifetime and could have been reduced to a simple money judgment. 31 Am J2d Ex & Ad § 276.

Most courts have held that the term as used in a statute relating to the competency of interested witnesses in the prosecution of a "claim or demand" against an estate, refers to the assertion of any right against an estate. According to this view the words are not restricted to a money claim, but apply also to any other demand which would tend to deplete the estate. Other courts have limited these terms to such claims as can give rise to a suit calling for a money judgment. Anno: 41 ALR 1044.

claim against the United States. A right to demand money from the United States. 54 Am J1st US § 102.

claim agent. An employee of a railroad company, a business, or an industry, whose duty it is to investigate claims made against his employer and report to the employer whether a claim should be paid, denied, or adjusted.

claim and delivery. A statutory action in some jurisdictions, partaking of the nature of common-law replevin in contemplating the recovery of the specific property claimed, where such is possible,

[206]

but resembling trover in permitting the recovery of the value where delivery of the specific property is impossible. 46 Am J1st Replev § 6.

claimant. One who claims; a voluntary applicant for justice; the libelant in a proceeding in rem in admiralty or one who appears in such a proceeding to claim the res or an interest therein. 2 Am J2d Adm § 142.

See **claim**.

claim check. A receipt for goods bailed, especially for baggage delivered by a passenger to a carrier.

claim in arrangement proceeding under the Bankruptcy Act. A proof of claim against the debtor or a claim scheduled by the debtor. 9 Am J2d Bankr § 1310.

claim in a service. A petition by an heir to be served as heir of the decedent.

claim in bankruptcy. A proof of claim against the bankrupt.

See **proof of claim; provable debt**.

claim in corporate reorganization. A claim of whatever character against a debtor or its property, except stock, whether or not such claim is provable in an ordinary bankruptcy proceeding and whether secured or unsecured, liquidated or unliquidated, fixed or contingent. Bankr Act § 106(1); 11 USC § 506(1).

claim in proceeding for readjustment of public debt under the Bankruptcy Act. The claim of a creditor holding securities in the technical or nontechnical sense, even a holder of an unliquidated claim against the municipality or other public body. 9 Am J2d Bankr § 1423.

claim in proceeding for wage earner's plan. A claim of whatever character against the debtor or his property, whether or not provable as a debt in ordinary bankruptcy, and whether secured or unsecured, liquidated or unliquidated, fixed or contingent, but not a claim secured by an estate in real property or chattels real. Bankr Act § 606(1); 11 USC § 1006(1).

claim in real property arrangement. A claim of whatever character against the debtor or his property, whether or not such is provable in ordinary bankruptcy and whether secured or unsecured, liquidated or unliquidated, fixed or contingent. 9 Am J2d Bankr § 1359.

claim jumping. Taking advantage of the failure of one, who has settled on public lands or has begun a mining operation on such lands, to perfect his claim in the manner required by law, by locating a claim to the same area in the manner required by law, for the purpose of obtaining the same area irrespective of the work performed by the first occupant or claimant or of any right he may have by virtue of prior possession or occupation. Nelson v Smith, 42 Nev 302, 176 P 261, 178 P 625.

claim-notice. A notice posted on his mining claim by a miner or prospector setting forth his claim to mining rights in the land.

claim of cognizance. A claim of the right or privilege of taking jurisdiction of a cause. See 2 Bl Comm 298.

claim of conusance. Same as **claim of cognizance**.

claim of exemption. The assertion of a right given by law to a debtor to retain a portion of his personal property free from seizure and sale by his creditors under judicial process. 31 Am J2d Exemp § 1.

See **notice of exemption**.

claim of liberty. A suit or petition to the crown, in the court of exchequer, to have liberties and franchises confirmed there by the attorney general. Wharton's Law Dict.

claim of lien. The assertion of the existence of alien in claimant's favor; the filing of a verified statement of a mechanic's lien for record, required in perfecting such a lien. 36 Am J1st Mech L § 131.

claim of ownership. See **claim of right.**

claim of right. An entry upon land with the intent to claim the land and to hold it; the intention of a disseisor to appropriate and use land as his own to the exclusion of all others, irrespective of any semblance or shadow of actual title or right. *Guaranty Title & Trust Corp v United States*, 264 US 200, 204, 68 L Ed 636, 638, 44 S Ct 252.

claim of title. The entry and occupation of land with the intent to hold it as the claimant's own against the world, irrespective of any shadow or color or right or title as a foundation of his claim. Anno: 2 ALR 1457.

See **claim of right.**

claim or demand. See **claim; claim against decedent's estate.**

claims and controversies. See **controversy.**

claim to property within jurisdiction. A prerequisite to jurisdiction. *Kohagen v Harwood* (CA7 Wis) 185 F2d 276, 30 ALR2d 201.

claim, vi, furto aut preario. A claim accompanied by force, stealth or supplication.

clairvoyance. Keen perception; the ability to perceive occurrences out of sight.

clam. Noun: A bivalve mollusk, the soft part of which in some species is edible. Adverb: Secretly; furtively. Verb: A slang term of the underworld for remaining silent.

See **shellfish.**

clam bed. An area along the shore of the sea between high and low watermark from which clams are dug. *Allen v Allen*, 19 RI 114, 32 A 166. The bed may be a work of nature or of artificial cultivation, and subject to limitations, property rights may be acquired therein. 35 Am J2d Fish § 13.

clam delinquentes magis puniuntur quam palam. Those who offend in secret should be more severely punished than those who do so openly.

clamea admittenda in itinere per attornatum. A writ commanding the admission of an attorney to represent a claimant who was abroad.

clamor. A complaint; an outcry; a claim.

clandestine. Surreptitious; hidden or, at least, unpublicized, usually for an illegal or unworthy purpose.

clandestine introduction. An offense also known as smuggling and embracing all unlawful acts of concealment or other illegal conduct tending to show a fixed intent to evade the customs duty by subsequently passing the goods through the jurisdiction of the customs officials without paying the duties imposed thereon by law. *Keck v United States*, 172 US 434, 43 L Ed 505, 509, 19 S Ct 254.

clandestine marriage. A form of marriage, valid at common law, entered into before witnesses, usually with an irregular ceremony, -without the publication of banns, and lacking other requisites of the ecclesiastical law. *Sharon v Sharon*, 75 Cal 1, 16 P 345.

clap-stick. A watchman's alarm rattle.

clare constat. It clearly appears.

claremetheren. A warranty of the title of goods which had been stolen.

Clarendon. See **Constitutions of Clarendon.**

Clarification Act. A federal statute pertaining to the rights and remedies of a seaman injured in the service of the ship. 50 USC Appx § 1291.

class. A large number of persons who may be designated collectively, irrespective of geographical limitation, political division, place of abode, or any similar restriction. Anno: 97 ALR 281.

class action. An action brought by one or more nominal plaintiffs on behalf of a class of persons. An action maintained in the Federal courts by authority of Rule 23 of the Federal Rules of Procedure where several persons jointly act to the injury of many persons so numerous that their voluntarily, unanimously joining in a suit is concededly improbable and impracticable. In such situation the injured parties who are so minded may sue on behalf of all, and the remaining members of the class may join as they see fit. *Weeks v Bareco Oil Co.* (CA 7 Ill) 125 F2d 84.

See **class suit.**

class gift. See **gift to a class.**

classification. Dividing into class; in a more sophisticated statement, the grouping of things in speculation or practice because they "agree with one another in certain particulars and differ from other things in those same particulars." *Billings v Illinois*, 188 US 97, 47 L Ed 400, 23 S Ct 272. "Classification is the most inveterate of our reasoning processes. We can scarcely think or speak without consciously or unconsciously exercising it. It must therefore obtain in and determine legislation; but it must regard real resemblances and real differences between things and persons, and class them in accordance with their pertinence to the purpose in hand." *Truax v Corrigan*, 257 US 312, 66 L Ed 254, 42 S Ct 124, 27 ALR 375, 388.

"Classification" is a technical term for the practice in the English chancery courts of assigning litigants having similar interests in the same cause to one solicitor, to save expense.

classification of cities. The classification of cities within a state usually on the basis of population, so as to make possible and legal difference in charter, powers, and form of municipal government as between the several or many cites of the state. 37 Am J1st Mun Corp § 98.

classification of counties. The practice of grouping or classifying counties by population, authorized in some states, for the purpose of fixing the compensation of county officers, the purpose of regulating the registration of voters and the conduct of elections, or the selection and impanelment of jurors, or in relation to the establishment, jurisdiction, and procedure of courts.

classified service. Classified and graded positions in the civil service. 15 Am J2d Civ S § 16.

classis. A synod. See 45 Am J1st Reli Soc § 29.

class legislation. All legislation involves classification. Prohibited class legislation, which is what the term implies, is nothing more than the other side of the shield of the guaranty of equal protection of the laws; it is legislation which discriminates against some and favors others. 16 Am J2d Const L § 494; legislation which denies to one rights which are accorded to others, or inflicts upon one individual a more severe penalty than is imposed upon another in like case offending. People v Bellet, 99 Mich 151, 57 NW 1094.

class of creditors. A class created by the Bankruptcy Act for the purpose of priority in distribution of a bankrupt's assets. 9 Am J2d Bankr § 1080.

class rate. A freight rate applying to a number of articles of the same general character.

class suit. An invention of equity to enable it to proceed to a decree in suits where the number of those interested in the subject of the litigation is so great that their joinder as parties in conformity with the usual rules of procedure is impracticable. Hansberry v Lee, 311 US 32, 85 L Ed 22, 61 S Ct 115. A salvage suit in admiralty brought by the master on behalf of himself and the members of his crew. 2 Am J2d Adm § 152.

See **class action**.

clause. As a grammatical form, a division of a compound or complex sentence, with a subject and a verb; in the language of the law, a sentence, a part of a sentence, sometimes a clause in the grammatical form, or a paragraph, such as in a will where division of the instrument into parts is made according to the kind of property or class of beneficiaries. Eschbach v Collins, 61 Md 478, 499.

clause irritant. A clause in a deed which limited the right of an absolute proprietor in entails.

clause of accrual. A clause in a will or deed directing to whom the property shall go in the event of the death of the devisee or grantee.

clause of accruer. Same as **clause of accrual**.

clause of ac etiam. See **ac etiam**.

clause of devolution. A clause imposing some obligation contingent upon an event.

clause of hiis testibus. See **hiis testibus clause**.

clause of return. A clause in a deed providing that a right shall upon certain specified contingencies revert to the grantor.

clause rolls. Same as **close rolls**.

clausula. A clause or distinct part of a sentence.

clausula derogatoria. A derogatory clause a clause which impinges upon authority not to be denied.

Clausulae inconsuetae semper inducunt suspicionem. Unaccustomed or unusual clauses always arouse suspicion.

Clausula generalis de residuo non ea complectitur quae non ejusdem sint generis cum iis quae speciatim dicta fuerant. A general clause of remainder does not include matters not of the same kind with those specially mentioned.

Clausula generalis non refertur ad expressa. A general clause does not refer to matters expressly mentioned.

Clausula quae abrogationem excludit ab initio non valet. A clause which forbids repeal is void from the beginning.

Clausula vet dispositio inutilis per praesumptionem remotam vet causam, ex post facto non fulcitur. A useless clause or disposition is not supported by a remote presumption or by a fact which occurs subsequently.

clausum. A close; a piece of land enclosed by a visible, material fence, or by an ideal, invisible boundary.

clausum fregit. He broke the close by a literal or figurative trespass, breaking a fence or walking across a boundary line.

clausura. An inclosure; a close.

claves curiae. The keys of the court.

clayme. An old form of the word "claim."

Clayton Act. A federal statute, approved by the President on October 15, 1914. having the purpose of protecting the public against the evils resulting from a lessening of competition, and forbidding certain practices in business which reduce competition and price discriminations. 15 USC §§ 12-27; 36 Am J1st Monop etc §§ 141, 142.

clean bill of lading. A bill of lading which contains nothing in the margin qualifying the words in the bill itself. 13 Am J2d Car § 265; a bill of lading for carriage by vessel which imports stowage below deck. 48 Am J1st Ship § 382.

clean hands doctrine. The equitable principle which requires a denial of relief to a complainant who is himself guilty of inequitable conduct in reference to the matter in controversy. 27 Am J2d Eq § 136; 28 Am J Rev ed Inj § 33.

Within the meaning of the maxim of equity requiring one who comes to it for relief to come with clean hands and an apparently clear conscience, the term unclean hands is a figurative description of a class of suitors to whom a court of equity as a court of conscience will not even listen, because the conduct of such suitors is itself unconscionable, that is, morally reprehensible as to known facts. 27 Am J2d Eq § 137.

See **improper use doctrine.**

clean paper. A banking term which is applied to such documents as bills, drafts and promissory notes, as distinguished from special paper such as bills of lading with sight drafts attached. Bunge v First Nat. Bank (DC Pa) 34 F Supp 119.

clear. Verb: To acquit; to justify; to excuse; to exonerate; to depart from port. Adjective: Certain; not clouded or obscured; not impinged upon. Ford v Ruxton, 1 Colly Ch Cas 403, 63 Eng Reprint 474.

clearance. A certificate which evidences the right of the vessel to depart the port on a voyage, operating as a permission to sail; the act of departing from a port. 48 Am J1st Ship § 19; the space permitted by the physical circumstances for a movement, as the distance between a turning car and a parked car, or the distance between a railroad car in movement on one track and a building or other railroad car, the latter distance being important in reference to the question whether a brakeman is in peril in a position on the moving car. Anno: 50 ALR2d 699; a term used in the motion picture business, meaning the interval of time which must elapse under the contract after the conclusion of the exhibition of a picture at one theater before it can be exhibited in any other theater in which it has not been exhibited. Waxmann v Columbia Pictures Corp. (DC Pa) 40 F Supp 108.

clearance card. A letter given an employee upon his leaving service, setting forth the nature and duration of the services rendered and the cause of leaving, not necessarily so complimentary of the services as to constitute a recommendation. Cleveland, Cincinnati, Chicago & St. Louis Railway Co. v Jenkins, 174 Ill 398, 402, 51 NE 811.

clearance lights. Side lights on a motor vehicle. 8 Am J2d Auto § 712.

See **side lights.**

clear and convincing evidence. A degree of proof higher than that of preponderance of the evidence. 20 Am J2d Ev § 1253.

clear and present danger. The test of whether words spoken or written are capable of producing such a substantial evil that they are not within the protection of the constitutional guaranty of freedom of speech and press. 16 Am J2d Const L § 347.

clear days. Entire days; intervening days of which the first and last are excluded. Thus, the clear days between the first and the fourth, would be the second and the third.

clear distance ahead. See **assured clear distance ahead.**

clear, distinct, and unequivocal possession. A characterization of adverse possession. 3 Am J2d Adv P § 34.

clearinghouse. A voluntary association composed of banks, the purpose of which is to effect at one place in a city a daily exchange of checks, drafts, and other evidences of indebtedness held by one member and due from another. 10 Am J2d Banks § 838; an organization within a stock or commodity exchange which acts as a universal go-between or clearinghouse, for the debits and credits of its members with one another. At the close of each day's business all of these transactions are reported to the association, which then becomes the opposite party to the transactions of each member for the purpose of offsetting the same. 50 Am J1st Stock Ex § 20.

clearinghouse association. An association between banks or members of a stock or commodity exchange for maintaining a clearinghouse.

clearing land. Removing bushes, sprouts, and trees; an act of ownership. 3 Am J2d Adv P § 21.

clearly erroneous rule. A standard followed in reviewing a determination of an administrative agency. 2 Am J2d Admin L § 619.

clearly reflecting income. An income tax law term applied to a method of accounting, meaning a method which is plain, honest, straightforward, and frank, but not necessarily accurate and precise, without error or defect. Huntington Secur. Corp. v Busey (CA6 Ohio) 112 F2d 368.

clear market value. The sum which property will bring on a fair sale when sold by willing seller not obliged to sell to a willing buyer not obliged to buy. 28 Am J Rev ed Inher T § 359.

[209]

clear of all deductions. A clause intended to indicate a gift or legacy of a sum which shall remain in the complete amount in which it is designated, without deduction for expenses, inheritance taxes, or estate taxes. Marris v Burton, 11 Sim 161, 59 Eng Reprint 836.

clear proof. That which may be seen; that which is discernible; that which may be appreciated and understood. In such sense, it may not really mean any more than a fair preponderance. It may, however, under emphasis, convey the idea of certainty, and it probably would to the common mind. *Aubin v Duluth Street Railway Co.* 169 Minn 342, 348, 211 NW 580.

clear, strong, and convincing. A degree of proof higher than that of preponderance of the evidence. 30 Am J2d Ev § 1167.

clear title. Good title; a legal and equitable title to land free from litigation, grave doubts, and palpable defects. *Veselka v Forres* (Tex Civ App) 283 SW 303, 306; a title free from material defects; a merchantable or marketable title. 30 Am J2d Exch § 23.

clear value. Net value after deductions. *Bouse v Hutzler*, 180 Md 682, 26 A2d 767, 141 ALR 843.

See **clear market value.**

clemency. Mildness; a disposition to forgive or to be lenient in punishment; the granting of a pardon or commutation of sentence.

Clementines. The collections of canon law made by Pope Clement in 1311.

cleofan (Anglo-Saxon.) Uniting to divide. *Merion Cricket Club v United States* (CA3) 119 F2d 578, affd 315 US 42, 86 L Ed 656, 62 S Ct 430; a term expressive of the theory of association in club or society.

Graphically expressed, the glutton and toper eat and drink at the expense of their more abstemious brethren and the more athletic or more enthusiastic golfer lives off his weaker or less zealous colleagues. *Merion Cricket Club v United States*, supra.

cleptomania. Same as **kleptomania**.

cleremonia. The clergy.

clergy. In olden times, a word for a clerk or educated man; in modern times, the pastors or priests of churches and the persons above them in the organization or hierarchy of the church,

clergyable. Entitled to benefit of clergy, as a clerk or clergyman. The adjective was also applied to those felonies and misdemeanors in respect to which benefit of clergy could be claimed.

See **benefit of clergy**.

clergyman. One of the clergy.

See **clergy**.

clerical. Pertaining to a clerk or to the functions of a clerk.

clericale privilegium. Benefit of clergy.

clerical error. An error in technique rather than in substance of thought; the misprision of a clerk or other officer of the court, causing a defect or omission in the record. As the phrase applies to the record of a judgment, it means the failure to preserve or correctly represent in the record, in all respects, the actual decision of the court. Annos: 10 ALR 589, s. 67 ALR 842 and 126 ALR 977; 14 ALR2d 234. An error of a judge is a clerical error where it is one which cannot reasonably be attributed to exercise of judicial consideration or discretion. Anno: 14 ALR2d 234.

clericis cancellaria. Clerks of the court of chancery.

clericis praenotarii. The six clerks in chancery. They were the clerks who filed pleadings and other papers.

clericus admittendo. A writ commanding a bishop to admit a clergyman to a living.

clericus capto, etc. See **de clericis capto, etc.**

clericus convictus, etc. See **de clericis convictis, etc.**

clericus. A clergyman; a clerk.

See **clergy**.

Clericus et agricola et mercator, tempore belli, ut oret, colat, et commutet pace fruuntur. Clergymen, farmers and merchants enjoy peace in time of war, so that they may preach, cultivate the soil, and trade.

clericus mercati. Clerk of the market.

Clericus non connumeretur in duabus ecclesiis. A clergyman should not be appointed by two churches.

clericus parochialis. A parish clerk.

clerigos. (Spanish.) Clergymen.

clerk. In the earlier days of the common law, a word for an educated person, that is to say, as of that period, a clergyman, one of the clergy who for want of education of other classes, became judicial officers and were known to be such from their status as clerks or clergymen; in modern times, one who keeps accounts for another; an accountant; a scribe; a public officer who keeps the accounts of the political subdivision which he serves; also one employed in a store to sell goods and transact other business of a perfunctory character for the owner, but not to act only as a cashier. Miller v State, 88 Tex Crim 69, 225 SW 379, 12 ALR 597, 601.

See **law clerk; law office clerk**.

clerk of arraigns. The clerk of the central criminal court in England; a deputy of the clerk of assize.

clerk of assize. The clerk who attended the justices of assize in their circuits.

clerk of court. Primarily a ministerial officer, the assistant or official scribe of the court, whose principal duty is to make a correct memorial of the proceedings of the court, and who has custody of the court's records and seal, with authority to certify to the correctness of transcripts from such records, and to perform certain acts of a judicial nature incidental to his ministerial duties. 15 Am J2d Cl C § 1. In some jurisdictions, by force of statute, the clerk of court has the function of a county recorder of instruments affecting title to real estate.

clerk of enrollments. At one time the chief officer of the English enrollment office.

Clerk of the House of Commons. An officer appointed by the crown who has the custody of the memorials and journals of the acts of the house of commons.

clerk of the peace. An officer whose function was to assist the justices of the peace in their quarter sessions.

clerk of the petty bag. An officer of the English chancery court who enrolled the admission of solicitors and other officers of the court.

clerk of the privy seal. An officer who formerly attended the lord privy seal.

clerk of the signet. An officer who attends the principal secretary of the king.

clerkship. The service of an attorney's clerk during his preparation for admission to the bar.

clerks of indictments. Clerks in the English central criminal court whose chief duty was to prepare indictments.

clerks of seats. Officers who attend to the clerical work in the principal registry of the probate division of the English high court.

clerks of the general sessions of the peace. Clerks of the courts of common pleas, known as county clerks, in England and in the American colonies, who were also ex-officio clerks of the general sessions of the peace and registers of deeds in their respective counties.

clerus. The clergy.

client. A person who applies to a lawyer or counsellor for advice and direction on a question of law, or commits his cause to his management in prosecuting a claim or defending against a suit, in a court of justice. *McCreary v Hoopes*, 25 Miss 428, 429; a patron or employer of an attorney or solicitor; a person who applies to an advocate for counsel and defense; one who retains an attorney, who is responsible to him for his fees, and to whom the attorney is responsible for his management of the suit. *McFarland v Crary* (NY) 6 Wend 297, 312.

In recent times, the term has been extended to cover the employer or customer of persons engaged in activities other than the practice of law. So, a broker in stocks, insurance, or real estate, speaks of his "clients," as does a dressmaker, even a barber.

Clifford's Inn. One of the inns of the English court of chancery.

climacteric insanity. A form of temporary insanity arising from some peculiar transitional condition of the system. *Leache v State*, 22 Tex Crim 279.

climbing spurs. See **spurs**.

clinic. The outpatient department of a hospital; a place wherein physicians practice in close association with one another, particularly physicians with specialities in the practice.

clinical. Pertaining to a clinic; study or practice in medicine by full and complete observation.

clinical examination. The acts of a physician in examining a patient for objective symptoms, interviewing the patient to obtain at least a partial history of the case, and supplementing the history thus obtained from other possible sources. *Peterson v Widule*, 157 Wis 641, 147 NW 966.

clocking. Ascertaining the rate of speed, particularly of motor vehicles. 7 Am J2d Auto §§ 326-329.

clogging. Cheating with cogged or loaded dice.

clogging equity of redemption. Imposing upon a mortgage an agreement whereby the mortgagor forfeits, clogs, or fetters his equity of redemption. 15 Am J2d Chat Mtg § 241; 36 Am J1st Mtg § 184.

close. Noun: A tract or parcel of land enclosed by a fence or an invisible boundary; the end. Verb: To finish, as to close one's argument or case; to make an enclosure. Adjective: Wrapped up; sealed.

close. Attached by bonds of affection and regard; near together.

close clearance. See **clearance**.

close confinement. Such custody of a prisoner as will safely secure him. Rooney v North Dakota, 196 US 319, 49 L Ed 494, 25 S Ct 264.

See **solitary confinement**.

close copies. Copies which may be written with any number of words on a sheet.

close corporation. A corporation in which the officers and directors have the power to fill vacancies in office without submitting the choice to the stockholders; another term for a "family corporation," in which the most of the stock is held by members of one family. 18 Am J2d Corp § 13.

closed. Terminated; being at an end. The term is of somewhat variable meaning as relating to a business transaction, one meaning being that of reaching an agreement, the other being that of putting an agreement into effect, as where the parties to a real estate contract say the deal is "closed" when the parties meet and perform their engagements, the one delivering a deed and the other making payment of the consideration promised. Tahir Erk v Glenn L. Martin Co. (DC Md) 32 F Supp 722.

closed bank. Literally a bank not open for business at the time, but for most purposes, such as the necessity for presentment at a bank of an instrument payable at the bank, a closed bank is a failed bank, an insolvent bank, or a bank which has ceased to exist. 11 Am J2d B & N § 760.

See **failed bank**.

closed car. A private car on a railroad. 14 Am J2d Car § 860; an automobile with body and top for the protection of driver and passengers.

closed investigations. Private investigations. 2 Am J2d Admin L § 258; completed or terminated investigations by detectives or police officers.

closed season. A restriction or absolute prohibition imposed by law upon fishing or hunting during a specified period of the year. 35 Am J2d Fish § 46. The restriction, which is imposed by statute or administrative regulation in the interest of conservation of fish and wild life, may apply to all kinds of fish and all species of game birds and animals during the specified period or, as it usually does, to designated kinds of fish and particular game birds and animals, with variations from season to season in the scope of the coverage.

closed shop. A place of employment in which all employees are required by contract between the employer and a labor union to be members of the union. 31 Am J Rev ed Lab § 95; more broadly defined, a place of employment where either unionism or nonunionism excludes an applicant from employment. Anno: 95 ALR 11.

closed shop basis. An arrangement wherein an employer agrees to employ no workmen who do not belong to a union. *Fenske Bros. v Upholsterers'*

[211]

International Union, 358 Ill 239, 193 NE 112, 97 ALR 1318.

See **closed shop**.

closed trial or hearing. A trial conducted in private, not in open court. 53 Am J1st Trial § 36; an investigation by an administrative body which is closed to the public. 2 Am J2d Admin L §§ 258, 412.

closed union. A labor union whose membership is limited in number. 31 Am J Rev ed Lab § 57.

closed venire. A list of names of persons to be summoned for jury duty which is complete in the sense that the names of the prospective jurors are listed and there shall be no further selection for such venire. 31 Am J Rev ed Jur § 91.

close letters. See **close writs; literae clausae**.

closely built up. A term for a heavily populated area. 7 Am J2d Auto § 191.

closely related occupation. See **directly essential to production**.

close port. An inland port, situated on a river.

close rolls. English public records of close writs. See 2 Bl Comm 346.

close-time. Same as **closed season**.

close writs. Letters or grants from the king, sealed with his great seal, but directed to particular persons, and for particular purposes, and which, not being proper for public inspection, were closed up and sealed on the outside. They were also called literae clausae. See 2 Bl Comm 346.

closing. Making the final argument; summing up. Completing a transaction, particularly a contract for the sale of real estate, in execution of the contract.

See **rest**.

closing agreement. The rarely used formal agreement for determining liability for federal taxes with a degree of finality otherwise achieved only through a court decision; in effect, a mutual release which binds both parties. IRC § 7121; *Proctor v White* [DC Mass] 28 F Supp 161.

closing statement. The closing argument or summation by counsel in a trial.

cloth. The clergy; woven material used primarily for wearing apparel.

clothed with a public interest. Something of public consequence and affecting the community at large. 16 Am J2d Const L § 317.

A business is clothed with a public interest where the circumstances are such as to create a close relation between the public and the persons engaged in the business and raise implications of an affirmative obligation on the latter to be reasonable in

dealing with the public. Charles Wolfe Packing Co. v Court of Industrial Relations, 262 US 522, 67 L Ed 1103, 43 S Ct 630, 27 ALR 1280.

clothing. See **wearing apparel.**

cloud on title. An outstanding instrument, record, claim unreleased encumbrance, or defectively executed deed in the chain of title, which superficially renders the title doubtful but is actually illegal or unenforceable for want of equity in enforcement and of which equity will take cognizance in a suit for cancellation of the offending instrument or the quieting of the title against the defect or imperfection. 13 Am J2d Cane Inst § 50; 44 Am J1st Quiet T § 11; a semblance of title, either legal or equitable, or a claim of a right in lands, appearing in some legal form, but which is, in fact, invalid, or which it would be inequitable to enforce. 44 Am J1st Quiet T § 11.

cloud seeding. An attempt to control natural phenomena by artificial means, that is, by scattering certain chemical substances in a cloud from an airplane.

The purpose is usually to promote rainfall, but, at times, to suppress hail and lightning. 1 Am J2d Adj L § 40; 3 Am J2d Agri § 6.

clough. A valley.

cloven hoof. See **neat cattle.**

club. An organization or association of persons who meet together for the purpose of social intercourse or some common object such as the pursuit of literature, science, politics, art, and athletic pursuits or sports, such as swimming, tennis, and golf. United Cerebral Palsy Asso. v Zoning Board of Adjustment, 382 Pa 67, 114 A2d 331, 52 ALR2d 1093.

clubhouse. A building, plain or elaborate, used for the indoor activities, entertainment, and refreshment of the members of a club and their guests. Anno: 52 ALR2d 1098.

C. O. Abbreviation for company, also for county.

C. O. Abbreviation for commanding officer, also for conscientious objector.

c/o. Abbreviation for care of, also for carried over.

coach. A word of variable meaning, applied originally to a commodious horse-drawn vehicle, now applied to some motor vehicles particularly large vehicles which carry passengers for hire; a car on a passenger train where passengers paying regular fare are accommodated; an airplane, or section of an airplane, operated by an airline for the accommodation of passengers carried at an economy rate.

See **coaching.**

coaching. Instructing a witness before he takes the stand, an unobjectionable practice so long as it is confined to instruction calculated to lessen the ordeal of testifying, explaining what is expected in the demeanor of a witness, but becoming highly objectionable when it comes to the point of telling the witness what his testimony shall be; whispering or signaling to a witness on the stand for the purpose of influencing his testimony.

coadjutor. An assistant, particularly the assistant of a bishop or other prelate of the church of England.

coadministrator. One of two or more administrators appointed by the court to act jointly in the administration of the estate of a decedent.

coadunatio. A conspiracy.

coadventure. See **joint adventure.**

coafforest. To convert clear land into a forest, or to increase a forest.

coagent. An agent acting jointly with another agent; an accomplice.

coal and minerals. A broad term, sometimes held to include oil and gas, where appearing in a deed or reservation in a deed. Gibson v Sellars (Ky) 252 SW2d 911, 37 ALR2d 1435.

For practical purposes, the right to coal consists in the right to mine it. What makes the right to mine coal valuable is that it can be exercised with profit. A statute making it commercially impracticable to

[212]

mine certain coal has very nearly the same effect for constitutional purposes as appropriating or destroying it. Pennsylvania Coal Co. v Mahon , 260 US 393, 67 L Ed 322, 43 S Ct 158, 28 ALR 1321.

coal chamber. An underground space or room created in mining coal. 36 Am J1st Min & M § 181.

coal hole. An aperture in a sidewalk, close to a building, through which, coal or other dry product in grains or chunks may be shoveled so as to reach the basement of the building.

coal mine. See **mine.**

coal mining. See **mining.**

coal mining lease. See **mining lease.**

coal note. A kind of promissory note used at the port of London.

coal oil. See **kerosene.**

coal tar colors. Food coloring made from coal tar, the use of which in food renders the food adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act, unless the coloring is from a batch duly certified and listed as a product harmless and suitable for use in food. 21 USC § 342(c).

coal tipple. A devise whereby railroad cars loaded with coal are unloaded by shaking them; an elevated structure in railroad yards or in coal mines to which coal is elevated and stored temporarily, to be released into railroad cars, aided by the force of gravity.

coassignee. One of two or more persons to whom an assignment has been made.

coast. The seaboard. Pacific Milling & Elevator Co. v Portland, 65 Or 349, 133 P 72.

See **coasting.**

coast and geodetic survey. An operation of the Department of Commerce for the benefit of mariners, pilots, aircraft pilots, land surveyors, radio engineers, scientists, and others, its major activities being the surveying and charting of the coasts of the United States and its possessions to insure the safe navigation of coastal and intracoastal waters; the surveying of lakes, rivers, and other inland waters by hydrographic and topographic methods; the fixing of geographical positions and elevations in the interior of the country, thereby providing a framework for mapping and other engineering work studying tides and currents and making tables thereof; compiling aeronautical charts, making seismological, gravitational, and astronomical observations and compiling the data obtained thereby to assist in designing structures resistant to earthquakes and providing data for scientific investigation of the crust of the earth.

coaster. A vehicle without power used by children in riding on a hill; a sled.

See **coasting vessel**.

coasting. Operating a motor vehicle on a grade with the motor disengaged. 8 Am J2d Auto § 687; the sport of traveling downhill on snow in a sled; engaging in the coasting trade.

See **coasting trade**.

coasting license. The license of a ship or vessel to engage in the coasting trade. See 48 Am J1st Ship § 48.

coasting trade. Domestic trade as distinguished from foreign trade; commerce between ports of the United States, including trade on interior rivers or lakes, along the coasts, Alaska and with the outlying territories and insular possessions of the United States. 48 Am J1st Ship § 50.

coasting vessel. A ship often called a "coaster," plying exclusively between domestic ports; a ship engaged in coasting or domestic trade, as distinguished from foreign trade. 48 Am J1st Ship § 50; a vessel on a course near to and following the coast. 12 Am J2d Boats § 1.

The fact that an ocean going steamer may touch at some other port of the United States, after leaving her port of departure does not make her a coaster. See *Belden v Chase*, 150 US 674, 696, 37 1, Ed 1218, 1226, 14 S Cf 264.

See **coasting trade**.

coat of arms. See **arms; insignia**.

cobelligerent. Allied in war.

coca leaves. A material containing the substance of a narcotic drug. 25 Am J2d Drugs § 34.

cocket. A custom house seal; a certificate issued by a customs officer showing the payment of duties.

cockfight. A contest, usually to the death of a participant, in which gamecocks are pitted in combat. Anna: 82 ALR2d 821 § 6.

cock-loft. A nickname for the English Court of the Vice-Chancellor.

cockpit. The meeting-room of the English privy council at Westminster, the place from which small watercraft and small airplanes are controlled; a region where many battles have been fought; the space in which cockfights are held.

cocktail. A drink, strong, stimulating, and cold, made of spirits, bitters, and a little sugar, with various aromatic or stimulating additions or substitutions. The two most popular cocktails are the martini and the manhattan, the basis of which respectively is gin and whiskey. The daiquiri, which is made from rum, is also a popular drink. 30 Am J Rev ed Intox L § 15.

cocoa leaves. See **coca leaves**.

C. O. D. Abbreviation for collect on delivery. 1 Am J2d Abbr § 7.

See **collect on delivery**.

code. The published statutes of a jurisdiction, arranged in a systematic form by chapters and sections; a part of the statutes of a jurisdiction, such as a Commercial Code, or practice Code; the official or authenticated book or books of statutes; a systematic and complete body of law, Johnson v Harrison, 47 Minn 575, 578; a codification of the entire body of law, or of the entire body of law on a distinct subject, compiled by a selective process, including some modifications of, and additions to, pre-existing law, and made official through legislative adoption, Central of Georgia Railway Co. v State, 104 Ga 831, 31 SE 531; Litchfield v Roper 192 NC 202, 205, 134 SE 651; a set of signs or symbols used in sending messages for the purpose of secrecy.

Code Civil. Same as **Code Napoleon**.

Code Napoleon. A codification of French law made during the reign of Napoleon I and at his direction.

Code of Federal Regulations. An orderly arrangement of the general and permanent rules promulgated by the executive departments and agencies of the United States and published in the Federal Reg

[213]

ister, the code itself being published as a special edition of the register.

Code of Military Justice. A code which embraces, unifies, consolidates, and codifies the disciplinary laws governing the Armed Forces of the United States, replacing the Articles of War. 10 USC §§ 801-940.

codex. A code.

codicil. Some addition to or qualification of one's last will and testament. Codicils were formerly actually attached to the will, but now if the codicil is a separate document referring to and ratifying the will it may be said to incorporate the will by reference. 57 Am J1st Wills § 605.

codification. A code; the process of making a code covering the whole law or particular subject of the law.

See **code**.

Coe Case. An important decision by the United States Supreme Court on the effect of a foreign judgment of divorce as res judicata on the issue of jurisdiction where the defendant, a nonresident, appeared in the action but did not raise the issue of jurisdiction. Coe v Coe, 334 US 378, 92 L Ed 1451, 68 S Ct 1094, 1 ALR2d 1376.

coemployee. A fellow servant. Shank v Edison Electric Illuminating Co. 225 Pa 393, 74 A 210.

coemptio. A fictitious sale of an estate to relieve it of sacrificial duties attached to it; a marriage ceremony depicting the sale of bride and groom to one another.

See the derivative term **coemption**.

coemption. The buying up of a commodity for the purpose of obtaining a monopoly and controlling the price; under the Roman law, a civil marriage contract in which both parties contributed money.

coercion. Compulsion by the application of physical or mental force or persuasion. A word descriptive of the result of an act rather than a designation of an act. NLRB v Grower-Shipper Vegetable Asso. (CA9) 122 F2d 368. A form of abuse of process. 1 Am J2d Abuse P § 9. The compulsion, presumed by some, especially older, authorities, to have been exercised by a husband upon the wife for the commission of a crime which was committed by her in his presence. 21 Am J2d Crim L § 102; As a defense to an action upon a written instrument:-importunity which destroys the free agency of person subjected and substitutes the will of another in place of his own, Gomillion v Forsythe, 218 SC 211, 62 SE2d 297, 53 ALR2d 169; As an unfair labor practice:-physical or mental persuasion by affirmative conduct. 31 Am J Rev ed Lab § 226; As an excuse for the commission of an act, otherwise criminal a present, imminent, and impending physical or mental force of such a nature as to induce a well-grounded apprehension of death or serious bodily injury if the act is not done. State v St. Clair (Mo) 262 SW2d 25, 40 ALR2d 903.

See **duress**.

coercion in fact. That duress of person or goods, where the present liberty of person or immediate possession of goods is so needful and desirable, as that an action or proceedings at law to recover them will not at all answer the pressing purpose. Adrico Realty Corp. v New York, 250 NY 29, 164 NE 732, 64 ALR 1.

coexecutors. Two or more persons appointed to act jointly in the administration of a testator's estate.

coffee agreement. See **Inter-American Coffee Agreement**.

coffee break. A short rest period, now generally accepted as a condition of employment. Mitchell v Greinetz (CA 10 Colo) 235 F2d 621, 61 ALR2d 956.

cofferer of the queen's household. A principal officer of the royal court, being a paymaster.

cogger. Slang for a cheat or swindler.

cogging. Slang for cheating by means of caged or loaded dice.

Cogitationis poenam nemo patitur. No one suffers punishment for mere intent. State v Taylor, 47 Or 455, 84 P 82.

Cogito ergo sum. I think, therefore I am. The fundamental maxim of the philosophy of Descartes.

cognac. A brandy named for a region of France. Benson v United States (CA5 Tex) 10 F2d 309.

cognates. Relatives on the mother's side or by females. See 2 Bl Comm 235.

cognati. Blood relatives traced through the mother or other females. See 2 Bl Comm 235.

cognatio. (Roman law.) Relationship; blood relationship.

cognition. Relationship by ties of blood or family.

cognisance. Same as **cognizance**.

cognitio. Same as **cognizance**.

cognitionibus admittendis. A writ requiring an officer to certify to the court of common pleas a list of the fines which had been paid, the payment of which had not been reported.

cognizable. Within the jurisdiction of a specific court or tribunal.

cognizance. Acknowledgment; recognition; jurisdiction. Precisely, the assumption of jurisdiction. *Kendall v United States* (US) 12 Pet 524, 622, 9 L Ed 1181, 1220.

cognizance of pleas. The exclusive right or franchise of trying cases within a particular limited jurisdiction. See 3 Bl Comm 298.

cognizance of the cause. A term often invoked in determining priority of jurisdiction as between courts having concurrent jurisdiction, signifying that some step has been taken in a court in reference to a cause, such as the issuance of process, entertaining a motion, etc., so that the cause is pending. 20 Am J2d Cts § 136.

cognizant. Legally qualified to take jurisdiction.

cognizee. The person to whom a fine of land was levied. See 2 Bl Comm 351.

cognizor. A party levying a fine of land. He was thus designated from his acknowledgment or recognition of the right of the complainant to recover the land in question. See 2 Bl Comm 350.

cognomen. A name, especially the family name of a person; a nickname.

[214]

cognosce. To give judgment; to adjudge; to adjudicate.

cognoscere. To acknowledge.

cognovit. See **cognovit actionem; cognovit note.**

cognovit actionem. Confession of judgment after service of process; instead of entering a plea, acknowledging and Confessing that the plaintiff's cause of action is just and right. 30A Am J Rev ed Judgm § 156.

Cognovit actionem reicta verificatione. The defendant's abandonment of his defense or plea which he has interposed in the action. 30A Am J Rev ed Judgm § 156.

cognovit note. A promissory note which contains a provision authorizing an attorney, agent, or other representative to confess judgment on the instrument and direct entry of such judgment. 11 Am J2d B & N § 199.

cognustre. To acknowledge.

coguardian. One of two or more joint guardians.

cohabit. To live together as man and wife; to live together as though the conjugal relation existed. 2 Am J2d Adult § 1; to have sexual intercourse illegally. *Martin v Commonwealth*, 195 Va 1107, 87 SE2d 574.

cohabitation. A dwelling together of man and woman in the same place in the manner of husband and wife. 2 Am J2d Adult § 1. The word does not necessarily imply sexual intercourse but may mean simply that a man holds out to the world as his wife more than one woman, and that he provides homes for them, supports them, and acknowledges them as his wives. 10 Am J2d Big § 5.

See **matrimonial cohabitation.**

cohabiting. See **cohabit; cohabitation.**

cohaeredes. Coheirs; joint heirs.

Cohaeredes una persona censentur, propter unitatem juris quod habent. Coheirs are regarded as one person because they hold under unity of right.

cohaeres. Same as **coheir.**

coheir. A joint heir; a person who succeeds or inherits jointly with another, or with other, heirs; an heir who takes as joint tenant with another, or with other, heirs.

coif. A cap worn by sergeants-at-law in the English courts.

See **Order of the Coif.**

coin. Noun: A piece of metal, made, stamped as of a certain value, and declared by law to be money; the die used in stamping money. Verb: To stamp metal and convert it to a piece of money. Boric v Trott (Pa) 5 Phila 366, 403. To coin money means to mould into form a metallic substance of intrinsic value, and stamp on it its legal value, so as to encourage and facilitate its free circulation and assure stability in the currency. Griswold v Hepburn, 63 Ky (2 Duv) 20 29. To coin money means to make money out of coin and nothing else. To coin money cannot mean to coin it out of paper. Thayer v Hedges, 22 Ind 282, 306.

See **adulterated coin; base coin; counterfeit coin; current coin; gold coinage; hard money; imbasing of money; money; silver coinage; specie.**

coinage. The process of coining money; the system and the principles regulating and governing the production of the metal currency of the country.

coiner. One who coins money; a counterfeiter.

coinheritance. A joint inheritance.

coin money. See **coin.**

coin operated amusement or gaming device. A slot machine. United States v Korpan, 345 US 271, 1 L Ed 2d 1337. 77 S Ct 1099.

See **silver coinage.**

coinsurance. Literally, two or more policies of insurance issued by different insurers covering the same risk; in modern insurance parlance, a relative division of the risk between insurer and the insured, dependent upon the relative amount of the policy and the actual value of the property insured thereby. 29A Am J Rev ed Ins § 1548.

See **coinsurance clause.**

coinsurance clause. A clause in a contract of insurance which in substance requires the insured to maintain insurance on the property covered by the policy in a certain amount, and stipulates that upon his failure to do so, the insured shall be a coinsurer and bear his proportionate part of the loss on the deficit in the coverage. 29A Am J Rev ed Ins § 1548.

coinsurer. One of two or more insurers who have issued policies covering the same risk, and who contribute ratably in case of loss. Chesbrough v Home Ins. Co. 61 Mich 333, 335; the position or status of the insured under a coinsurance clause.

See **coinsurance clause.**

coition. Copulation; sexual intercourse; the consummation of marriage. Anonymous, 89 Ala 291, 7 So 100.

coitus. Copulation; sexual intercourse.

coitus interruptus. Withdrawal before emission. 4 Am J2d Annul § 6.

cojudices. Associate judges.

Coke. A renowned English jurist who served as Lord Chief Justice of England and contributed notably in opinions and legal articles to the development of the common law.

See **Institutes of Coke; Littleton.**

col. An abbreviation of the word "colored," used with reference to a person. Collins v Oklahoma State Hospital, 76 Okla 229, 184 P 946, 7 ALR 895, 899.

cold storage. The preservation of food by storage in a room where the temperature is kept at a low degree, sometimes in a refrigerating vault or chamber, yet not necessarily at a temperature below freezing for all foods in the place. Allen v Somers, 73 Conn 355, 47 A 653.

cold-wall method. A term descriptive of a method of handling milk in the dairyman's barn. Southside Co-op. Milk, etc. Asso. 198 Va 108, 92 SE2d 353.

cold-water ordeal. A trial by ordeal in which the defendant was thrown into cold water; if he sank, he was deemed innocent; if he floated, he was found guilty.

colessee. One of two or more joint lessees.

colessor. One of two or more joint lessors.

colibertus. A tenant in free socage who was nevertheless under a duty of rendering some service to the lord.

[215]

Co. Litt. An abbreviation of Coke's Littleton.

See **Institutes of Coke; Littleton.**

collapse. Falling in or falling together; shrinking so that sides meet; the antithesis of "explosion." Louisville Underwriters v Durland, 123 Ind 544, 24 NE 221.

collapse of building. A falling in, loss of shape, or flattening of a building, or some other disastrous occurrence which causes a building to lose its distinctive character as a building. Central Mut. Ins. Co. v Royal, 269 Ala 372, 113 So 2d 680, 72 ALR2d 1283.

collapsible corporation. A corporation organized under a prearranged plan for its liquidation before there is opportunity for it to realize any or any substantial taxable income. IRC § 341.

collat. Abbreviation for **collateral**.

collateral. Noun: Stocks or bonds accompanying an obligation as security therefor; a collateral relative. Adjective: Accompanying in the sense of going side by side, as security accompanying the principal obligation.

collateral act. An act the performance of which is secured by a bond.

collateral agreement. See **collateral contract**.

collateral ancestors. A paradoxical term, since ancestors are those persons from whom one is lineally or directly descended, but occasionally used for aunts, uncles, and other collateral relatives of older generations. Banks v Walker (NY) 3 Barb Ch 438, 446.

collateral assurance. A deed or conveyance made subsequently to the original one for the purpose of perfecting the grantee's title.

See **covenant for further assurance**.

collateral attack. Attempting to impeach or challenging the integrity of a judgment, decree, or order in an action or proceeding other than that in which the judgment, decree, or order was rendered, other than by appeal from, or review of, the judgment, decree, or order, and other than an action or proceeding instituted for the express purpose of annulling, correcting, or modifying the judgment, decree, or order, or enjoining its execution. Morrill v Morrill, 20 Or 96, 25 P 362; an attack upon a judgment, decree, or order offered, in an action or proceeding other than that in which it was obtained, in support of the allegations or contentions of an adversary in the action or proceeding, as where the judgment is offered in support of a title or as a foundation for applying the doctrine of res judicata. 30A Am J Rev ed Judgm § 851.

An attack is collateral if made upon a judgment in an action that has an independent purpose other than impeaching a judgment, even though impeaching the particular judgment may be essential to the success of the action. Hoverstad v First Nat. Bank & Trust Co. 76 SD 119, 74 NW2d 48, 56 ALR2d 938.

collateral attack on judgment. See **collateral attack**.

collateral consanguinity. A blood relationship between persons under a descent from a common ancestor but by different lines; the relationship between persons who descend from the same stirps or root but who do not lineally descend from each other. One's brothers and cousins are his collateral relatives, that is, in collateral consanguinity with him. 23 Am J2d Desc & D § 42.

collateral contract. A contract prior to, or contemporaneous with, a deed, which, if not incorporated in the deed, is not effective to limit the estate conveyed or bind directly the use of the property included in the grant, but may be given effect as a personal covenant binding upon the parties and persons in privity of estate and having notice. 28 Am J2d Est § 137.

See **collateral contract doctrine**.

collateral contract doctrine. An exception to the parol evidence rule, similar in many respects to the doctrine of partial integration, which permits proof by parol of a separate and independent verbal contract between the parties to a written contract under the principle that the parol evidence rule does not affect a purely collateral contract distinct from, and independent of, the written agreement. 36 Am J2d Ev § 1016.

collateral covenant. A covenant in a deed which does not relate to the grant.

See **collateral contract**.

collateral descent. Descent to collateral relatives, as from brother to brother, cousin to cousin, etc. Anno: 54 ALR2d 1009.

collaterales et socii. Masters in chancery.

collateral estoppel. Another expression for the doctrine of estoppel by judgment or, as used in some instances, for the doctrine of res judicata. 30A Am J Rev ed Judgm § 328; the doctrine of res judicata in relation to administrative agencies. 2 Am J2d Admin L § 324.

See **estoppel by judgment; res judicata**.

collateral facts. Facts which are inadmissible in evidence because they are incapable of affording any reasonable presumption or inference as to the principal fact or matter in dispute. Darling v Westmoreland, 52 NH 401.

collateral fraud. Same as **extrinsic fraud**.

collateral guaranty. An anomalous expression, since a guaranty is inherently collateral, being collateral to the principal obligation, but used by way of emphasizing the existence of a guaranty in the strict sense of the term, in which the obligation of the guarantor is to pay if the principal shall fail to pay or perform, as distinguished from a suretyship, in which the surety is obligated under a direct promise or undertaking to pay or perform. Nading v McGregor, 121 Ind 465, 23 NE 283.

collateral heir. An heir by collateral descent, such as a brother or cousin. Anno: 54 ALR2d 1009.

collateral impeachment. A collateral attack. Racey v Racey, 12 Okla 650, 73 P 305.

See **collateral attack**.

collateral inheritance tax. An inheritance or succession tax on the devolution of property under the laws of descent or under a will to the collateral relatives of the decedent or persons other than the spouse, descendants, or parents of the decedent. 28 Am J Rev ed Inher T § 11.

collateral issues. Issues arising in a case which do not involve the merits of the controversy.

See **collateral facts**.

collateral kinsmen. Blood relatives of a person other than his lineal relatives.

See **collateral consanguinity**.

collateral limitation. A limitation provided for in a conveyance which gives an interest for a prescribed

[216]

period, but makes the right to possess or enjoy the thing conveyed to depend upon some collateral event. Templeman v Gibbs, 86 Tex 358, 362, 24 SW 792.

collateral matter. See **collateral facts.**

collateral power. A power, otherwise known as a "naked power" or "power without interest," to dispose of property, given to a stranger, that is, one having no interest or estate in the property. *Columbia Trust Co. v Christopher*, 133 Ky 335, 344, 117 SW 943.

collateral proceeding. An action or proceeding wherein a judgment is attacked collaterally, that is, without seeking directly the overturning of the judgment. *Alford v Guffy (Ky)* 115 SW 216, 217.

See **collateral attack.**

collateral promise to answer for the debt of another. An undertaking which renders the promisor a guarantor or surety upon a debt owing by a third person who is primarily liable; a promise to pay the debt of another person made under such circumstances that, as between the debtor and the promisor, the former should pay. 49 Am J1st Stat of F § 61; an undertaking by a person not before liable for the purpose of securing or performing the same duties for which the party for whom the undertaking is made continues liable. *Goldsmith v Erwin (CA4 NC)* 183 F2d 432, 20 ALR2d 240.

collateral relative. See **collateral consanguinity.**

collateral security. An additional security, in the form of an article of value or an evidence of indebtedness, for the payment of a debt, or the performance of an obligation, whether the debt or obligation be antecedent or newly created, designed to increase the means of the creditor or obligee to realize upon the debt or obligation, and given to the creditor or obligee to be held by him as subsidiary to the principal debt or obligation and as running parallel with such debt or obligation, so that when it is collected by the creditor or obligee, the proceeds are to go to the credit of the principal debt or obligation, or, if the principal debt or obligation be paid, satisfied, or performed without realizing upon the collateral, the latter shall be returned to the debtor or obligor. *Seanor & Bierer v McLaughlin*, 165 P 150, 30 A 717.

collateral source rule. The rule of damages that benefits received by the plaintiff from a source wholly independent of and collateral to the wrongdoer will not diminish the damages otherwise recoverable. 22 Am J2d Damg § 206.

collateral succession tax. See **collateral inheritance tax.**

collateral undertaking. See **collateral contract; collateral promise to answer for the debt of another.**

collateral warranty. A warranty of a title made by a person who is a stranger to the title. As a general rule, the covenant of a stranger to the title is personal to the covenantee and is incapable of transmission by a mere conveyance of the land. 20 Am J2d Cov § 36.

collatio bonorum. Collation of advancements or hotchpot.

collation. The comparison of a copy with the original document.

See **collation of advancements; collation of seals; collation to a benefice.**

collatione facta uni post mortem alterius. A writ commanding the justices to issue their writ to the bishop to admit a clerk instead of one who has died since he was appointed by the king.

collation of advancements. the grouping with the assets of a decedent's estate of an intestate's estate of the value of property given by him by way of advancement to heirs or distributecs during his lifetime, so that the whole may be divided so far as

possible in accordance with the statutes of descent and distribution, each share being charged with what has already been received.

collation of seals. A comparison of seals.

collation to a benefice. The conferring of a benefice by a bishop who holds the patronage.

collatio signorum. A corrrparison of seals.

collect. To receive payment; to do that which may be lawfully done by the holder of the obligation to secure its payment or liquidation after its maturity. *Hutson v Rankin*, 36 Idaho 169, 213 P 345, 33 ALR 91, 95. As used in a statute allowing an employer of an injured employee to "collect" indemnity from the wrongdoer, the word imports an act of payment without reference to the legal grounds on which payment may be demanded. The word is not usually employed in a statute creating legal liability. *Walters v Eagle Indem. Co.* 166 Tern 383, 61 SW2d 666, 88 ALR 654.

collecting agent. An agent of an insurance company who is authorized to accept payment of the premium. 29 Am J Rev ed Ins § 560.

collect in the ordinary way. A direction which authorizes the employment of a bank as a subagent for the purpose of collecting. 3 Am J2d Agency § 1 37.

collection. A group of things assemhled, as a collection of rocks; an item of business of a collection agency or, as the term is sometimes used, of a lawyer in the commercial line; the act of receiving payment of a debt, whether payment be voluntary or compelled by legal action or process.

See **costs of collection; deposit for collection.**

collection agency. A person or firm engaged in the business of collecting or receiving for payment claims of all kinds on behalf of others. 15 Am J2d Collect § 1.

See **collection service.**

collection district. One of the districts into which the United States is divided for the purpose of the collection of customs duties. 21 Am J2d Cust D § 60.

collection service. A collection agency; a business, otherwise known as a skip-tracing agency, which provides creditors with mailing materials and other services to assist them in the collection of accounts by helping them locate delinquent debtors and by uncovering financial and other information about such debtors. 15 Am J2d Collect § 1.

collective bargaining. A course of conduct or process calculated to insure freedom of negotiation in the settlement of issues involved in labor disputes and to facilitate an arrival at equitable understandings respecting hours of employment, wages, working conditions, and other matters of concern in employer-employee relationships. The negotiation of terms and conditions of employment between an organization acting on behalf of the employed, and an employer, or association of employers, in contradis-

recognized both by the courts and statutes. No longer can there be doubt that a labor union when authorized by its members may make contracts in their behalf. 31 Am J Rev ed Lab § 86. As contemplated by the National Labor Relations Act, collective bargaining is a procedure looking toward the making of a collective agreement between the employer and the accredited representative of his employees concerning wages, hours and other conditions of employment. It requires that the parties involved deal with each other with an open and fair mind and sincerely endeavor to overcome obstacles or difficulties existing between the employer and the employees to the end that employment relations may be stabilized and obstruction to the free flow of commerce prevented. NLRB v Boss Mfg. Co. (CA7) 118 F2d 187.

collective bargaining agreement. See **collective labor agreement.**

collective bargaining unit. As defined by statute, the term means all of the employees of one employer except where a majority of such employees engaged in a single craft, division, department, or plant, shall have voted to constitute such group a separate bargaining unit. Re International Asso. of Machinists, 249 Wis 112, 23 NW2d 489; 174 ALR 1267.

collective examination. A form of examination of jurors whereby questions are put to the jurors in the box collectively, each juror answering as answers are required. Ordinarily, this form of examination is used for statutory or routine questions, after which counsel interrogates each juror individually. 31 Am J Rev ed Jur § 137.

collective facts rule. See **composite facts rule.**

collective labor agreement. An agreement, sometimes known as a "collective bargaining agreement" or "trade agreement," reached by bargaining as to wages and conditions of work, entered into by groups of employees, usually organized into a union or brotherhood, on one side, and an employer or groups of employers on the other side. Anno: 88 L Ed 776; 31 Am J Rev ed Lab § 90. A contract between the employer and the employees acting through the agency of the representative organization or group. 31 Am J Rev ed Lab § 91.

It is not the equivalent of an individual contract of employment between the employer and each employee, but an agreement between the representative organization and employer laying down certain conditions of employment which, it is contemplated, are to be incorporated in the separate contracts of hiring with each employee. MacKay v Loew's, Inc. (CA9 Cal) 182 F2d 170, 18 ALR2d 348.

Such an agreement may be a brief statement of labor and wages, or, on the other hand, it may take the form of a book or an exhaustive pamphlet regulating, in greatest minuteness, every condition under which labor is to be performed, and touching upon such subjects as strikes, lockouts, walkouts, seniority, apprentices, shop conditions, safety devices, and group insurance. Rentschler N Missouri Pacific R. R. Co. 126 Neb 493, 253 NW 694, 95 ALR 1.

collective naturalization. The admission to citizenship of considerable bodies of persons by treaty or by act of Congress. 3 Am J2d Aliens § 131.

collective trademark. A device, mark, label, or symbol used to identify a fraternal benefit society, insurance company, or trade association. R. M. Hollingshead Corp. v Davics-Young Soap Co. 28 Cust & Pat App (Pat) 1286, 121 F2d 500.

collect on delivery. A provision, usually abbreviated to c.o.d., in a contract of shipment, whereby the carrier undertakes to collect from the consignee, upon delivery, a specified amount for and on behalf of the consignor, in addition to the carrier's own charges. 13 Am J2d Car § 454.

collector. A special administrator appointed by the court to collect and preserve a decedent's estate pending the appointment of an executor or administrator; one who collects accounts receivable for another person or business; one who collects taxes or duties due the United States, a state, or public body, such as a collector of customs or tax collector.

collector of births and burials. An English officer whose duty it is to make weekly reports of the births and burials to the magistrates.

collector of customs. An officer of the United States for the collection of customs duties and the performance of such other duties as the Secretary of the Treasury may prescribe. 5 USC § 281; 21 Am J2d Cust D § 64.

For some purposes, the term "collector" means collector of customs and includes assistant collector of customs, deputy collector of customs, and any person authorized by law or by regulations of the Secretary of the Treasury to perform the duties of a collector of customs. 19 USC § 1401(h).

collector of the port. A collector of customs.

See **collector of customs.**

collega. A co-officer or appointee.

collegatarius. A co-legatee, a beneficiary named with another or with others in a will.

college. An institution of learning, having corporate powers, and possessing the right to confer degrees, and which, with reference to its educational work, consists of the trustees, teachers, and scholars or students, all of whom make up the membership of the college and represent its active work. 15 Am J2d Colleges § 1; an institution of higher learning, usually incorporated, admitting graduates of approved high schools and preparatory schools, and offering them instruction in arts, letters, and sciences, leading to a bachelor's degree; a building or group of buildings in which students are housed, fed, instructed, and governed while qualifying for university degrees, whether the university includes a number of colleges or a single college. Yale University v New Haven, 71 Conn 316, 42 A 87.

See **electoral college.**

college education. The education attained by attending college. The term "completion of a college education" ordinarily means the completion of the four-year undergraduate course culminating in a bachelor of arts degree, but not post graduate work. Epstein v Juvin, 25 NJ Super 210, 95 A2d 753, 36 ALR2d 1320. The term "college education," ap

[218]

pearing in a decree requiring a parent to provide for the education of a child includes maintenance of the child for four years in college and the incidents thereto, such as board, lodging and laundry, for the full twelve months of each of the four years, but to be confined to a four-year undergraduate course leading to a bachelor's degree, and not to include post graduate work. Anno: 36 ALR2d 1325-1329.

college fraternities. See **fraternities.**

college graduate. See **graduate.**

collegia. Corporations.

collegialiter. As a corporation.

collegiate church. An English church which has a chapter consisting of a dean, canons and prebends, but which has no bishop's see.

collegium. A corporation; to college; an ecclesiastical body which is not controlled by the state. See 1 Bl Comm 469.

See **universitas.**

Collegium est societas plurium corporum simul habitantium. A college is a society composed of many persons living together.

collide. To strike or dash against each other; to come into collision. *Carey v Pacific Gas & Electric Co.* 75 Cal App 129, 242 P 97.

See **collision.**

colliery. A coal mine.

collendum bona defuncti. The collection of the goods of a decedent.

See **collector.**

collision. The act of striking or dashing together of two bodies, the meeting and mutual striking or clashing of two or more moving bodies or of a moving body with a stationary body. *Great American Mot. Indem. Co. v Jones*, 111 Ohio St 84, 144 NE 596, 35 ALR 1023. A risk of loss covered by an automobile insurance policy. 7 Am J2d Auto Ins § 57.

See **collision of aircraft; collision of automobiles; collision of vessels.**

collision insurance. A kind of automobile insurance which, under customary practices of the business of insurance, appears as one of the risks covered by a more comprehensive policy. 7 Am J2d Auto Ins § 57. The coverage of collision insurance naturally depends upon the meaning attributable to the term "collision."

See **collision; collision of automobiles.**

collision of aircraft. Mid air collisions and ground collisions between aircraft; a collision between an aircraft and another vehicle. 8 Am J2d Avi § 92.

collision of automobiles. The impact of two or more motor vehicles. If unlimited by other provisions of the policy, the term "collision," in an automobile insurance policy covering the risk of collision, means coming in contact with anything that could be described as an object, irrespective of whether it is moving or stationary or whether it is on the same plane or level as the motor vehicle which hit it. Anno: 23 ALR2d 398; 7 Am J2d Auto Ins § 59. The term "collision" in a motor carrier liability policy has been held to include contact between the load on a truck with an object, such as an overhead bridge, but it is not to be said under the present state of the authorities, that this is a view which is certain to be followed in all jurisdictions. 29A Am J Rev ed Ins § 1357.

collision of motor vehicles. See **collision of automobiles.**

collision of vessels. The conning together with force of two navigating vessels. 2 Am J2d Adm § 56; the impact of a vessel with another vessel or other floating object. 29A Am J Rev ed Ins § 1317; ; a peril of the sea within the meaning of a marine insurance policy. 29A Am J Rev ed Ins § 1316.

Within the meaning of a marine insurance policy, a ship is in collision when the circumstances can be fairly described, within the ordinary use of language, as amounting to a collision. An impairment of seaworthiness or a vessel caused by contact with another is not essential to the collision, and vessels may be in collision, although one is temporarily aground, at anchor, or at her dock. In this country the term has in time and by common usage been extended to include the impact of the vessel with other floating objects. But the English cases hold that the term applies only to the striking together of two navigable vessels, and that it does not apply to a case where a vessel runs into a sunken object, or a stationary or permanent obstruction; and in the United States it has been held no collision where a vessel strikes some sunken obstruction in the water. 29A Am J Rev ed Ins § 1317.

collistrigium. The pillory.

collitigant. A person who litigates with another or against another.

collocation. A classification of the creditors of an estate made for the purpose of paving them off in proper order.

colloquium. The allegations in a complaint, declaration, or petition in an action for libel or slander which point to the plaintiff its the person defamed, allegations of specific facts being required by the common law, general allegations that the defamatory matter was published or spoken of the plaintiff being sufficient under life statutes of many jurisdictions. 33 Am J1st L & S § 240.

collude. To enter into a collusion.

collusion. An agreement between two or more persons to defraud another of his rights by the forms of law or to secure an object forbidden by law. Warren v Union Bank, 157 NY 259, 51 NE 1056. An agreement, between persons interested in bidding in the letting of a contract for construction of a public improvement, which has for its purpose the suppression or diminishing of competition between bidders. 43 Am J1st Pub Wks § 15. As as defense in a divorce case: an agreement between a husband and wife to obtain or facilitate the obtaining of a divorce by having the accused spouse commit, or appear to commit, or be falsely represented in court as having committed, an act which constitutes a ground for divorce, or to suppress or refrain from presenting evidence which would prove or tend to prove a defense to an action for divorce. 24 Am J2d Div & S § 190.

collusive. Resulting from or tainted with collusion.

See **collusion**.

collusive action. See **collusive suit**.

collusive bids. See **collusion**.

collusive divorce. A divorce obtained by collusion between the parties.

See **collusion**.

collusive spoliation. The damaging of a vessel, which is a tort within admiralty jurisdiction. 2 Am J2d Adm § 78.

[219]

collusive suit. An action brought by collusion, without any real controversy to adjudicate. Haley v Eureka County Bank, 21 Nev 127, 26 P 64; an action intended to obtain a judicial opinion rather than to decide and determine an actual and existing controversy. 1 Am J2d Actions § 56.

collybist. A money changer.

collybum. (Civil law.) Exchange; the rate of exchange.

Colonel. An officer of the army, usually in command of a regiment, and ranking just below a brigadier general, an honorary title conferred formally or informally upon a person worthy of respect.

colonial. Pertaining to the colonies of the English government, known as the American colonies; pertaining to colonies; subservient rather than free and independent.

colonial court. Any of the courts held in the colonies before Independence.

colonial laws. The laws enacted by the legislatures of the American colonies of England, prior to the Revolutionary War; laws enacted in the colonies of Great Britain.

colonna. See **di colonna.**

colonus. A serf; a husbandman.

colony. A body of emigrants who settle abroad, but who remain loyal to their mother country; a dependency; territory attached to a nation known as the mother country, by ties of allegiance and usually by economic and political compacts or arrangements.

color. Mere semblance of a legal right. *State ex rel. West v Des Moines*, 96 Iowa 521, 65 NW 818; a characteristic of some races of men, but of primary legal significance in reference to Negroes; a personal characteristic of vivid quality, usually with some measure of flamboyance.

See **colored; colored person; color of title.**

colorable case. See **colorable cause.**

colorable cause. A case which upon the facts stated in a complaint or accusation is sufficient to invoke the jurisdiction of an inferior court to issue process. *Broom v Douglass*, 175 Ala 268, 57 So 860.

colorable claim. A claim which superficially is proper and well-founded, but may actually be invalid; a claim to property by a person in possession against the demand of a trustee in bankruptcy for possession, made in bad faith and without legal justification or so lacking in substance and merit as to amount to a mere pretense. 9 Am J2d Bankr § 52.

colorable imitation. An imitation calculated to deceive.

colorable invocation of jurisdiction. See **colorable cause.**

colorable transaction. A transaction which presents an appearance which does not correspond with the reality and is intended to conceal or to deceive. *Osborn v Osborn*, 102 Kan 890, 172 P 23.

See **fraudulent conveyance.**

color blindness. An absence or great weakness of the sensations upon which the power of distinguishing colors must be founded. It is not a mere incapacity for distinguishing colors, for this might be due to lack of training. *Kane v Chicago, Burlington & Quincy Railroad Co.* 90 Neb 112, 114, 132 NW 920.

colore. See **ex colore.**

colored. As applied to a person, one of a colored race, which ordinarily means a Negro. *Collins v Oklahoma State Hospital*, 76 Okla 229, 184 P 946, 7 ALR 895, 899.

colored person. Literally, one of a race other than the white race, but generally understood, in the absence of a statutory definition to the contrary, to mean persons of Negro blood, the black people of Africa, known as Negroes, and their descendants of mixed or unmixed blood, at least those with a predominance of Negro blood. 35 Am J1st Mar § 146; 47 Am J1st Sch § 216.

See **Negro.**

colore offcii. Color of office.

color of authority. Authority derived from an election or appointment, however irregular or informal, so that the incumbent is not a mere volunteer. State ex rel. Brockmeier v Ely, 16 ND 569, 113 NW 711.

color of law. Mere semblance of a legal right. State ex rel. West v Des Moines, 96 Iowa 521, 65 NW 818.

color of office. An expression for acts performed by an officer which are entirely outside of or beyond the authority conferred by the office. Haffner v United States Fidelity & Guaranty Co. 35 Idaho 517, 207 P 716; Wilson v Fowler, 88 Md 601, 42 A 201.

color of title. The appearance but not the reality in title. 27 Am J1st Improv § 11; that which gives the semblance or appearance of title, but is not title in fact--that which, on its face, professes to pass title, but fails to do so because of a want of title in the person from whom it comes or the employment of an ineffective means of conveyance. 3 Am J2d Adv P § 96.

colorgal. A liquid used in taking an X-ray picture of an organ of the body by injecting it so as to render the organ opaque. United States Fidelity & G. Co. v Wickline, 103 Neb 681, 173 NW 689.

colportage. The sending forth of persons to labor for the spread of the Gospel by distributing religious books and tracts. Anno: 17 ALR 1052.

colporteur. A person who travels for the sale and distribution of religious tracts and books; a hawker and peddler, especially, in modern usage, a peddler of religious books. Will of Fuller, 75 Wis 431, 436.

colt. An animal of the horse family, not more than three years old, or even younger, depending upon local terminology; a young person with little experience.

columbarium. A building containing niches in which are placed urns containing the ashes of the deceased after cremation. 14 Am J2d Cem § 1.

comaker. A joint maker.

See **joint maker.**

combat. Noun: A fight or battle. Verb: To fight; to engage in battle. As the word appears in a clause excepting injuries received in combat, the term imports causation, aggression or fault on the part of the insured. 29A Am J Rev ed Ins § 1201.

See **mutual combat.**

combe. A narrow valley.

[220]

combination. An object produced by uniting two or more objects; a combine in the sense of something creating a monopoly; an invention, that is, an instrument created by bringing elements in composition. 40 Am J1st Pat § 19.

See **combine.**

combine. An agreement or arrangement which is illegal under anti-trust statutes or statutes intended to prevent monopolies in that it tends to create a monopoly or is in restraint of trade, or involves a delegation of corporate powers and is inimical to the public welfare. 36 Am J1st Monop etc § 132; a farm implement by which the cutting and threshing of grain is performed in one operation.

combined bill. A bill in equity combining a supplemental bill and a bill of revivor. See 27 Am J 2d Eq § 179.

comburgess. An inhabitant of the same borough as another.

combustio. A burning.

combustio domorum. The burning of houses,-arson.

combustio pecuniae. The testing of money by melting it.

come. To appear in court.

comes. An introductory word in a formalized pleading, indicating an appearance to plead, for example, "Now comes the defendant, and answering the complaint of the plaintiff, states as follows," etc. (Latin). A comrade or associate.

come semble. As it seems.

comes stabuli. Count of the stable; a constable. See 1 Bl Comm 355.

comfort. Consolation; freedom from want; pleasure; satisfaction; reasonable physical, spiritual, and mental enjoyment. Everett v Paschall, 61 Wash 47, 111 P 879; National Surety Co. v Jarrett, 95 W Va 420, 121 SE 291, 36 ALR 1171, 1176.

comfortable enjoyment. Mental quiet and physical comfort. Everett v Paschall, 61 Wash 47, 111 P 879.

coming to a nuisance. The doctrine, which is now against the weight of authority, that one who moves into the neighborhood of an existing nuisance cannot complain of it. 39 Am J1st Nuis § 197.

coming to rest. A doctrine, applied to the loading and unloading clause of a truck liability policy, which limits the coverage in unloading to the period of the actual removing or lifting of the article from the motor vehicle, which is deemed to terminate the moment when the article which was taken off the vehicle has actually come to rest and every connection of the motor vehicle with the process of unloading has ceased. Stammer v Kitzmiller, 226 Wis 348, 276 N W 629.

cominus. Hand to hand; in close combat.

comitas. Comity; courtesy.

comitas inter communitates. Comity between states. Re Perkins, 2 Cal 424, 448.

comitate. Comity; courtesy.

comitatus. A county. The word is probably derived from the Frankish word "count," meaning an earl or alderman of a shire, to whom the government of it was intrusted. This he usually exercised by his deputy, still called in Latin "vicecomes," and in English, the "sheriff," "shrieve," or "shire-reeve," signifying the officer of the shire upon whom, in course of time, the civil administration of it totally devolved. See 1 Bl Comm 116.

See **posse comitatus.**

comites. Plural of comes; attendants; companions.

comitia. (Roman law.) Assemblies of the people.

comitia centuriata. An assembly of the Romans in which they voted by centuries or hundreds.

comitia curiata. A Roman assembly which was composed of thirty patricians.

comitia tributa. An assembly of the Romans in which they voted by tribes or neighborhoods.

comitissa. A countess.

comitiva. The office of an earl or count.

comity. Literally, courtesy or civility, to which the law adds some refinements in defining the term for the purposes of conflicts of laws and international law:-Neither a matter of absolute obligation on the one hand nor a mere courtesy and good will on the other, but the recognition which one nation or state allows within its territory to the legislative, executive, or judicial acts of another nation or state, having due regard both to international duty and convenience and to the rights of its own citizens or of other persons who are under the protection of its laws. 16 Am J2d Confl L § 4; 30 Am J Rev ed Internat L § 6.

comity inter gentes. The comity of or between nations.

comity of nations. The extent to which the law of one state or nation is allowed to operate within the dominion of another. 16 Am J2d Confl L § 4.

See **comity**.

comma. A punctuation mark. The comma and semicolon are both used for the same purpose, namely, to divide sentences and parts of sentences, the only difference being that the semicolon makes the division a little more pronounced than the comma; but at the last it is the sense of the words, taken together, that dictates where the punctuation marks are to be placed, and what they shall be. Holmes v Phenix Ins. Co. (CA8 Mo) 98 F 240.

command. See **request; require; required**.

commander-in-chief. See **President of the United States**.

commanditaire. A silent partner.

commandite. A special partnership.

commandment. An ancient English offense consisting of directing or commanding a person to do an unlawful act.

commark. A frontier; a boundary.

comme. (French.) As, since, because; whereas.

commencement of action. Demanding something by the institution of process in a court of justice. Cohen v Virginia (US) € Wheat 408, 5 L Ed 257. In some jurisdictions, the issuance of process is the commencement of an action; in other jurisdictions an action is not commenced until the process is delivered to the sheriff or other officer for the purpose of having him serve it upon the defendant; in still other jurisdictions, an action is not commenced until the process is actually served. 1 Am J2d Ac

tions § 86. An attempt to commence an action is sometimes deemed the equivalent of the commencement of an action. *Goldenberg v Murphy*, 108 US 162. 27 L Ed 686, 2 S Ct 388.

commencement of action at law. At common law, an action was commenced and pending from the first moment of the day on which the writ was issued and bore teste. *Newman v Chapman*, 23 Va (2 Rand) 93.

For definition in accord with modern practice, see **commencement of action**.

commencement of a prosecution. See **commencement of criminal proceeding**.

commencement of criminal proceeding. A phrase variously defined, some authorities saying that a criminal proceeding is commenced on the filing of a complaint, preliminary information, or affidavit, others saying that the issuance of a warrant for arrest and the placing of it in the hands of an officer for service is the commencement of a criminal proceeding, and still others insisting that the arrest is the commencement of such a proceeding.

There is, moreover, authority for the view that a prosecution for a felony is not commenced before the return of an indictment or information, notwithstanding the prior arrest of the accused and his commitment, such view being that all proceedings prior to indictment or information are only preliminary to a prosecution. 21 Am J2d Crim L § 3.

commencement of suit in equity. The filing of a bill or complaint in the office of the clerk of the court. 27 Am J2d Eq § 177.

For more modern view as to the commencement of an action, see **commencement of action**.

commencement of risk. See **inception of risk**.

commencement of work. According to some authority, the time at which a mechanic's lien, at least an inchoate lien, attaches to the property under improvement. 36 Am J1st Mech L § 167. The term means some work and labor on the ground, the effects of which are apparent-easily seen by everybody-such as beginning to dig the foundation, or work of like description, which everyone can readily see and recognize as the commencement of a building. *English v Olympic Auditorium*, 217 Cal 631, 20 P2d 946, 87 ALR 1281.

commend. To praise; to recommend; to place under the care of another.

commenda. An association in which the management of the property of the association was entrusted to individuals. The delivery of a benefice to one not of a status to permit him to hold legal title.

commendam. The appointment of a temporary clergyman to hold a living pending the appointment of a regular parson.

commenda recipere. To receive a commended living.

commenda retinere. To retain a commended living.

commendatio. A recommendation; praise.

commendation. Praise; recommendation; the voluntary subjection of a freeman to a lord in order that he might secure the lord's protection.

commendator. A person holding a benefice in commendan, that is, pending the appointment of a regular parson.

commendatory letters. Letters of recommendation; letters of credence from a bishop in behalf of travelers from his diocese.

commendatus. Voluntary service rendered to a superior.

comment. Remarks, observation, or criticism; gossip, discourse, talk; a note or observation intended to explain, illustrate, or criticise the meaning of a writing, book, etc.; explanation; annotation; exposition. *United States v Dorr* (Philippine Sup Ct) Appx, 47 L Ed 1187, 23 S Ct 859.

See **fair comment; unfair comment.**

commentary. Comment on one's observations in the form of notes; annotations or notes appended to the literary product of another. 18 Am J2d Copyr § 12.

Coke's commentaries on Littleton. See **Institutes of Coke.**

commerce. A term of broader significance than trade. 36 Am J1st Monop etc. § 157; buying and selling, traffic, intercourse for the purpose of trade, comprising every species of commercial intercourse. 15 Am J2d Com § 2; including the purchase, sale, exchanging, leasing, and distribution of commodities. *Bindcrup v Pathe Exchange*, 263 US 291, 68 L Ed 308, 44 S Ct 96; navigation and the transit of persons and property into the ports of the United States, navigation and the transit of persons and property. *Mobile County v Kimball*, 102 US 702, 26 I. Ed 241; the transportation of persons and property as a business. *Guinness v King County*, 32 Wash 2d 503, 202 P2d 737, 6 ALR2d 1361; as the term appears in the Fair Labor Standards Act: -trade, commerce, transportation, transmission, or communication among the several states or between any state and any place outside thereof. 29 USC § 203(6); 31 Am J Rev ed Lab § 642.

The original definition of commerce connoting the exchange of merchandise on a large scale between different places or communities has been greatly enlarged, but the term still suggests that the transaction must be something other than trivial or incidental to a person's real purpose. *Chauncey v Kinnaird (Ky)* 279 SW2d 27, 51 ALR2d 1190.

See **foreign commerce; interstate commerce.**

commerce among the several states. See **among the several states; interstate commerce.**

commerce and trade. Business enterprises, not necessarily involving trading in merchandise. *Frick v Webb*, 263 US 326, 68 1. Ed 323. 44 S Ct 115.

See **commerce.**

commerce clause. The third clause of the eighth section of the first article of the United States Constitution providing that Congress shall have power to regulate commerce with foreign nations, and among the several states, and with the Indian tribes.

Commerce Court. A court established by act of Congress of June 18, 1910, part of which was superseded by chapter 9 of the Judicial Code, and was abolished by act of October 3, 1913. Its jurisdiction embraced only complaints of affirmative action by the Interstate Commerce Commission.

commerce with foreign nations. See **commerce; foreign commerce.**

commerce with the Indian tribes. Commerce with the Indian tribes and with the Indians of the Indian tribes. 27 Am J1st Indians § 54.

commercial. Pertaining to the purchase and sale or exchange of goods and commodities and connoting as well forms of, and occupations in, business enterprises not involved in trading in merchandise; in a broad sense, embracing every phase of commercial and business activity and intercourse. *Jordan v Tashiro*, 278 US 123, 73 L Ed 214, 49 S Ct 47.

commercial agency. Literally, the agency of a commercial agent; a collection agency; in a more refined sense, an agency for the collection of past due accounts arising out of commercial transactions, that is, transactions not involving consumers. 15 Am J2d Collect § 1; a person, firm, or corporation engaged in the business of collecting information relating to the financial standing, credit, character, responsibility, and general reputation of persons, firms, and corporations engaged in business, and furnishing this information to subscribers for a consideration. 15 Am J2d Collect § 3.

commercial agent. Another term for a broker in merchandise; one who sells merchandise by sample, catalogue, or otherwise, without having possession of the goods. *Re Orville S. Wilson* (Dist Col) 8 Mackey 341. The term is also used to designate a consular officer in charge of the commercial interests of his country at a foreign port.

See **commercial agency**.

commercial airline. A carrier of freight and passengers by air. 8 Am J2d Avi § 38.

commercial bank. The ordinary bank of deposit and discount, with checking accounts, as distinguished from a savings bank operating on the mutual system in which the depositors are entitled to receive the profits of the business as dividends and in which withdrawal of a deposit is made only by presentation of the customer's passbook by him at the bank, no provision being made for checking against an account. 10 Am J2d Banks § 4.

commercial blockade. An instrumentality of naval warfare by which the forces of one belligerent interdict commerce between the other belligerent and neutral nations by investing the ports of the other belligerent with such forces as effectively to prevent ingress and egress. 56 Am J1st War § 171.

commercial bribery. Giving or receiving a gift for the purpose of influencing any agent to discharge improperly a duty entrusted to him by a private individual or corporation. 12 Am J2d Brib § 17. As an unfair trade practice this vice of commercial bribery is the advantage which one competitor secures over his fellow competitors by his secret and corrupt dealing with employees or agents of prospective purchasers. *American Distilling Co. v Wisconsin Liquor Co.* (CA7 Wis) 104 F2d 582, 123 ALR 739.

commercial broker. A broker in merchandise who negotiates sales without having possession or control of the goods. *Adkins v Richmond*, 98 Va 91, 34 SE 967.

See **commission merchant**.

commercial club. An organization of merchants and other businessmen of a village or small city which performs on a lesser scale the functions of a chamber of commerce in a larger city, promoting business in general, lending encouragement to new businesses, seeking new industries, working for improvement in highway traffic, better schools, more efficient public offices, and a fair tax structure, and sometimes promoting social relations between the members, at least to the extent of having semi-weekly luncheons.

Commercial Code. One of the uniform laws; a compilation of principles formulated through the joint efforts of the National Conference of Commissioners on Uniform State Laws and the American Law Institute dealing with most aspects of commercial transactions. 15 Am J2d Coin C § 1.

Commercial commodity. Any commodity which may be transported and which is an article which may be bought and sold in the markets of the country. Gas in the earth may not be a commercial commodity, but when brought to the surface and placed in

pipes for transportation it must assume that character as completely as coal in the cars. *State of Indiana ex rel. Corwin v Indiana & Ohio, Oil, Gas & Mining Co.* 120 Ind 575, 22 NE 778.

commercial corporation. A corporation engaged in a business, the business which it is chartered to conduct and which it pursues for profit, not for charitable, benevolent, or social purposes. *Union Oil Associates v Johnson*, 2 Cal 2d 727, 43 P2d 291, 98 ALR 1499.

commercial domicil. A domicil acquired by residence in a country for the purposes of trading. 25 Am J2d Dour § 12.

A corporation is domiciled and has its residence in the state of its creation, although it engages in business elsewhere under local authority and has a "business situs" or "commercial domicil" there for taxation and other purposes. *State v Garford Trucking*, 4 NJ 346, 72 A 2d 851, 16 ALR2d 1407.

commercial fertilizer. See **fertilizer**.

commercial frustration. An event which excuses nonperformance of a contract because it substantially frustrates the objects contemplated by the parties when they made the contract; an event which robs the contract of a foundation. 17 Am J2d Contr § 401. A prime example of commercial frustration is the situation where the subject matter of an executory contract is, because of wartime conditions, put under government control or requisitioned. 17 Am J2d Contr § 435.

commercial impracticable. Words which depict a situation involved in the performance of a contract which could not have been within the contemplation of the parties at the time the contract was made. *Naylor, B. & Co. v Krainische Industrie Gesellschaft (Eng)* 118 LT NS 442.

See **commercial frustration**.

commercial law. The law which relates to shipping, insurance, exchange of money, brokerage, bills of exchange, promissory notes, and other matters of concern to merchants and traders throughout the world, being, on account of the world wide extent of the operations which it governs, the least localized of legal systems with the exception only of international law. *Brooklyn City & Newton R. R. Co. v National Bank of the Republic*, 102 US (12 Otto) 14, 55, 26 L Ed 61, 76.

commercial letter of credit. See **letter of credit**.

commercially marketable mineral product. The salable product of a mine, not necessarily salable at a profit. *United States v Cannelton Sewer Pipe Co.* 364 US 76, 4 L Ed 2d 1581, 80 S Ct 1581.

commercial paper. Negotiable instruments, drafts, checks, certificates of deposit, and promissory

[223]

notes. The term also includes bearer bonds where such are not specifically excluded from the classification by statute. 11 Am J2d B & N § 8.

The Uniform Commercial Code classifies paper in commercial transactions as "money paper," which is "commercial paper," "investment paper," and "commodity paper." Comment to UCC §§ 3-104, 7-104, 8-101.

See **bills of exchange; checks; promissory notes**.

commercial partnerships. Partnerships organized for the purpose of conducting trade or commerce; a more refined classification, made by statute in some jurisdictions, of partnerships formed for the purchase and sale of personal property as principals, or as factors or brokers, or for the carriage of personal property for hire in ships or other vessels. 40 Am J1st Partn § 11.

commercial railroad. A term applied to the former "interurbans" which operated between cities but ran part of their tracks on the streets or used the tracks of street car lines, carrying both passengers and freight. *Anhalt v Waterloo, C. F. & N. Ry. Co.* 166 Iowa 479, 147 NW 928; *McClintock v Richlands Brick Corp.* 152 Va 1, 145 SE 425, 61 ALR 1033.

commercial services by railroads. Services furnished by railroads not essential to the actual transportation of the goods. *Baltimore & O. R. Co. v United States (DC NY)* 20 F Supp 273.

commercial situs. See **business situs.**

commercial traveler. See **traveling salesmen.**

commercial use. Use in a business in which one is engaged for profit. *Lintern v Zentz*, 327 Mich 595, 42 NW2d 753, 18 ALR2d 713 (defining term as used in exception from coverage of an automobile liability policy); not necessarily exclusive of "use for business or pleasure." Anno: 18 ALR2d 721.

See **business use.**

commercial vehicle. A motor vehicle used other than for pleasure or private convenience of the owner. 7 Am J2d Auto § 69.

commercium. Commerce.

Commercium jure gentium commune esse debet et non in monopolium et privatum paucorum quaestum convertendum. By the law of nations, commerce ought to be common and not converted into a monopoly and the private profit of a few persons.

commimatorium. An admonition inserted in a writ, cautioning the sheriff to exercise diligence.

comminatory. Threatening; coercive.

commingling of funds. A term often applied to the act of an agent, broker, attorney at law, or trustee in mingling the funds of his client, customer, or cestui with his own funds; the act of a fiduciary in mingling funds of different trusts. 54 Am J1st Trusts § 320; the act of a trustee in combining a trust fund with other funds in making an investment. 54 Am J1st Trusts § 396; the act of a guardian in mingling the funds of the ward with his own funds. 25 Am J1st G & W § 94.

commingling of goods. Confusion of goods. 1 Am J2d Access § 1.

comminate. To macerate; to tear up; to reduce to minute particles; to crush or pulverize. *Nordell v International Filter Co.* (CA7 Ill) 119 F2d 948.

commis. (French.) An agent.

commissari lex. (Roman law.) The right of a seller who extends credit to rescind the sale upon the buyer's default in payment.

commissariat. The branch of the service in an army responsible for furnishing food and supplies. The jurisdiction of a commissary.

commissionary. An ecclesiastical officer whose functions were similar to those of all archdeacon. An older title for the officer of an army in command of the commissariat.

See **commissariat.**

commissary court. A supreme court having a jurisdiction which was formerly exercised by the bishop's commissioners.

commission. A word of various meanings, one of the most common of which is that of a public board, usually an administrative body, such as a tax commission or civil service commission. 2 Am J2d Admin L § 8; an authority; a writ; an authorization; a written authority from a competent source given to a public officer as the warrant for the exercise of the powers and duties of the office which he occupies. 42 Am J1st Pub Of § 115; the authority under which a deposition is taken. 23 Am J2d Dep § 22; a fee or compensation calculated on a percentage basis, particularly the compensation of a sales agent; a form under which interest is charged in advance. Anno: 57 ALR2d 649-651.

commission-agent. An agent who buys or sells on commission.

See **commission merchant.**

commission day. The opening day of the assizes.

commission del credere. See **del credere commission.**

commission de lunatico inquirendo. Same as **commission of lunacy.**

commissioned officer. One who holds as evidence of right to office a commission signed by the president. Stephens v Civil Service Comm. 101 NJL 192, 127 A 808; any civil officer who has a written commission as evidence of his authority to hold and execute the authority of an office; one who holds rank in the military service under a commission issued by the proper authority.

commissioner. A person having a commission, letters patent, or other lawful warrant, to examine any matters, or to execute any public office such as a commissioner of public safety in a city. Morris Canal & Banking Co. v State, 14 NJL 411, 428; one of the members of an administrative board or commission, 2 Am J2d Admin L § 8.

commissioner of banks. See **bank commissioner.**

commissioner of court. An officer of an admiralty court to whom certain matters in controversy are referred. 2 Am J2d Adm § 195; a person appointed to conduct a judicial sale. 30A Am J Rev ed Jud S § 37; a lawyer appointed to act as a court in hearing cases in order to clear a congested calendar.

See **commission of appeals.**

commissioner of deeds. An officer authorized to take acknowledgments and to perform other acts of the same nature as those performed by a notary public;

[224]

an officer authorized to take outside the state air acknowledgment of a deed or other instrument to be used within the state.

Commissioner of Internal Revenue. The head of the Internal Revenue Service, provision for the office being made by the Internal Revenue Code. 26 USC § 7801.

commissioner of jury. See **jury commissioner.**

Commissioner of Patents. The head of the bureau operating under the Secretary of the Interior, known as the Patent Office, whose primary duty is that of passing upon the merit of applications for letters patent. 40 Am J1st Pats §§ 10, 11.

Commissioner of United States. See **United States Commissioner.**

commissioners in partition. See **partition commissioners.**

commissioners of bail. Officers appointed by the court to take bail in cases of arrest on civil process.

commissioners of bankrupt. Persons who were appointed by the lord chancellor to act as a body to inquire and examine into the affairs of a bankrupt. 2 Bl Comm 480.

commissioners of highways. Local officers clothed with the duty of laying out and maintaining the public highways within their districts.

State highway commissioners. See **Highway Commission.**

commissioners of municipality. Officers forming the commission of a municipality, usually with the mayor, under the commission form of government. 37 Am J 1st Mun Corp §§ 72 et seq.

commissioners of oyer and terminer. See **oyer and terminer.**

commissioners of sewers. Members of a sewer commission in a city having such a commission separate from a street commission; a one-time temporary tribunal in England having jurisdiction over repairs of sea banks and sea walls, the cleansing of rivers, public streams, ditches and other conduits by which any waters are carried off. This jurisdiction was limited to the particular county or district specified in the appointment of the body. 3 Bl Comm 73.

commission form of government. A system of municipal government, the details of which differ in different states but whose characteristic feature is the delegation of all executive and legislative powers to a single board consisting of a mayor and a very limited number of other officers, generally not more than four, known as commissioners. See 37 Am J 1st Mun Corp § 72.

commission merchant. A term nearly, if not exactly, synonymous to factor, the term "factor" being more common in the language of the law, and the term "commission merchant" more familiar in the language of commerce. I. J. Cooper Rubber Co. v Johnson, 133 Tenn 562, 182 SW 593.

Some authorities, however, distinguish between commission merchants and factors in defining the former on the point of possession of the goods or merchandise sold, stating that a commission merchant is a person who sells goods in his own name at his own store, and on commission, although from samples, not having the goods in his possession, but obtaining possession as soon as sales are made, and delivering or shipping them to his customers. Slack v Tucker (US) 23 Wall 321, 23 L Ed 143. A commission merchant differs from a broker in that he may buy and sell in his own name without disclosing his principal, while, broker can only buy and sell in the name of his principal.

commission of appeals. A tribunal appointed to relieve an appellate court the calendar of which is overcrowded.

commission of array. A royal command for the drafting of soldiers for the army. See 1 Bl Comm 411.

commission of assize. A commission or authority appointing the justices and serjeants named therein to sit as judges of assize in those years when the justices in eyre did not. See 3 Bl Comm 59.

commission of delegates. Same as **court of delegates.**

commission of gaol delivery. A commission appointed by the court to try all of the prisoners who are confined in a jail.

commission of lunacy. A commission, usually having at least one physician in its membership, appointed to determine whether a person charged with lunacy is in fact a lunatic or of unsound mind, so that provision should be made for safeguarding his person and such property as he may have. Misselwitz's Lunacy, 177 Pa 359, 362, 35 A 722.

commission of nisi prius. An authority or commission which was a consequence of the commission of assize, since it was annexed to the office of the justices of assize by the statute which authorized the commissioners to try all questions of fact issuing out of the courts of Westminster by a jury from the county where the action arose, unless before the day appointed the judges of assize should come into the county in question. See 3 Bl Comm 59.

commission of oyer and terminer. See **oyer and terminer**.

commission of partition. A commission appointed by the court in a suit for the partition of real estate, usually after an interlocutory judgment or decree of partition, to examine the premises, make a preliminary partition thereof, and report back to the court. 40 Am J1st Partit § 76.

commission of rebellion. A commission appointing four commissioners to find and seize the person of a defendant in equity who was in contempt for his failure to appear and plead as required by the subpoena which had been served upon him, and after the sheriff had failed to find him. Matters of equity were at one time determined by the king in person and the contempt in question was in the nature of a rebellion against the king's command. See 3 Bl Comm 444.

commission of review. A commission sometimes granted in extraordinary ecclesiastical cases to revise the sentence of the court of delegates, when it is believed that they have been led into a material error. See 3 Bl Comm 67.

commission of the peace. A commission which issued under the king's great seal appointing justices of the peace. See 1 Bl Comm 351.

Commission of Uniform Laws. See **uniform statutes**.

commission pro aetate prohanda. A commission appointed to determine whether one who was a tenant of the king and who held in chief by chivalry was of full age to receive his lands.

[225]

commission rogatoire. Letters rogatory.

commissions. See **commission**.

commission to examine witnesses. See **commission to take testimony**.

commission to take testimony. The authority under which a deposition is taken. 23 Am J2d Dep § 22.

commisive waste. Voluntary waste, often called actual waste, consisting in such acts as destroying, altering, or removing buildings, or cutting trees. 56 Am J1st Waste § 4. The term contemplates participation, at least to some extent, by the tenant or occupant of the premises. Anno: 84 ALR 394.

commit. To make a commitment; to perpetrate, as to commit burglary.

Under the statute making it an offense to conspire to "commit" an offense against the United States, the word means no more than "bring about." It is not necessary that the conspiracy contemplate that the conspirators or some of them shall

themselves directly break the law. It is quite sufficient if the conspiracy contemplates that that shall be done which does violate the law. *United States v Hipsch* (DC Mo) 34 F Supp 270.

See **commitment**.

commitment. A warrant of authority, otherwise known as a mittimus, for confining a person to prison or jail; the delivery to jail, for want of bail, for detention pending action by the grand jury or trial, of one accused of crime. 21 Am J2d Crim L § 450; the delivery of a person under sentence of confinement to a jail or prison to the institution and the placing of him under confinement therein. *People v Rutan*, 3 Mich 42, 49; the confinement of an insane person. 29 Am J Rev ed Ins Per § 34.

commitment by lawful warrant in deed. A commitment by a warrant in writing. *State v Shaw*, 73 Vt 149, 168, 50 A 863.

commitment by lawful warrant in law. A commitment by lawful warrant in writing or by authority of law without a writing. *State v Shaw*, 73 Vt 149, 50 A 863.

committed in his presence. See **presence**.

committee. A body of persons who have been selected and appointed with authority to perform some public service or duty; the guardian of the person or the property of an insane person.

See **political committee**.

Committee for Industrial Organization. A combination of labor unions, succeeded by the Congress of Industrial Organizations.

Committee of Arbitration. A body created by the Chamber of Commerce in New York City for the arbitration of disputes between merchants and other persons in business and industry, still in existence but inactive for the most part, its field of activity having been taken over by the American Arbitration Association.

committing magistrate. A justice of the peace, mayor, police judge, or other judicial officer authorized to commit a person arrested for crime pending preliminary examination and trial, sometimes trial by a higher court. *State v Rogers*, 31 NM 485, 247 P 828.

committitur. A record entry of a defendant's commitment.

committitur piece. An instrument in writing, charging on execution under a judgment the person of one already in prison. *Bouvier's Law Dict.*

commixtion. The mingling of dry or solid substances belonging to different owners.

commodate. Same its **commodatum**.

commodato. (Spanish.) An agreement for the gratuitous loan of a chattel.

commodatum. The gratuitous loaning of personal property to be used by the bailee and returned in specie. 8 Am J2d Bailm § 5.

commodatum bailment. The gratuitous loaning of personal property to be used by the bailee and returned in specie. *Lowney v Knott*, 85 RI 505, 120 A2d 552, 57 ALR2d 1036.

commodities clause. An important provision of the Hepburn Act of June 29, 1906, regulating interstate commerce, intended to prohibit the transportation in interstate commerce by any railroad company of commodities produced or mined by such company or under its authority, or which it may own in whole or in part, or in which it may have an interest, direct or indirect, except timber and products manufactured from timber and such articles or commodities as may be necessary and intended for use in the business of the railroad company. United States ex rel. Atty. Gen. v Delaware & Hudson Co. 213 US 366, 53 L Ed 836, 29 S Ct 527.

commodity. A useful thing; an article of commerce; a moveable and tangible thing produced or used as the subject of barter or sale. State ex rel. Moose v Frank, 114 Ark 47, 169 SW 333.

See **commercial commodity.**

Commodity Credit Corporation. An agency of the United States operating under its federal charter in supporting prices of agricultural commodities through loans, purchases, and payments; disposing of surplus agricultural commodities; promoting the marketing of agricultural commodities in both domestic and foreign markets; and procuring agricultural commodities in the country for sale to foreign governments, relief agencies, and other government agencies.

commodity rate. A freight rate which applies to one specific commodity alone, as distinguished from a class rate which applies to a number of articles of the same general character. Norfolk Southern Railroad Co. 145 Va 207, 133 SE 817.

commodum. Profit; gain; advantage.

Commodum ejus esse debet cuius periculum est. He who takes the risk should have the profit.

Commodum ex injuria non oritur. An advantage or profit cannot arise from the violation of a legal right. Bird v Holbrook (Eng) 4 Bing 628.

Commodum ex injuria sua non habere debet. One ought not to profit by his own wrong.

common. A right, otherwise known as a "profit à prendre," to be exercised in the land of another, accompanied with participation in the profits of the soil, or a right to take a part of the soil or produce of the land. 25 Am J2d Ease § 4; better known in the popular sense as an area left open for common and public use, for the convenience, accommodation and pleasure of the inhabitants of a municipality. 39 Am J Rev ed Pks & S § 2. In earlier days

[226]

of this country, the common was a place of pasturage for the benefit of the inhabitants of the town or municipality.

commonable beasts. Beasts of the plough or such as manure the ground. See 2 Bl Comm 33.

commonage. The use of a thing by one person in common with other persons.

commonality. The common people, as distinguished from the peers. See 1 Bl Comm 403.

commonance. Persons who have the right of common in an open field.

common ancestor. The same ancestor of two or more persons.

common ancestry. One to whom the ancestry of two or more persons is traced.

common appendant. The prescriptive right of a tenant to feed cattle on land which he does not hold, but which is situate in the same manor.

common appurtenant. The right of a land owner to feed cattle on the land of another.

common assurances. Title deeds.

See **covenant for further assurance.**

common at large. Same as **common in gross.**

common bail. An old form of "bail" given by a defendant in a civil action, intended to serve as an appearance in the action, the sureties being fictitious.

common bar. Also called "blank bar," -a plea interposed in an action of trespass to compel the plaintiff to specify the place of the alleged trespass.

common barrator. See **common barratry.**

common barratry. The offense of frequently exciting or stirring up quarrels between others, several, at least three, acts being required to constitute the offense. 14 Am J2d Champ § 19.

common barretor. See **common barratry.**

common because of vicinage. The mutual licenses of adjoining landowners whereby each of them might feed cattle on the land of the other.

common belief. An opinion of which the legislature may take cognizance, because it is entertained by most of the people of the community, notwithstanding it is not universally accepted and actually may ultimately be shown to be wrong by scientific observations and developments. Jacobson v Massachusetts, 197 US 11, 49 L Ed 643, 25 S Ct 358.

common bench. The English court of common pleas.

common carrier. One who holds himself out to the public as engaged in the business of transporting persons or property from place to place, for compensation, offering his services to the public generally. 13 Am J2d Car § 2. A status dependent upon the activities of the person alleged to be a common carrier and the circumstances under which his services were rendered. 29A Am J Rev ed Ins § 1251. The dominant and controlling factor in determining the status of one as a common carrier is his public profession or holding out by words or by a course of conduct, as to the service offered or performed. Ace-High Dresses v J. C. Trucking Co. 122 Conn 578, 191 A 536, 112 ALR 86. For the purposes of the Federal Powers of Service Act, the status of a company as a common carrier depends upon what it does, not upon the purpose declared by the charter of the company, or how the company is regarded in the state of incorporation. United States v Brooklyn Eastern Dist. Terminal. 249 US 296, 63 L Ed 613, 39 S Ct 283, 16 ALR 527. The determination of the question, whether one engaged in furnishing transportation, or the means of transportation, is to be considered a "common carrier" within the meaning of an insurance contract providing for indemnity or increased payments where injury or death results from an accident while on a conveyance operated by a common carrier, depends upon the activities of the one alleged to be the common carrier and upon the circumstances under which his services were rendered to the insured. Anno: 149 ALR 1293.

common carrier by air. An airplane company or operator of airplanes, catering to the public generally, and undertaking to transport for hire all persons and goods of persons indifferently who apply for passage or transportation. 8 Am J2d .Avi § 38.

common carrier by motor vehicle. A carrier having the status of a common carrier who uses busses, taxicabs, trucks, or other motor vehicles as the means of transportation. 13 Am J2d Car §§ 14, 17. As defined by section 303(a) of the Motor Carrier Act of 1935, "any person who or which undertakes, whether directly or by a lease or any other arrangement, to transport passengers or property, or any class or classes of property, for the general public in interstate or foreign commerce by motor vehicle for compensation, whether over regular or irregular routes, including such motor vehicle operations of carriers by rail or water, and of express or forwarding companies, except to the extent that these operations are subject to the provisions of chapter 1 of this title." Interstate Commerce Com v A. W. Suckle & Co. (DC Okla) 41 F Supp 268.

See **common carrier**.

common carrier by railroad. One who operates a railroad as a means of carrying for the public. *Thornhill v Davis*, 121 SC 49, 113 SE 370, 24 ALR 617.

See **common carrier**.

common carrier of livestock. A common carrier of goods, which transports livestock, is as to the livestock also a common carrier. *Central of Georgia Railway Co. v Hall*, 124 Ga 322, 32 SE 679.

common carrier of passengers. See **common carrier**.

common carrier of property. See **common carrier**.

common carrier's lien. A lien existing independently of contract on goods delivered to a common carrier for carriage, which attaches as soon as the carrier's liability as such begins, and continues until the freight charges, including storage charges, are paid. 13 Am J2d Car § 497.

common chase. A place where all persons might lawfully hunt wild game.

common conspiracy clause. Same as **confederating clause**.

common council. The legislative body of a city or other municipal corporation, except in jurisdictions where the traditional form of municipal government has given way under statute to it commission or manager form. 37 Am J1st Mun Corp § 46.

common counts. The various forms of an action of assumpsit. 1 Am J2d Actions § 13.

See **assumpsit; indebitatus assumpsit; insimul computassent; money counts; money had and re**

[227]

ceived; money lent; money paid; quantum meruit; quantum valebant.

common day. The period of time elapsing between midnight of one day and that of the next.

common debtor. (Scotch.) A debtor whose chattels have been seized by several creditors.

common disaster. A calamitous occurrence causing the death of two or more persons allied in interest as husband and wife, heirs of a common ancestor, or devisees of a common testator, the pertinency of the term in the law involving the succession to property where it is impossible to determine which of the two or more persons who suffered death survived the longest. The disaster which results in the death of two or more persons whose relationship to one another by contract, such as an insurance contract in which one is named as the beneficiary of a policy upon the life of the other, makes the time of death material. 29A Am J Rev ed Ins § 1653.

common drunkard. A person who drinks intoxicating liquors to excess, with habitual frequency. State ex rel. Atty. Gen. v Savage, 89 Ala 1, 7 So 183.

common enemy doctrine. The name applied to the rule of some jurisdictions that there is no wrong in any act undertaken by a landowner for the purpose of repelling surface water. 56 Am J1st Wat § 69.

common enterprise. See **joint enterprise**.

commoner. A member of the house of commons, the lower house of the British parliament; a person belonging to the "commonalty;" a person owing a right of common in the lands of another. See 3 Bl Comm 238.

common error makes law. A maxim to be applied with caution where there has been a long-continued and general error in the observance, construction, or interpretation of the law, and injurious consequences will flow from a contrary construction, interpretation, or method of observance, but not to be applied so as to, in effect, repeal a positive statute. O'Donnell v Glenn, 9 Mont 452, 23 P 1018.

common field. A term of American invention adopted by Congress to designate small tracts of land of a peculiar shape usually from one to three arpents in front by forty arpents in depth, used by the occupants of the French villages for the purposes of cultivation, and protected from the inroads of cattle by a common fence. The peculiar shape of the lot, its contiguity to others of similar shape, and the purposes to which it was applied, constituted it a common field lot. It could not be confounded with lots or tracts of land of any other character. Glasgow v Hortiz, (US) 1 Black 595, 600, 17 L Ed 110, 113.

common fine. A fine imposed upon all the inhabitants of a district.

common fishery. A fishery open to a number of persons, sometimes to the public; a free fishery and a common fishery are usually and properly considered equivalent rights. 35 Am J2d Fish § 6.

common form of probate. See **probate in common form**.

common gambler. One who supports himself chiefly by gaming or who frequently or habitually engages in gambling in violation of law. 24 Am J1st Gaming § 46.

common gaming house. A house kept for the purpose of permitting persons to resort to it and gamble therein in violation of law. 24 Am J2d Disord H § 3.

common highway. A public highway on land or navigable water. As used in Art 9 § 1, of the Constitution that navigable waters "shall be common highways and forever free" the term does not refer to physical obstructions of the waters, but refers to political regulations which would hamper the freedom of commerce. Re Southern Wisconsin Power Co. 140 Wis 245, 122 NW 801.

common humanity rule. See **humanitarian rule**.

commonia turbariae. Same as **common of turbary**.

common informer. Another term for "informer." See **informer**.

common in gross. An easement in gross, that is, a right not supported by a dominant estate but attached to, and vested in, the person to whom it is granted.

See **easement in gross.**

common injunction. A term of the early English practice for an injunction in aid of or as secondary to another equity, as in the case of an injunction to restrain proceedings at law, in order to protect and enforce an equity which could not be pleaded in the action at law. 28 Am J Rev ed Inj § 10.

common injury. An injury of the same kind and character, and such as naturally and necessarily arises from a given cause, but not necessarily similar in degree or equal in amount. If the injury is the same in kind to all, it is a common injury, although one may actually be injured or damaged more than another. Anthony Wilkinson Live Stock Co. v Mclyuhttm, 14 Wyo 209, 83 P 364.

common intendment. According to the ordinary meaning.

common intent. The intent of two or more persons acting in concert to commit a specific crime, or to commit acts from which the law will infer a community of intention. Regina v Doddridge (Eng) 8 Cox CC 335. The corrupt intent existing in the minds of the parties to a conspiracy. 16 Am J2d Consp § 9.

common in the soil. The right of a person to mine or quarry on the land of another.

common jail. The building provided by a county or municipality for the custody of persons committed by legal process. 41 Am J1st Pris & P § 2.

common jury. An ordinary trial jury, as distinguished from a grand jury, a special jury, or a coroner's jury; a petit jury.

common labor. As the term is used in statutes prohibiting common labor on Sunday, it cannot in the nature of things be given an exact definition. Courts can only determine whether each case, as it arises, falls within the legislative intention. The term is not restricted to mere manual labor. The execution of ordinary contracts and the transactions to which they relate are within the meaning of the term. Such transactions belong to the ordinary business affairs of life and are as well within the meaning of the term as the work of the farmer in his field, of the mechanic in his shop, or the common laborer upon a public improvement, but the making of a subscription toward a charitable enterprise, such as a church debt, is not common

[228]

labor. Bryan v Watson, 127 Ind 42, 26 NE 666. Neither holding courts nor transacting public business is common labor. State v Thomas, 61 Ohio St 444, 56 NE 276.

common knowledge. A matter is of common knowledge where it is so generally, even if not universally, accepted by the public without qualification or contention, that the courts will accept it without proof. 29 Am J2d Ev § 22.

common law. Those principles, usages and rules of action applicable to the government and security of persons and property which do not rest for their authority upon any express or positive statute or other written declaration, but upon statements of principles found in the decisions of the courts. 15 Am J2d Com L § 1. In a broader sense the common law is the system of rules and declarations of principles from which our judicial ideas and legal definitions are derived, and which are continually expanding; the system being capable of growth and development at the hands of judges. Linkins v Protestant Episcopal Cathedral, 87 App DC 351, 187 F2d 357, 28 ALR2d 521; Ney v Yellow Cab Co. 2 Ill 2d 74, 117 NE2d 74, 51 ALR2d 624.

In its broadest aspect, the common law may be said to be the general Anglo-American system of legal concepts and the traditional technique which forms the basis of the law of the states which have adopted it. 15 Am J2d Com L § 1. The common law of England, in its broadest significance, is the basic component of the common law as adopted by American courts. 15 Am J2d Com L § 6. English statutes enacted before the emigration of the American colonists constituted a part of the common law on its adoption in this country, so far as they were not merely local in character or inapplicable to American institutions and conditions; if such statutes are so far removed in point of time that one must be hesitant in declaring that they are a part of the common law for the purposes of the present, they are nevertheless part of our judicial heritage and should be interpreted and applied accordingly. 15 Am J2d Com L § 7.

As the words are used in the seventh amendment to the United States Constitution providing that "no fact tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law," the common law referred to is not the common law of any individual state (for it probably differs in all), but it is the common law of England, the grand reservoir of all our jurisprudence. Under that law, the facts once tried by a jury are never re-examined, unless a new trial is granted; or unless the judgment of the trial court is reversed by a superior tribunal, on a writ of error, and a *venire facias de novo* is awarded. Capital Traction Co. v Hof, 174 US 1, 8, 43 L Ed 873, 876, 18 S Ct 580.

See **federal common law; proceeding according to the course of the common law; unwritten law.**

common-law action. See **action at common law.**

common-law actionable negligence. The failure of one owing a duty to another to do what a reasonable and prudent person would ordinarily have done under the circumstances, or doing what such a person would not have done. Pratt v Daly, 55 Ariz 535, 104 P2d 147, 130 ALR 341.

See **negligence.**

common-law actions. Forms of actions as they existed under the common law, being the *ex contractu* forms of account, *assumpsit*, covenant, and debt, and the *ex delicto* forms of *domicin*, *replevin*, *trover*, *trespass on the case*, *ejectment*, *forcible entry*, and *trespass*. There are also the common-law actions of *dower*, *waste*, the *writ of right*, and the *writ of entry*. 1 Am J2d Actions § 10.

common-law arbitration. A matter of the law of remedies, rather than of the substantive law; arbitration by agreement which designates a specific issue to be decided and includes a provision binding the parties to abide by the award. Corey v Herrick, 146 Wash 283, 263 P 190, 193.

See **arbitration.**

common-law bond. An obligation in writing and under seal. 12 Am J2d Bonds § 1; a bond voluntarily executed by a public officer in the absence of any constitutional or statutory provision requiring him to furnish a bond. 43 Am J1st Pub Of § 411.

common-law jurisdiction. Jurisdiction to try and decide cases which were cognizable by the courts of law under what is known as the common law of England. Re Dean, 83 Me 489, 22 A 385.

common-law jury. A jury of 12 persons, no more and no less, summoned from the vicinity, duly examined, and sworn to try the case on the facts presented by the evidence introduced at the trial. State v James, 96 NJL 132, 114 A 553, 16 ALR 1141.

common-law lien. A lien arising by implication of law, not by contract, which entitles the lienor to retain possession of an article in his possession which belongs to another until certain demands against such other person are satisfied. 33 Am J1st Liens § 16.

common-law marriage. A marriage entered into without ceremony, the parties assuming the relationship of husband and wife inter se by agreement in words of the present tense to be husband and wife, followed, as required in some, but not all jurisdictions, by cohabitation and reputation or repute of marriage. 35 Am J1st Mar § 28.

A common-law marriage depends upon facts and circumstances evidencing a mutual agreement to live together as husband and wife, and not in concubinage. Rodgers v Herron, 226 SC 317, 85 SE2d 104, 48 ALR2d 1241.

common-law meaning. The meaning of a word or expression as known and understood by the common law.

If the legislature makes use of a term without defining it, and it has by the common law received a settled meaning, it will be presumed that it is used in the common-law sense. Hillhouse v Chester (Coon) 3 Day 166.

common-law mortgage. A feoffment on the condition that the feoffer might re-enter if he performed the condition of paying a certain sum of money on a certain date to the feoffee, the transaction also being known as dead pledge, because, upon nonperformance of the condition, the land was lost to the feoffer forever. Anno: 27 L Ed 910.

common law of England. The system of law, which prevails in England, and in the United States by adoption, as distinguished from the Roman or civil law system. 15 Am J2d Com L § 1.

See **common law**.

common-law procedure acts. English statutes enacted in 1852, 1854, and 1860, simplifying the forms of pleading and practice.

common-law receiver. A receiver appointed by a

[229]

court of equity without reference to statutory authority. 45 Am J1st Rec § 3.

common-law trademark. A right, recognized by the common law in the absence of statute, as existing in a trademark by virtue of prior appropriation and use. 52 Am J1st Tradem § 26.

common-law trust. See **business trust**.

common lawyer. A lawyer who is learned in the common law.

commonly. In a manner that is common; usually; generally; ordinarily; frequently; for the most part; familiarly. Webb v New Mexico Pub. Co. 47 NM 279, 141 P2d 333, 148 ALR 1002.

common nightwalker. A person having the habit of being abroad at night for the purpose of committing some crime, or disturbing the peace, or of doing some wrongful or wicked act. State v Dowers, 45 NH 543, 544.

common nuisance. A public nuisance, that is a condition of things which is prejudicial to the health, comfort, safety, property, sense of decency or morals of the citizens at large, resulting either from an act not warranted by law, or from neglect of a duty imposed by law. Nuchols v Commonwealth, 312 Ky 171, 226 SW2d 796, 13 ALR2d 1478; Powell v Bentley & Gerwig Furniture Co. 34 W Va 804, 12 SE 1085.

See **public nuisance**.

common occupant. Where land was granted to a man for the life of another, and the grantee died before the cestui que vie, the land belonged to nobody during the remainder of the life of the cestui que vie, and any man who entered and occupied the land for that period was called common occupant. See 2 Bl Comm 259.

common of estovers. The right a tenant has of taking necessary wood and timber from the woods of the landlord, for fuel, fencing, etc. See 32 Am J1st L & T § 219.

common of fishery. The right that a tenant has of taking fish in the water of the landlord. *Van Rensselaer v Radcliffe* (NY) 10 Wend 639.

See **common fishery.**

common of pasture. A right of feeding the beasts of one person on the lands of another. *Van Rensselaer v Radcliffe* (NY) 10 Wend 639.

common of piseary. The right that a tenant has of taking fish in the waters of the landlord. *Van Rensselaer v Radcliffe* (NY) 10 Wend 639.

See **common fishery.**

common of turbary. The right that a tenant has of cutting turf in the grounds of his landlord. See *Van Rensselaer v Radcliffe* (NY) 10 Wend 639.

common order. The usual order under the practice of some jurisdictions, in the nature of a conditional judgment, directed to a defendant in default for want of an appearance and threatening him with the rendition of an actual judgment against him unless he appear and plead. *Mahoney v New South Bldg. & Loan Asso.* (CC Va) 70 F 513.

common passageway. A hall or stairway in an apartment house which is open to use and used by all tenants, or all tenants on one floor or in one section of the building.

common people. See **commonalty.**

common pleas. A term for civil actions as distinguished from criminal prosecutions.

See **Court of Common Pleas.**

common pleas court. See **Court of Common fleas.**

common probate. See **probate in common form.**

common prostitute. A female who submits indiscriminately to sexual intercourse, irrespective of financial gain. *People v Ward*, 95 Misc 508, 160 NYS 763.

common pur cause de vicinage. Same as common because of vicinage.

common purgation. See **judicium Dei.**

common purpose. See **common intent; prosecution of a common purpose.**

common recovery. A fictitious suit brought by a third person against the holder of an estate in tail with the ultimate object of barring the estate in tail and giving the tenant in tail the power of disposing of the property in fee simple. *Dutton v Donahue*, 44 Wyo 52, 8 112d 90, 79 ALR 1355.

See **Fine and Recoveries Act.**

common return days. Fixed days for appearance of defendants in court.

common right. A right supported by common law; for some purposes, the common law itself. *Coral Gables v Christopher*, 108 Vf 414, 189 A 147, 109 ALR 474; a right that is not absolute in the sense that an absolute right is not to be denied, but is nevertheless entitled to protection against malicious interference. 30 Am J Rev ed Interf § 44; a qualified right which may be exercised only where there is justification therefor, as distinguished from an absolute right which may be exercised without reference to one's motive or to any injury directly resulting therefrom. 30 Am J Rev ed Interf § 51.

common river boundary. See **river boundary**.

common rule. See **entering the common rule**.

commons. In reference to land, the plural of common; the House of Commons, the popular and more powerful body of the British Parliament; freeholders not of the peerage; commoners, that is persons of the commonalty.

common sans nombre. Common without number.

common schools. The public schools as established in the United States: grade schools, grammar schools, and high schools. 47 Am J1st Sch § 3.

common-school system. The system of public schools in the United States that is, the graded, grammar, and high schools. 47 Am J1st Sch § 3.

common scold. A troublesome and angry woman who, by brawling and wrangling among her neighbors, commits a breach of the public peace, increases discord, and becomes a nuisance in the neighborhood. 15 Am J2d Com S § 2.

common seal. The seal of a corporation.

common serjeant. An assistant to the recorder of the City of London.

common socage. Same as **free socage**.

common stock. The kind of stock ordinarily and usually issued by a corporation, without extraordinary rights or privileges, and the kind of stock which, in the absence of other classes of stock hav-

[230]

ing superior rights, represents the complete interest in a corporation. 18 Am J2d Corp § 212.

common thief. A person who persists in the offense of larceny.

common trust fund. A trust fund, held by a bank or trust company as trustee, which is actually a combination of several, sometimes many, trust funds in limited amounts, the funds being mingled for the purpose of efficiency and economy in administration and investment by the trustee.

commony. The commonalty; land which is owned in common and which usually is subject to certain servitudes.

common vouchee. The fictitious party in an action of common recovery who was named by the tenant as his warrantor and grantor. It was the common practice in such a proceeding to name the crier of the court as the common vouchee. 2 Bl Comm 358.

common wall. See **party wall.**

commonweal. Common welfare; the public welfare.

commonwealth. The public; the state the body politic; the English government under Cromwell.

Commonwealth. The association, sometimes called the British Commonwealth, of the United Kingdom with independent nations, dominions, dependencies, protectorates, and trust territories beyond the seas.

common without stint. A frequently used, but erroneous name for the unmeasured right of common; that is a right of common which has not yet been admeasured or apportioned. See 3 Bl Comm 239. It was also called "common sans nombre."

commorancy. In American law, residence for a short time; temporary residence; in English law, dwelling as an inhabitant of a place, which means usually lying there. 4 Bl Comm 273.

commorant. See **commorancy.**

commorientes. Persons who die at the same time.

commote. (Welsh.) Half a hundred.

commotion. A disturbance; turmoil.

See **civil commotion.**

common. See **droit common.**

commune. Verb: To engage in intimate conversation; to take communion. (French.) Noun: A cony munity; the common people; a small administrative unit of government the name given to revolutionary governments; (Latin.) common.

commune bonum. Common good, public welfare.

commune concilium regni. The common council of the realm, an ancient name of the general assembly which came to be known as parliament. See 1 Bl Comm 148.

commune placitum. A common plea; a civil action.

commune socagium. Common socage. Same as free socage.

commune vinculum. The common bond or tie. The common stock of consanguinity. See 2 Bl Comm 250.

communia. Common; ordinary.

communia pasturae. Same as **common of pasture.**

communia piscariae. Same as **common of piscary.**

communia plaeita. Same as **common pleas.**

Communia placita non sequantur curiam regis, sed teneantur in aliquo loco certo. The court of common pleas shall not follow the king's court, but shall be held in some fixed place. 3 Bl Comm 38.

communia turbariae. Common of turbary.

communibus annis. In common or ordinary years; one year with another; upon an average. See 2 Bl Comm 322.

communicable diseases. Infectious diseases.

communicare. To commune.

communicate. To make known; to impart information to give by way of information. Messages of the Senate were communicated to the president. Prevost v Morgenthau, 70 App DC 306, 106 F2d 330.

See **communication.**

communicating additions. An expression, common in fire insurance policies for the purpose of extending the coverage beyond the house or main building to other buildings on the premises used by the household, even though not physically attached to the main building. Frohlich v National Fire Ins. Co. 327 Mich 653, 42 NW2d 657, 19 ALR2d 604.

communication. A statement made in writing or by word of mouth by one person to another; the transfer of information by speech and by acts, signs, and appearances. People v Daghita, 299 NY 194, 86 NE2d 172, 10 ALR2d 1385.

See **privileged communications.**

Communications Act. The federal statute which provides the Federal Communications Commission and prescribes its powers and duties. 44 Am J1st Rad § 6.

By the Communications Act of 1934, jurisdiction over telephone and telegraph companies was transferred from the Interstate Commerce Commission to the Federal Communications Commission. 52 Am J1sl Teleg & T § 42.

Communications Commission. The federal regulatory agency for radio and television, 44 Am J1sl Radio § 6, also for telegraphs and telephones. 52 Am J1st Teleg & T § 42.

comunidad. (Spanish.) A partnership for the purposes of the Bankruptcy Act. Benitez v Bank of Nova Scotia (CA] Puerto Rico) 125 F2d 523.

communi dividendo. A Roman law action for the partition of property held in common.

communings. Offers to deal with or contract.

communio bonorum. A community of goods.

Communi observantia non est recedendum. There must not be a departure from common or general observation or practice. The probable ori-

[231]

gin of this maxim is traced in O'Donnell v Glenn, 9 Mont 452, 23 P 1018.

communis. Common.

communis bancus. The common bench, the English court of common pleas.

Communis error tacit jus. See **common error makes law.**

Communis et recta sententia est, in rebus immobilibus servandum esse jus loci in quo bona cant sita. It is common sense and proper that the law of the place in which the property is situated should control immovable property. Suydam v Williamson (US) 24 How 427, 434, 16 L Ed 742, 745.

communism. In the pristine sense, the ownership of the means of production by the community, each member of the community participating in production according to his ability and sharing in the products according to his need; in common usage of the present day, suggestive of the theories of Marx and Lenin and the politics and authoritarian rule of Stalin and his successors in Russia and the leaders in China since the People's Republic was proclaimed in 1949.

communis opinio. The common opinion. In Coke upon Littleton, the learned author often prefaces the announcement of a legal principle with the words: "It is commonly said." By these words is meant: "It is commonly the legal opinion." To the expression cited, Littleton adds: "That is, it is the common opinion, and communis opinio is good authority in law." O'Donnell v Glenn, 9 Mont 452, 23 P 1018.

communis pacis perturbatrix. A common disturber of the peace.

communis paries. A common wall, a party wall.

communis pugnatrix. A common brawler.

communis rixatrix. Same as common scold.

communis scriptura. A common writing; a deed.

communis stirpes. People of a common stock; a stock of a common ancestry.

Communist. One who believes in communism; a member of the Communist Party.

See **communism.**

communistic tenure. The tenure in which land is held by a religious or other incorporated or unincorporated society, where the members have surrendered to it their property to be held in common for the benefit of all. See 45 Am J1st Reli Soc § 52.

Communist Party. A political party, often the only political party, in various countries, supporting communism in theory, although not absolutely in practice, and upholding authoritarian forms of government; a political party in the United States, numerically weak, but now operating with legality.

See **communism.**

Communist Sympathizer. Essentially the same in the common mind as "Communist." Anno: 33 ALR2d 1212.

communitas regni Angliae. The community of the realm of England,--one of the ancient names of the general council which finally became parliament. See 1 Bl Comm 148.

communiter usitata et approbata. Things which have been commonly used and approved.

community. A town; a municipality; a district; a neighborhood; an entity composed of a husband and his wife, which is quite distinct from that of either, considered separately and individually. As a community they hold property by a different title from that by which they hold title to their separate property. *Stanton v Everett Trust & Sav. hank*, 145 Wash 165, 259 P 10.

See **community estate; community property.**

community center. A place where the people may meet in the pursuit of social, cultural, or recreational activities.

See **recreational center.**

community chest. A fund collected in a city for various charities maintained in the city, the purpose being to avoid the expenses and efforts otherwise required to solicit separately for each of the charities; the organization maintained to administer the collection of the fund and the disbursement thereof to the organization s entitled.

community church. One of the earliest manifestations of the ecumenical movement. The term does not signify a religious association which has distinctive doctrines and beliefs, but rather a federation of two or more churches, all retaining their separate identity and their distinctive doctrines. *Christian Church of Vacaville v Crystal*, 78 Cal App 1, 247 P 605.

community debt. See **community obligation.**

Community estate. A marital estate, incapable of existing except between husband and wife during coverture. 15 Am J2d Community Prop § 6. The estate left by a decedent is called a community estate when it consists wholly of community property. *Gump v Commissioner* (CA9) 124 F2d 540.

See **community property.**

community house. See **community center; tenement house.**

community income. The income from community property and also the earnings of husband or wife or profits or rents realized by either one from his or her business transactions, or property, which become community property. 15 Am J2d Community Prop §§ 35-37,

community obligation. A liability incurred for the benefit, or arising out of the management, of the community. 15 Am J2d Community Prop § 82.

community of intention. See **common intent.**

community of interest. A joint or common interest.

community property. A system, derived by several states through adoption or succession from the Spanish, Mexican, or French law, relative to property rights of husband and wife, the essential principle of which is that the earnings of either spouse by his or her toil and the exercise of his or her productive faculties belong, not to the earning or producing spouse as his or her properly, but to the "community," the entity of husband and wife. 15 Am J2d Community Prop §§ 1, 3; property acquired by either spouse during a marriage, otherwise than by gift, devise, legacy, or descent;

[232]

whatever is gained, during coverture, by the toil, talent, or other productive faculty of either spouse. 15 Am J2d Community Prop § 3.

The foregoing definition is not inclusive of all property rights. For example, the right to practice a profession although not acquired by gift, devise, legacy, or descent, is not to be classed as community property. 15 Am J2d Community Prop § 3.

community recreational center. See **recreational center.**

commutation. A money compensation paid by the government to military officers when it cannot furnish them with quarters at stations. 36 Am J1st Mil § 79.

commutation of homestead entry. A cash payment by a homestead settler on public lands, in lieu of remaining in possession of the land for five years, made to obtain a patent for the land from the government. 42 Am J1st Pub Land § 28.

commutation of punishment. See **commutation of sentence.**

commutation of sentence. The changing of a sentence imposed for crime to less severe punishment; the substitution of a lesser punishment for a greater by authority of law. 39 Am J1st Pard § 8.

commutation of tax. An abatement of a tax; the payment of a designated sum for the privilege of exemption from taxation, or the selection in advance of a specific sum in lieu of an ad valorem tax. It has been held that either of these methods of commutation works an exemption pro tanto from taxation. *Hogg v Mackay*, 23 Or 339, 31 P 779.

See **abatement of taxes.**

commutation of tithes. The payment of tithes in money, instead of produce.

commutation of toll. The reduction or exoneration of payment of tolls for the use of a toll road. 54 Am J1st Turn & T R § 14.

commutation ticket. A ticket issued by a carrier of passengers, at a reduced rate per trip, for a specified number of trips between named stations or points. *Pennsylvania R. Co. v Towers*, 245 US 6, 62 L Ed 117, 38 S Ct 2.

commutative contract. A contract which involves mutual and reciprocal obligations, and wherein the acts to be done and performed on one side form the consideration for those to be done and performed on the other. *Hyde & Gleises v Booraem & Co.* 16 Pet 169, 10 L Ed 928. The use of the term appears to be confined to Louisiana.

commutative justice. Mutual justice; justice on the one side equal to that on the other.

commutator. See **dynamo.**

commuted value. The value of a gift of a future interest reduced to present worth. 28 Am J Rev ed Inher Tax §§ 619, 620.

See **present worth.**

commuting expense. The expense of transportation between residence and place of work located within the area of the residence, that is, near enough to be reached within a reasonable time, considering the nature of the work to be done.

compact. Noun: A contract *Green v Biddle* (US) 8 Wheat 1, 92, 5 L Ed 547, 570; particularly, a contract of an important and serious nature, as a contract between states settling a boundary dispute. *State of Virginia v State of Tennessee*, 148 US 503, 509, 37 L Ed 537, 543, 13 S Ct 728. Adjective: Closely united. Anno: 2 ALR 1356.

compact territory. A district whereof the divisions not only touch each other but are closely united. Anno: 2 ALR 11356.

Companies Act. An English statute passed in 1862, regulating non-partnership companies.

companionate marriage. Either an illicit relationship or a relationship based upon a marriage which the parties have, by antenuptial contract or arrangement, sought to control so as to render the marriage terminable at pleasure, with consent, or at some future time. 35 Am J1st Marr § 39

company. Usually, but not necessarily, a corporation, since the word is inclusive of natural persons. 18 Am J2d Corp § 4; a union of two or more persons for the carrying on of a joint enterprise or business; a partnership; a corporation; an association a joint stock company. An association of individuals operating under a declaration of trust, by the terms of which the capital contributed by them to a common enterprise is divided into units or interests, is a "company" within the meaning of the word as it is used in the blue sky law of California. Barrett v Gore, 88 Cal App 372, 263 P 564.

company car. A motor vehicle owned by an employing company and driven by an officer or employee.

company housing. Dwelling houses owned by an employer and rented to employees, usually under an arrangement for deducting the rent from wages.

company union. A labor union whose membership is confined to the employees of a single company or the employees of a company and its subsidiaries.

comparatio literarum. A comparison of letters; that is, of handwritings.

comparative injury. A doctrine of equity which denies relief where the inconvenience and the injury to the plaintiff are not of a pressing character and the result of equitable relief by injunction will be to cause a large loss to the defendant. 28 Am J Rev ed Inj § 52; 39 Am J1st Nuis § 161.

comparative negligence. the negligence of the defendant in an action to recover damages for negligence as compared with that of the plaintiff, the comparison being made for the purpose of applying the rule of admiralty, which has been adopted by statute for negligence cases generally in some jurisdictions. That the more gross the negligence of the defendant appears, the less degree of care is required of the plaintiff to permit a recovery by him; that the negligence of the plaintiff operates, not to relieve the defendant entirely from liability, but merely to diminish the damages recoverable. 38 Am J1st Negl §§ 231-233.

comparative rectitude. The name given to the principle that where both parties to a marriage are guilty of misconduct for which a divorce may be granted, the court will grant a divorce to the one who is less at fault. 24 Am J2d Divorce § 228.

comparere. To appear, to submit to the jurisdiction of the court.

comparison. The act of bringing together for the purpose of observing not only likenesses, but differences as well. Succession of Baker, 129 La 74, 82, 55 So 714.

See **evidence by comparison.**

[233]

comparison of handwriting. The now generally accepted practice of determining the genuineness of a disputed writing or signature by comparison thereof with it specimen of the person's writing that is proved or admitted to be genuine. 29 Am J2d Ev § 806.

compartner. Same as **copartner**.

compascuum. Same as **common of pasture**.

compass. Noun: An instrument for showing direction, particularly an instrument with a magnetic needle which swings freely and points to the north. Verb: To accomplish; to plot, scheme, or contrive harm to another.

compaternity. The relation of a godparent toward his godchild.

compatibility. Such an absence of conflict in two or more offices that one person may with propriety fill each of them at the same time; a harmonious relationship between persons living together, especially husband and wife.

compear. (Scotch.) To enter an appearance in an action, either in person or by attorney.

compearance. (Scotch.) An appearance in an action or proceeding.

compelled. Moved by force, which, in the law, may mean an unavoidable force. A witness is not "compelled" to testify if he makes no claim of privilege upon the ground that his testimony might incriminate him or upon any other ground. State v Whalen, 108 Wash 287, 183 P 130.

Compendia sunt dispendia. Short cuts are wasteful.

compensable injury. A personal injury to an employee for which he is entitled to compensation under a workmen's compensation act, which means that there is a causal relation between the employment and the injury. Trudenich v Marshall (DC Wash) 34 F Supp 486.

compensacion. (Spanish.) A set-off or counterclaim.

compensate. To counterbalance; to make up for; to make amends for; to pay. Pacific Tel. & Tel. Co. v Henneford, 195 Wash 553, 81 P2d 786.

compensated surety. See **corporate surety**.

compensating tax. A state tax the primary purpose of which is to protect merchants of the state from discrimination resulting from the inability of the state, under Federal Law, to impose a tax upon sales made to residents of the state by competitive merchants in other states. Pacific Tel. & Tel. Co. v Hennecford, 195 Wash 553, 81 P2d 786.

See **use tax**.

compensatio. The set-off of the Roman law. See 3 Bl Comm 305.

compensatio criminum. Recrimination, a defense in an action for divorce. 24 Am J2d Div & S § 226.

See **recreditation**.

compensation. A return for a benefit conferred or promised, that is, a consideration. Searcy v Grow, 15 Cal 117; a remuneration for services, whether in the form of a fixed salary, fees, commissions, or perquisites of whatever character. 43 Am J1st Pub Of § 340; redress for property taken or injury caused by the taking of property under the power of eminent domain. Symonds v Cincinnati, 14 Ohio 147. A set-off in the Scottish law; redress in damages for injuries generally; the payment made to an injured employee by the employer under a workmen's compensation act. As the term is used in workmen's compensation acts, it means the money relief afforded according to the scale established and for the persons designated by the act, and it does not refer to the compensatory damages which may be recovered in an action at law for a wrong done or a contract broken. Mosely v Empire Gas & Fuel Co. 313 Mo 225, 281 SW 762, 45 ALR 1223, 1232.

A civil law term meaning the extinction of debts of which two persons are reciprocally debtors to one another, by the credits by which they are reciprocally creditors to one another. 20 Am J2d Countcl etc. § 5.

Sec **compensatory damages; unemployment compensation; workmen's compensation.**

compensation court. A workmen's compensation commission. 58 Am J1st Workm Comp §370.

compensation, wages, or hire. As the term is used in a statute requiring a driver's license, the term means something more than the operation of a motor vehicle as a mere incident of the business of one's employer. Matthews v State, 85 Tex Crim 469. 214 SW 339.

compensatory damages. The damages recoverable in satisfaction of, or in recompense for, loss or injury sustained, including all damages except nominal damages, punitive or exemplary damages. 22 Am J2d Damg § 11. Damages awarded not only as a recompense for actual injury to the person or property, including expenses, loss of time, bodily suffering, etc., occasioned by the defendant's wrongful act, but also such additional sum as in the opinion of the jury is warranted by the circumstances of contumely, anguish or oppression, including mental suffering and wounded sensibilities. Murphy v Hobbs, 7 Colo 541, 5 P 119.

compensatory fine. A fine which the court may impose in a civil contempt action as a remedial punishment, payable to an aggrieved litigant as compensation for the special damages which he may have sustained by reason of the contumacious conduct of the offender. Parker v United Stales (CA1 Mass) 126 F2d 370.

comperendinatio. (Roman law.) The postponement of a trial to the third day.

compertorium. (Civil law.) A judicial inquest by delegates or commissioners to find out and relate the truth of a cause.

comperuit ad diem. He appeared at the day.

compester. To apply manure to the soil.

competency. Capability; capacity; qualification for the performance of an act.

competency of evidence. The admissibility of evidence under the established rules of evidence. 29 Am J2d Ev §§ 257, 260.

competency of person. See **competent person.**

competency of testator. See **testamentary capacity.**

competency of witness. See **competent attesting witness; competent witness.**

competent attesting witness. One legally competent, as of the time of the attestation and as determined

[234]

by the substantive law of wills, to testify in a court of justice the facts which he attests by signing his name to the will as a subscribing witness, not being disqualified by mental incapacity, crime, or other cause such as interest. Gillis v Gillis, 143 Ga 1, 23 SE 107.

competent and omitted. The term is applied to a plea which might have been interposed, but was not.

competent arbitrator. Any disinterested person, whatever his or her legal status may be, except as qualifications are prescribed in the agreement for arbitration in which case only persons who meet the prescribed qualifications are competent. 5 Am J2d Arb & A § 97. As used in insurance policy providing for the appointment of "competent arbitrators," the term means persons who are disinterested, and have the requisite ability to act in the matter. Aetna Ins. Co. v Stevens, 48 Ill 31.

competent court. A tribunal having jurisdiction. State ex ref. Degen v Freeman, 168 Minn 374, 375, 210 NW 14. A court legally constituted; a court the judgments and proceedings of which are not open to collateral attack. A court created without color of authority, or a mere usurper is not within the definition, but a de facto court is a competent court. State ex ref. Bales v Bailey, 106 Minn 138, 118 NW 676.

See **court of competent jurisdiction.**

competent evidence. Evidence which is legally admissible.

See **competency of evidence.**

competent jurisdiction. The power and authority of law, at the time of acting, to do the particular act. Re Justus, 3 Okla Crim 111, 104 P 933.

competent person. A capable person; a person legally qualified by age and mental capacity.

See **competent attesting witness; competent witness.**

competent tribunal. See **competent court.**

competent witness. A person qualified to testify under oath; a person who meets the test of age, mental power, religious belief, and capacity to understand the nature and obligation of an oath. Lemer v Bryan, 184 NC 282, 114 SE 6, 26 ALR 1488. A credible witness; that is, such a person as is not legally disqualified from testifying in courts of justice by reason of mental incapacity, interest, or the commission of a crime, or other cause excluding him from testifying generally, or rendering him incompetent in respect of the particular subject matter, or in the particular suit. Blythe v Ayres, 96 Cal 532, 586, 31 P 915. A person is competent to testify as a witness if he has sufficient understanding to receive, remember, and narrate impressions and is sensible of the obligation of an oath. 66 Va (25 Gratt) 865.

See **competent attesting witness.**

competere. To be available.

competing. In a state of competition; two or more businesses or industries producing or selling the same or essentially the same products or services without restraint of any kind upon their efforts to sell any or all of their products or services to any and all customers within practicable territorial limits.

competing lines. See **competing railroads.**

competing railroads. Two railroads which have each a through and separate line of communication between two given points, for which line each seeks the traffic between such points. As a general rule, whether lines of railroad are competitive depends upon the business of the companies, the conduct of the roads by their authorities, their channels of traffic, and generally upon whether the roads extend for transportation from and to the same points along their routes. See 44 Am J1st RR § 323.

competing unions. See **rival unions.**

competit assisa. An assize lies, an action lies.

competition. The activities of persons conducting a business, following a profession, or engaging in a sport, in an effort to succeed. The act of seeking or endeavoring to gain what another is endeavoring to gain at the same time; common contest or striving for the same object; strife for superiority; rivalry. The status of persons dealing in or furnishing goods or services of the same kind and soliciting trade or patronage from the same customers or class of customers in the same territory at the same time. 52 Am J1st Traders § 94. (Scotch.) The contest between the creditors of a bankrupt to establish their respective ranks and preferences.

See **competing; unfair competition.**

competition with mails. The Federal offense of carrying mail in competition with the Post Office Department, so as to deprive the department of its monopoly in the business of receiving, transporting and delivering mail matter. 41 Am J1st P O § 106.

competitive examination. A test by objective standards or measures. Where the standard or measure is wholly subjective, it differs, in effect, in no respect from an uncontrolled opinion of the examiners and cannot be termed "competitive." Fink v Finegan, 270 NY 356, 1 NE2d 462.

complain. To file a complaint; to make a formal charge or accusation of crime against a person; to make a charge.

complainant. The petitioner in a writ in a court of equity; a plaintiff; a prosecuting witness in a criminal proceeding; a person who files a formal charge or accusation of crime.

complaining witness. See **prosecuting witness.**

complaint. A bill in equity. 27 Am J2d Eq § 179; a pleading by which the plaintiff in a civil action, whether of a legal or equitable nature, sets out the cause of action and invokes the jurisdiction of the court. 41 Am J1st Pl § 73. In some instances and under some statutes, it comprehends oral as well as written allegations. Asbell v Edwards, 63 Kim 610, 66 P 641.

The formal charge, made under oath, of the commission of a crime or offense. 21 Am J2d Crim L § 441. If the offense charged is a minor one, the complaint, otherwise known as an affidavit or preliminary information, will stand as the pleading upon which the accused will be tried; if the offense is a felony, the accused is not put to trial upon the complaint, since he can be charged with felony only by an indictment or an information filed by the state's attorney. State v Hamilton, 133 W Va 394, 56 SE2d 544, 12 ALR2d 573.

See **bill; declaration; outcry; petition.**

complete. Finished; ready for the use or purpose for which it was intended. See Maxey v Oshkosh, 144 Wis 238, 128 NW 899.

completed. Finished; the last operation on a job per

[235]

formed. Re Mt. Washington S. S. Co. (DC NH) 43 F Supp 176.

completed railroad. Fitted for use as a railroad; a railroad ready and in proper condition for the placing and running of regular trains upon it, or for operation as it is usually termed. Some authorities, however, take the view that the term means that the road is in condition to be operated for regular passenger and freight traffic and is actually in use. 44 Am J1st RR § 3.

complete enjoyment rule. A principle of the law of implied easements that the extent of the grantee's private right of user in streets and alleys shown on a map or plat, by reference to which his conveyance was made, is limited to such streets and alleys as are reasonably or materially beneficial to the grantee and of which the deprivation will reduce the value of his lot by preventing his complete enjoyment of the premises. Anno: 7 ALR2d 633; 25 Am J2d Ease § 26.

complete immunity. Immunity granted a defendant as a matter of law by virtue of the charitable nature of the defendant, irrespective of the status of the person damaged or injured in relation to the defendant and regardless of the negligence of the defendant in employing or retaining an incompetent employee. 13 Am J2d Char § 156.

complete jurisdiction. The power to hear and determine the cause, and the power to enforce the judgment. Cooper v Reynolds (US) 10 Wall 308, 19 L Ed 931.

complete loss of sight. The absence of sight for practical purposes, even though there is sufficient response in the eyes to distinguish between light and dark. 29A Am J Rev ed Ins § 151 3.

complete manufacture. The ultimate product of prior successive manufactures or an intermediate product which may be used for different purposes. 21 Am J2d Cost D § 44.

complete operation doctrine. A principle, applied in reference to the loading and unloading clause of an automobile liability insurance policy, that the clause covers the entire process involved in the movement of goods from the moment when they are given into the insured's possession until they are turned over at the place of destination to the party to whom delivery is to be made. According to this doctrine, loading and unloading includes more than the mere placing of the goods on the truck or the removal of the goods from the truck, so that when they are taken directly from the truck and in one continuous operation, are carried into the customer's place of business, they are still in the process of being unloaded when set down therein. 7 Am J2d Auto Ins § 88.

complete remedy at law. See **adequate remedy at law.**

completing an abstract. The work of abstracters of title and title insurers. Anno: 80 ALR 772.

completion of public improvement. The finishing of the last work, not the acceptance of the work by the public body. Dickey v United States Fidelity & G. Co. 107 Kan 605, 193 P 346. The right of the surety on a contractor's bond. 17 Am J2d Cont Bond §§ 57, 111-113.

completion of record. The clerical function of a clerk of court in filling in blanks left by a judge in rendering a judgment. 30A Am J Rev ed Judgm § 105.

completion of the work. See **completion of public improvement.**

complicated accounts. A basis for seeking the remedy of an accounting. Scott v Caldwell, 160 Fla 861, 37 Sold 85. Accounts involving several issues for determination or requiring a discovery in determining the rights of the parties. 1 Am J2d Acctg § 53.

complice. An accomplice.

complicity. The state or condition of a person who is involved as an accomplice.

complot. To plot with another or others; to conspire.

comply. To perfect or carry into effect; to complete; to perform or execute in accord with a previous contract or, arrangement. Cleland v Waters, 16 Ga 496, 503.

composite facts rule. The rule of evidence which supports the admissibility of testimony, which is literally in the form of a conclusion of the witness, but actually is testimony to what the witness knows or has observed concerning circumstances of such nature that practicably they are best presented in the form of a composite rather than in detail, as where a witness is permitted to testify that he is dependent upon another for support, notwithstanding the superficial element of conclusion. See 31 Am J2d Ev § 6.

compositeurs. See **amiables compositeurs.**

Compositio Mensurarum. The regulation of measures, --the name of the earliest English statute which established a standard of weight. This was originally taken from corns or grains of wheat, thirty-two of which, by the statute, made a pennyweight, twenty of these an ounce, and twelve ounces a pound. See 1 Bl Comm 275.

composition agreement. See **composition with creditors.**

composition in bankruptcy. See **composition with creditors.**

composition of tithes. An agreement made between a landowner and the parson of the parish whereby the former's land is discharged from liability for tithes.

See **real composition.**

composition with creditors. An agreement between an insolvent or embarrassed debtor and two or more of his creditors whereby the creditors, for some consideration, such as an immediate payment, agree to the discharge of their respective claims on the receipt of payment which is in a lesser amount than that actually owing on the claim. 15 Am J2d Comp Cred § 1. An agreement by a debtor made with his creditors which fixes a basis or plan whereby the debts may be paid, he being favored by a reduction of the claims, and extension of time for payment, or both; proceedings in the bankruptcy court for debt readjustment. 9 Am J2d Bankr §§ 1279 et seq.

compositio ulnarum et perticarum. The regulation of yards and perches,--an ancient English statute establishing a standard of linear measure. It provided that an inch should be the length of three grains of a barley, a foot should equal twelve inches, a yard, three feet, and five and a half yards, a perch. See 1 Bl Comm 275.

compos mentis. Of sound mind; sane.

[236]

compos sui. Possessing the control of one's self.

compotus. An account.

compound. Noun: That which is compounded or formed by the union or mixture of elements, ingredients or parts. United States v Brunett (DC Mo) 53 F2d 219. Verb: To create a product by mixing several products; the putting together by human agency of two or more substances, previously separated, to form a substance by union. Rutan v Johnson & Johnson (CA3 NJ) 231 F 369; to compromise; to effect a composition with a creditor; to obtain discharge from a debt by the payment of a smaller sum. First Nat. Bank v Malheur County, 30 Or 420, 45 P 781.

compounder. One who compounds.

See **amicable compounder.**

compounding a crime. The making by one directly injured by the commission of a crime of an agreement not to inform against or prosecute the offender in return for a reward, bribe, or reparation for the injury. 15 Am J2d Comp Cri § 1.

compounding elements. See **compound**.

compounding for differences. A form of gambling in stocks, securities, and commodities, wherein a fictitious sale is made for delivery at a future time with no intention to deliver and settlement is to be made on the difference between the contract price and the market price at such future time. 24 Am J1st Gaming §§ 66, 67.

compound interest. Interest charged on interest by adding accrued interest to principal and computing interest for the next interest period upon the new principal. 30 Am J Rev ed Int § 57.

compound larceny. The offense of larceny aggravated by the taking from one's house or person. State v Chambers, 22 W Va 779.

comprehensive insurance. A policy of insurance which provides coverage for various risks, each of which might form the subject matter of a policy.

compromise. An agreement to terminate, by means of mutual concessions, a controversy over a claim which is disputed in good faith or unliquidated. 15 Am J2d Compr § 1.

compromise and settlement. A compromise agreement followed by the performance of the promises contained in the agreement. 15 Am J2d Compr § 1.

compromise verdict. A verdict which is reached only by the surrender of conscientious convictions as to a material issue by some members of the jury in return for a relinquishment by other members of their like settled opinion on another issue, the result not commanding the approval of the whole panel. Such verdict is improper and should be set aside as subversive of trial by jury. 53 Am J1st Trial § 1033.

compte arrêté. An account acknowledged; that is, an account stated in writing and acknowledged to be correct on its face by the party against whom it is stated. Chevalier v Hyams, 9 La Ann 484, 485.

compter. To calculate; to intend; to expect.

comptroller. A corporate or public officer in charge of the financial affairs of the corporation or public body.

compulsion. The application of physical or mental force to compel the performance or the omission of performance, of an act. The word is frequently used as synonymous with the word "duress." Joannin v Ogilvie, 49 Minn 564, 52 NW 217.

See **coercion; commercial frustration; compulsion of wife; constraint**.

compulsory. Under compulsion; forced physically or morally.

compulsory arbitration. An arbitration proceeding to which the consent of at least one of the parties is enforced by statutory provisions. 5 Am J2d Arb & A § 9. Compulsory arbitration has attracted the most attention in labor disputes. Arbitration of such disputes may be compelled by statute where the industry is one affected by a public interest and the statute provides adequate standards for the guidance of the arbitrators. Anno: 55 ALR2d 447.

compulsory assignment. An assignment for the benefit of creditors made by operation of law or under legal compulsion. 6 Am J2d Assign for Crs § 3.

compulsory counterclaim. A demand of the defendant which must be pleaded in response to plaintiff's suit or be barred. 20 Am J2d Councl § 13; any claim which, at the time of serving the pleading, the pleader has against any opposing party, growing out of the occurrence or transaction that is the subject matter of the opposing party's action, unless the counterclaim is already the subject of a pending action. Rule 13(a), Fed Rules of Civ Proc; 20 Am J2d Councl § 4.

compulsory education. Such education as a parent or guardian of a child is required by law to provide for the child. 47 Am J1st Sch § 156.

compulsory insurance. Automobile liability insurance which is required as a condition of the right to operate an automobile. 7 Am J2d Auto Ins § 4.

compulsory integration. See **compulsory pooling; integration.**

compulsory liability insurance. See **compulsory insurance.**

compulsory military training. Required military training of students in universities accepting the benefits of the Federal Land-Grant Act. 15 Am J2d Colleges § 24; training compelled under the selective draft.

See **Selective Draft Law.**

compulsory nonsuit. See **nonsuit.**

compulsory novation. An unusual term for garnishment. Cole v Randall Park Holding Co. 201 Md 616, 95 A2d 273, 41 ALR2d 1084.

compulsory payment. A payment compelled by force of law either directly through process or by suasion through threat of process which is not to be resisted. Blanchard v Blanchard, 201 NY 134, 94 NE 630. To constitute a compulsory payment, it is not essential that the demand be made by an officer who is prepared to enforce it by process. There may be compulsion which justifies and virtually requires payment to be made of the illegal demands of a private person who has it in his power seriously to prejudice the property rights of another, and to impose upon the latter the risk of suffering great loss if there be no compliance with the demand. Slate ex ref. McCarty v Nelson, 41 Minn 25, 42 N W 548. To constitute "compulsion" which will be regarded as sufficient to make a payment involuntary, there must be some actual or threatened exercise of power possessed, or believed to be possessed, by the party exacting or receiving the payment over the person or property of another, for which the latter

[237]

has no means of immediate relief other than making the payment. 40 Am J1st Payrn § 162.

See **involuntary payment.**

compulsory pilotage. The requirement imposed by law, in states with harbors, upon a vessel approaching or leaving a harbor, that it take on a pilot duly licensed under the local law, who shall conduct the vessel into or out of the harbor as the case may be. 48 Am J1st Ship § 204.

compulsory pooling. The combining of small or irregularly shaped tracts owned by different persons to develop their lands as a single oil drilling or gas drilling unit, the purpose being conservation. Superior Oil Co. v Foote, 214 Miss 857, 59 So 2d 85, 37 ALR2d 415.

compulsory process. Compulsory process for a witness signifies and means a process that will compel the attendance of such witness; a process that will bring a witness into court who refuses to come without it. *Ex parte Marmaduke*, 91 Mo 228, 238.

See **subpoena**.

compulsory sale. See **eminent domain; involuntary alienation**.

compulsory service. See **peonage; Selective Draft Act**.

compulsory unitization. A term, sometimes used interchangeably with "compulsory pooling," although it refers to joint operations on a large scale, comprehending a measure in the interest of conservation for combining oil drilling or gas drilling operations into single units. *Superior Oil Co. v Foote*, 214 Miss 857, 59 So 2d 85, 37 ALR2d 415.

compurgation. An ancient form of trial, which was also known as "wager of law," wherein the defendant could call eleven compurgators to swear to their belief in his innocence. 3 Bl Comm 343.

compurgator. One of a defendant's eleven neighbors who accompanied him at a trial by wager of law and avowed under oath that they believed in their consciences that he had spoken the truth in giving his testimony. 3 Bl Comm 343.

computation. Calculation.

See **interest; time**.

computo. See **de computo**.

Comstock Act. The federal statute relative to the use of the mails for the delivery of contraceptives or of written or printed matter advertising contraceptives or giving information concerning methods of preventing conception. 18 USC § 334; 41 Am J1st P O § 114.

comte. A count.

con. Slang: to swindle; to trick; to deceive.

conacre. A kind of tenancy under which wages are in whole or in part applied to rental.

conatus. A bare attempt to commit an act, as distinguished from a complete accomplishment. 44 Am J1st Rape § 3.

conceal. To keep facts secret or withhold them from the knowledge of another; to hide or secrete physical objects from sight or observation. *Gerry v Dunham*, 57 Me 334, 339. As the word appears in a statute prescribing a ground for attachment, to "conceal" property is to hide it or put it where an officer of the law will be unable to find it. 6 Am J2d Attach § 236. As used in a statute against concealing stolen goods, knowing them to have been stolen, to "conceal" means to secrete with intent to deprive the owner of his property. *Bailey v State*, 115 Neb 77, 80, 211 NW 200. For the purposes of the Bankruptcy Act, to "conceal" means to secrete, falsify, and mutilate. Bankr Act § 1(7); 11 USC § 1(7). The criminal offense of concealment of property belonging to the estate of a bankrupt is not limited to physical secretion, but includes the preventing of discovery by the withholding of knowledge through refusing to divulge information as to the location of the property. 9 Am J2d Bankr § 1715. For some purposes, as in the case of executing process in a claim and delivery action, to refuse the demand of an officer holding process for the property in suit is to "conceal" it. *State v Pope*, 4 Wash 2d 394, 103 P2d 1089, 129 ALR 240.

See **concealment; secrete; treasure trove**.

concealed. See **conceal; concealed weapon; concealment.**

concealed weapon. A weapon so placed that it cannot be readily seen under ordinary observation, even though not absolutely invisible to other persons. 56 Am J1st Weap § 10.

concealer. A person who was employed to discover lands which had been secretly kept from the king.

concealment. A suppression of or neglect to disclose facts which a person knows and which he ought to communicate; the nondisclosure of a fact which should be revealed. 37 Am J2d Fraud § 2; the designed and intentional withholding of any fact material to the risk which the insured in honesty and good faith ought to communicate to the insurer. 29 Am J Rev ed Ins § 689.

See **conceal; concealed weapon.**

concedere. To grant.

conception. An idea, as an idea for a patentable invention, which must include every essential attribute of the complete and practical invention. If anything remains to be completed or devised in order to enable the instrument or art to perform its functions in the manner proposed by the inventor, his conception of the invention is not finished, nor has he brought into existence any true idea of means. ZUBLIN v PICKIN, 21 Cust & Pat App (Pat) 1097, 70 F2d 732. Fertilization of the female ovum by the male germ cell. Am Jur Proof of Facts, Medical Glossary.

See **antenuptial conception.**

concerted action. See **concerted activity.**

concerted activity. Group action by several or more employees for the furtherance of their common interests as such. 31 Am J Rev ed Lab § 189; an element of a secondary boycott which constitutes an unfair labor practice. 31 Am J Rev ed Lab § 253.

A single spontaneous brief work stoppage by nonunion employees to present wage grievances to the employer is a "concerted activity" of a "labor organization" so as to protect participants therein from discharge under provisions of the National Labor Relations Act making it an unfair labor practice for an employer to discourage membership in any "labor organization" by discrimination in regard to tenure of employment, or to interfere with employees in the exercise of the right to engage in "concerted activities" for the purpose of collective bargaining or other mutual aid or protection. NLRB v Kennametal, Inc. (CA3) 182 F2d 817, 19 ALR2d 562.

[238]

concessi. I have granted. The word is a technical one which was used in conveyancing. It had the same meaning and use as the word "demisi," I have demised, and if a grantor used it in a lease for years, it implied a covenant that if the assignee of the lessee be evicted, he should have a writ of covenant. Wiggins v Pender, 132 NC 628, 44 SE 362.

concessimus. We have granted.

concessio. A grant; a concession.

concession. An acknowledgment of a point made by another; a rebate given by a carrier. 13 Am J2d Car § 203; the right to do business upon the premises of another, such right normally being granted to one for the sale of candy, drinks, programs, and merchandise at exhibitions and amusement places. Anno: 14 ALR 627. As the word is used in Spanish American grants, it means "whatsoever is granted as favor or reward, as the privileges granted by the prince." De Haro v United States (US) 5 Wall 599, 18 L Ed 681, 688.

See **advantage, concession, and discrimination.**

concessionarie. A person holding a concession.

concessione. See **ex concessione.**

Concessio per regem fieri debet de certitudine. A grant from the king ought to be of that which can be ascertained.

Concessio versus concedentem latam interpretationem habere debet. A grant ought to have a broad construction against the grantor.

concessis. See **ex concessis.**

concessor. A grantor.

conciliation. The adjustment of disputes in a friendly manner, or, if not in a friendly manner, at least without violence. One of the primary examples of conciliation is the adjustment of labor disputes without a strike or an extended strike. 31 Am J Rev ed Lab § 371.

conciliation board. A body established for the purpose of encouraging amicable adjustment of small claims. 20 Am J2d Courts § 31; an agency for the adjustment of labor disputes. 31 Am J Rev ed Lab § 371.

See **council of conciliation.**

conciliation commissioner. An officer of a court of bankruptcy under the now obsolescent § 75 of the Bankruptcy Act on agricultural compositions and extensions, his duties partaking of the nature of those of a referee but confined to proceedings under such section. Federal Land Bank v Castanien (CA6 Ohio) 116 F2d 589.

concilium. A council.

concisely. Comprehensively, but succinctly. Bertolet's Election, 13 Pa C 353, 355.

concise statement of decision. The conclusion without the reasoning. Schmid v Thorsen, 89 Or 575, 175 P 74.

conclude. To form a final judgment after consideration, consultation or advice. Dunbar v Fant, 170 SC 414, 170 SE 460, 90 ALR 1412. To come to an end, whether of a story or an argument.

concluding argument. See **closing argument.**

conclusion. A deduction; the result of reasoning; the end or last part of a discourse; matter in a declaration or complaint, following the statement of the plaintiff's cause of action; the formal closing of a plea, usually, under modern practice merely a demand for judgment. Pierson v Wallace, 7 Ark 282.

conclusion of fact. A finding of fact; an ultimate fact, Caywood v Farrell, 175 Ill 480, 482; the result of reasoning from the evidentiary facts. Greenberg v Lee, 196 Or 157, 248 P2d 324, 35 ALR2d 567.

See **finding of fact.**

conclusion of indictment. The concluding words, "against the peace and dignity of the state," or other formula, often one prescribed by constitution or statute. 27 Am J1st Indict § 38.

conclusions of law. The conclusions drawn by the court, in a trial to the court, in the exercise of its legal judgment from the facts found by it, which, in connection with the findings of fact, constitute the basis of the decision in the case. 53 Am J1st Trial § 1132. The court's statement of what the law on a controverted point is, as distinguished from an order or judgment. 4 Am J2d A & E § 76. Statements in a pleading which depart from the objective of pleading the facts. 41 Am J1st Pl § 16.

conclusion to the contrary. The formal closing of a plea, tendering an issue of fact for the jury to decide.

conclusive. Final; decisive or, at least, convincing.

conclusive evidence. Facts in evidence which are, as a matter of law, determinative of the issue; facts in evidence which are so convincing as to support verdict or findings, but are not absolutely beyond contradiction. New York L. Ins. Co. v Kuhlenschmidt, 218 Ind 404, 33 NE2d 340, 135 ALR 397; Hoadley v Hammond, 63 Iowa 599, 602.

conclusiveness. A word of variable meaning, depending to a great extent on the context in which it appears. 2 Am J2d Admin L § 483; sometimes meaning finality, 2 Am J2d Admin L § 483; in other connections, as in its relation to evidence, meaning convincing, but not necessarily beyond contradiction.

See **conclusive evidence.**

conclusiveness of judgment. Verity, finality, and binding effect. 30A Am J Rev ed Judgm § 311. A judgment or an equivalent order is final and conclusive when it terminates a matter in such a way as to end it and to preclude all further inquiry concerning the truth thereof. Re Enger, 225 Minn 229, 30 NW2d 694, 1 ALR2d 1048. The conclusiveness of a judgment is an effect limited to collateral attack; a judgment does not import absolute verity, and is not regarded as conclusive, where it is being subjected to a direct attack by motion to vacate or an appeal. Capos v Clalsop County, 144 Or 510, 25 P2d 903, 90 ALR 289.

conclusive presumption. A presumption so peremptorily drawn from specific facts in evidence that the law will not permit it to be rebutted, Brandt v Morning Journal Asso. 81 App Div 183, 185, 80 NYS 1002; in effect, a rule of substantive law, to be applied by the court in its evaluation of the issues the same as any other fixed rule of law. Farnsworth v Hazelett, 197 Iowa 1367, 199 NW 410, 38 ALR 814; 29 Am J2d Ev § 164.

concord. A settlement; a compromise; peaceful relations.

[239]

The term "concord" was used to designate the third step in the levying of a fine to convey land. It was the agreement of the parties made with leave of court, consisting usually of an acknowledgment from the deforciants who were keeping the other out of possession that the lands in question were the right of the complainant. See 2 Bl Comm 350.

Concordare leges legibus est optimus interpretandi modulus. To reconcile laws with other laws constitutes the best method of interpreting them.

concordat. An agreement; a covenant. In the civil law, a composition deed.

Concordia Discordantium Canonum. The orderly arrangement of the confused canons the title of a compilation made about 1151 by Gratian, an Italian monk, whereby he reduced the Roman ecclesiastical constitutions into three books, after the manner of Justinian's pandects. See 1 Bl Comm 82.

concourse. An open space. The space in an airport or railroad station between waiting room and place for boarding planes or cars. A concert of activity; co-operation.

concourse of actions. The maintenance of a civil action and a criminal prosecution for the same alleged wrong, at the same time.

concrimination. The accusation of two or more persons for the same criminal offense.

concubaria. A cattle-pen.

concubeant. Lying together.

concubina. A concubine.

concubinage. Cohabitation of a man and a concubine; the state of a woman who sustains a relation involving continuous and regular illicit intercourse with a man to whom she is not a wife. Such a relation need not exist for any considerable period of time to constitute concubinage, but the relation which gives rise to the disreputable state of a woman indicated by the term, may like that of marriage, be contracted or assumed in a day as easily as in a year. *Henderson v People*, 124 Ill 607, 17 NE 68.

See **concubine**.

concubinatus. A legalized concubinage under the Roman law.

concubine. A woman who habitually assumes and exercises toward a man not her husband the rights and privileges which belong to the matrimonial relation. *Anon v Anon*, 172 Ind 134.

The concubine must not be confounded with the courtesan, or even with what is ordinarily called a mistress. Concubinage is the act or practice of cohabiting in sexual intercourse without the authority of law or legal marriage. *Gauff v Johnson*, 161 La 975, 977, 109 So 782.

concubinus. A man living in a state of concubinage.

concubitu prohibere vago. To forbid promiscuous copulation. One of the ends of society and government. See 1 Bl Comm 438.

Conculcavit et consumpsit. He trampled upon and destroyed.

concur. To agree with; to join with other creditors in making claim against the estate of their insolvent debtor; to happen at the same time.

concurrent causes. Two or more causes which run together and act contemporaneously to produce a given result or inflict an injury. *Stacy v Williams*, 253 Ky 353, 60 SW2d 697; *Herr v Lebanon*, 149 Pa 222, 24 A 207.

See **concurring cause**.

concurrent conditions. The conditions in a contract whereof performance by one party of his promises is conditioned upon performance by the other party of his promises; in other words, concurrent conditions are mutual conditions precedent to be performed simultaneously in the sense that when one party is ready to perform and offers to perform, the other party must perform or be in default. 17 Am J2d Contr § 321.

concurrent consideration. An act or a promise which a party to a contract does or makes as a consideration therefor, simultaneously with an act or a promise on the part of the other party which furnishes the consideration running from hire; mutual promises mutually binding. 17 Am J2d Contr § 105.

concurrent covenants. Covenants in a bond, deed, or contract whereof performance by one party of his undertaking is conditioned upon performance by the other party of his undertakings, so that, performance on the two sides shall be simultaneous in the sense that when one party is ready to perform, and offers to perform, the other party must perform or be in default. *Snow v Johnson*, 1 Minn 48, 52; 20 Am J2d Cov § 8.

concurrent insurance. A term, according to some authority, which does not have a definite, precise, meaning in the law of insurance. *Globe & Rutgers Fire Ins. Co. v Alaska-Portland Packers' Asso.* (CA9 Or) 205 F 32; obviously, meaning "other insurance" on the same risk, in a "concurrent insurance permitted" clause. *L'Engle v Scottish Union & Nat. Ins. Co.* 48 Fla 82, 37 So 462.

See **coinsurance; other insurance.**

concurrent insurance permitted clause. See **concurrent insurance.**

concurrent jurisdiction. The jurisdiction conferred upon and existing in two, possibly more, courts over the same class of cases or matters. 20 Am J2d Cts § 106. Jurisdiction existing in a court and in an administrative agency over the same matter. 20 Am J2d Cts § 128. That jurisdiction which entitles one government to as much power ---legislative, judicial, and executive-as that possessed by another government. *Wedding v Meyler*, 192 US 573, 48 L Ed 570, 24 S Ct 322. That authority commonly exercised concurrently upon water divided by the boundary line between two countries. It relates to matters at least in some way connected with the use of water for navigable purposes, to things afloat, or in some legitimate sense on the water-things difficult to deal with if it were necessary to determine in each instance of the exercise of jurisdiction the precise location of the particular act involved as regards the boundary line. 30 Am J Rev ed Internet L § 28.

concurrent lease. A second lease made by the owner of the reversion to a person other than the tenant under the first lease, covering all or part of the same premises as the first lease, the terms of the two leases including at least some time in common. 32 Am J1st L & T § 93.

[240]

concurrent liens. Liens which arise simultaneously, in consequence of their creation at the same time or by the same instrument and which are therefore of equal dignity and are entitled to equal rank in priority. 33 Am J1st Liens § 33.

concurrent negligence. The contributory negligence of the plaintiff in an action for negligence, it and the negligence of the defendant both contributing to produce the injury for which damages are claimed. *Dyerson v Union Pacific Railroad Co.* 74 Kan 528, 87 P 680. The negligence of a third person concurring with that of the defendant in an action for negligence. *Alabama Power Co. v Bass*, 218 Ala 586, 119 So 625, 63 ALR 1.

See **concurrent causes.**

concurrent powers. A term familiar in constitutional law, having reference to the class of powers, under a classification of the United States Supreme Court, which may be exercised concurrently and independently by both federal and state governments. 16 Am J2d Const L § 198.

concurrent promises. Mutual promises by the parties to a contract to be performed simultaneously in the sense that when one party is ready to perform, and offers to perform, his promises, the other party must perform his promises or be in default. *Dermott v Jones*, (US) 23 How 220, 16 L Ed 442, 447; 17 Am J2d Contr § 321.

concurrent remedies. Two or more actions or proceedings available to a person in obtaining redress for a wrong inflicted upon him, although not necessarily co-extensive in respect of the relief obtainable. *Sinnott v Feiock*, 165 NY 444, 59 NE 265.

concurrent resolution. See **joint resolution.**

concurrent sentences. Sentences of imprisonment for crime in which the time of each is to run concurrently with the others, and not seriatim.

concurrent stipulations. See **concurrent conditions; concurrent covenants, concurrent promises.**

concurrent writs. Writs issued for the same purpose to be used or served in different places or in respect to different persons.

concurring cause. A cause which operates contemporaneously with the primary cause to produce the injury, so that the injury would not have happened in the absence of either. The phrase is contrasted with an intervening cause, a cause which succeeds or follows the primary cause. Horne v Southern R. Co. 186 SC 525, 197 SE 31, 116 ALR 745.

See **concurrent cause.**

concursu. A remedy provided by the laws of Louisiana, to enable creditors to enforce their claims against a debtor. Schroeder's Syndics v Nicholson, 2 La 350, 355.

concursus. A special remedy under Louisiana statute afforded a certain class of creditors for the concurrent enforcement of their claims and to regulate their rights as between themselves and against a contractor doing public work, and the surety on his bond. Seal v Gano, 160 La. 636, 107 So 473.

concuss. To use threats; to exercise duress.

concussio. Concussion; extortion.

concussion. A Civil Law term: - extortion; compulsion by threats and without force, as by threatening to expose a person to disgrace.

condemn. To declare a building unfit for use and order its destruction as a peril to health and public safety; to order the slaughter of diseased animals. 4 Am J2d Am § 35. To adjudge guilty; to pass sentence upon a person convicted of crime. To appropriate property for public use. Wulzen v Board of Supervisors, 101 Cal 15. 35 P 353; Wescott v State Highway Com. 262 NC 522, 138 SE2d 133.

condemnation. The taking of private property for public use through the exercise of the power of eminent domain. Venable v Wabash Western Railroad Co. 112 Mo 103, 20 SW 493. A forfeiture of goods, as for the nonpayment of customs duties. The passing of sentence upon a person convicted of crime; an order made by competent authority adjudging a building or a ship unfit for use; an order for the slaughter of diseased animals. 4 Am J2d Am § 35.

See **inspected and condemned.**

condemnation of felony. Conviction of felony. Davis v Davis, 102 Ky 440, 43 SW 168.

condemnation suit. A judicial proceeding for the purpose of having property taken by eminent domain for public use upon the payment of just compensation for such taking. 27 Am J2d Em D § 375.

condemnator. See **decree condemnator.**

condemned. See **condemn; condemnation.**

condere. To make: to establish; to found.

condescendence. A plaintiff's written statement of his cause of action.

conductio. An action; a summons.

conditio. A condition.

Conditio beneficialis, quae statum construit, benigne, secundum verborum intentionem est interpretanda; odiosa autem, quae statum destruit, stricte, secundum verborum proprietam, accipienda. A beneficial condition which creates an estate, ought to be interpreted favorably, according to the intent of the language; but an odious condition which destroys an estate, should be construed strictly according to the letter.

Conditio dicitur, cum quid in casum incertum qui potest tendere ad esse aut non esse, confertur. It is called a condition when something is given on an uncertain event which may or may not happen.

Conditio illicita habetur pro non adjuncta. An unlawful condition is held not to be binding.

condition. Verb: To put in shape, as a horse for a race, a pugilist for a match. Noun: A provision in a contract creating no right or duty of and in itself but merely limiting or modifying rights and duties under the contract. 17 Am J2d Contr § 320; a clause in a contract or agreement which has for its object the suspension, rescission or modification of the principal obligation, or, in case of a will, to suspend, revoke or modify the devise or bequest. Pedro v Poffer, 197 Cal 751, 759, 212 P 926, 42 ALR 1165, 1169. A qualification or restriction an-

[241]

nected to a conveyance of lands, whereby it is provided that in case a particular event does or does not happen, or in case the grantor or grantees do or omit to do a particular act, an estate shall commence, be enlarged, or be defeated. Pedro v Potter, 197 Cal 751, 759, 242 P 926, 42 ALR 1165, 1169; a provision in a grant or devise, under which an estate is made to vest, to be enlarged, or to be defeated, upon the happening or not happening of some event described therein. Raley v County of Umatilla, 15 Or 172, 13 P 890. The distinction between a condition and a covenant lies in the effect of a breach. Upon a breach of the condition upon which an estate is granted, the estate is forthwith forfeited, whereas a breach of covenant gives rise to an action at law to recover damages or a suit in equity for equitable relief. In the construction of deeds, courts will always incline to interpret the language as a covenant rather than a condition. See note to Woodruff v Woodruff, 1 LRA 381.

The expression "on condition" has frequently been used in written instruments so as to give to the word "condition" a looser and broader meaning than the law attaches to it. And it is often manifest from a perusal of the whole instrument that what is called a condition is really but a covenant or agreement to be performed independently of the counter obligation with which it is associated, and in such case, the courts will give it that construction. Green County v Quinlan, 211 US 582, 594, 52 L Ed 335, 341, 29 S Ct 162.

The state of one's health, of his physical or mental being; the physical state of an animal.

See **concurrent conditions; condition precedent; condition subsequent; estate on condition; express condition; implied condition; negative condition; on condition.**

conditional. Subject to condition; contingent; not absolute. Loventhal v Home Ins. Co. 112 Ala 108, 20 So 419.

conditional acceptance. An acceptance of a bill of exchange containing some qualification, limitation, or condition, different from what is expressed on the face of the bill, or from what the law implies, upon a general acceptance. Todd v Bank of Kentucky, 66 Ky (3 Bush) 626, 628. It would appear, however, that a bill of exchange is dishonored by a conditional

acceptance, since an acceptance is the drawee's engagement to honor the bill of exchange as presented to him. 11 Am J2d B & N § 500.

conditional acknowledgment. An acknowledgment by one alleged to be indebted to another which signifies his willingness to admit liability if the creditor will comply with conditions imposed upon him in the acknowledgment by the debtor, or if a certain condition which does not then exist thereafter comes into existence. Stone v Smoot, 191 Okla 512, 131 P2d 85, 143 ALR 1426.

conditional affirmation. An affirmation of the judgment rendered by the lower court, subject to remittitur or additur, depending upon whether the damages are found excessive or inadequate. 5 Am J2d A & E § 933.

conditional bequest. See **conditional legacy or devise.**

conditional binding receipt. A term familiar in the law of life insurance, which means temporary coverage upon condition of the ultimate approval of the application. 29 Am J Rev ed Ins §§ 208, 209.

conditional contract. Not just a contract with conditions, but a contract, the very existence of which depends upon the fulfillment or occurrence of a condition or contingency. Nashville & Northwestern Railroad Co. v Jones & Baker, 42 Tenn (2 Coldw) 574, 584.

conditional conveyance. A deed with a provision for a reconveyance or a defeasance of the estate on the performance of certain conditions; a mortgage. 36 Am J1st Mtg § 164.

conditional dedication. A dedication of land to the public whereunder the dedicator imposes reasonable terms and conditions which are not inconsistent with the terms of the grant or against public policy. 23 Am J2d Ded § 37.

conditional delivery. The delivery of an instrument for the payment of money, such as a promissory note, on a condition, such condition being binding as between the immediate parties and as regards a remote party other than a holder in due course, even though the condition is an oral one, if it is a condition precedent. 11 Am J2d B & N § 279; the delivery of a deed on a condition of effectiveness, such as one that the instrument is not effective until it has been signed by all grantors. 23 Am J2d Deeds § 84; the delivery of an insurance policy to the insured upon some condition affecting the commencement of the risk, such as the condition that the policy shall not take effect until the insurer has approved and accepted the risk. 29 Am J Rev ed Ins § 217.

conditional devise. See **conditional legacy or devise.**

conditional discharge. A probationary discharge of a person confined in a state hospital or asylum for the insane. 29 Am J Rev ed Ins Per § 50.

conditional dismissal. A dismissal on condition, for example, the dismissal of a suit for foreclosure of a mortgage on condition of payment of the amount of a tender which induced the dismissal. Thompson v Crams, 294 Ill 270, 128 NE 508, 12 ALR 931.

conditional dividend. A dividend declared by an insurance company but made conditional upon some such event as the payment of the next annual premium so as to continue the policy in force after its first anniversary. 29 Am J Rev ed Ins § 649.

conditional endorsement. See **conditional endorsement.**

conditional estate. See **conditional fee; conditional limitation; estate on condition.**

conditional fee. A common-law estate in land, otherwise known as a fee conditional or fee simple conditional, distinctive by reason of the limitation to particular heirs, exclusive of others, as a grant to a named person and "the heirs of his body," or, in the case of a special conditional fee, to a named person and "the male heirs of his body." 28 Am J2d Est § 38.

If the donee had no heirs of his body, or no male heirs of the body, as the case might be, the estate reverted to the donor; but if the condition as to heirs was fulfilled by birth of issue, this was such performance as rendered the estate of the donee absolute; at least he could alien, he might forfeit, he might charge the land with rents or other encumbrances which would bind the issue. To prevent a reversion to the donor it was usual for such tenants, as soon as they had performed the condition by having heirs, to alien the land and then repurchase, taking an absolute estate which would descend to their heirs general. It was to defeat this practice that

[242]

the Statute de Donis Conditionalibus was passed. 28 Am J2d Est § 38.

See **de donis.**

conditional gift. A gift accompanied by a condition or qualification not inconsistent with the vesting of title in the donee. 24 Am J1st Gifts § 44.

conditional guaranty. A guaranty which imposes as a condition of the guarantor's liability, the happening of some contingent event other than the default of the principal debtor or the performance of some act on the part of the obligee. 24 Am J1st Guar § 16.

conditional indorsement. An indorsement of a negotiable instrument to which there is added to the signature of the indorser the words "without recourse," or words of similar import. Uniform Negotiable Instruments Law § 38; Anno: 91 ALR 399; 11 Am J2d B & N § 363.

conditional instruction. An erroneous form of instruction to a jury by which the court directly or in effect instructs the jury that a charge is to be considered by them if evidence has been given to sustain it, and otherwise to disregard it. 53 Am J1st Trial § 553.

conditional judgment. A judgment to which a condition upon which it is rendered is annexed. 30A Am J Rev ed Judgm § 120.

conditional legacy or devise. A legacy or devise, the operative effect of which, by the terms of the will, is made dependent or contingent upon the occurrence of some uncertain event. 57 Am J1st Wills § 1503.

See **conditional limitation; conditional will; estate on condition; contingent bequest.**

conditional limitation. An executory interest in real estate, created by conveyance, which divests and succeeds a preceding interest upon the happening of a particular contingency or stated event; an executory interest in real estate characterized by a condition and a limitation over, the former stating the effect of a breach in terminating an estate and the latter providing a succeeding estate in the holder of the testate expectant interest, without any act on his part. 28 Am J2d Est § 335; a provision in a lease by virtue of which the lease terminates ipso facto upon a certain event happening or not happening or the performance or nonperformance of an act, irrespective of re-entry by the landlord or other act. 32 Am J1st L & T § 825.

conditionally necessary party. A person who should be a party to an action, so that complete relief may be obtained, but who is not an indispensable party. Anno: 28 ALR2d 417.

conditionally privileged communication. A communication made in good faith on a subject in which the person communicating has an interest, or in reference to which he has a duty, to a person having a corresponding interest or duty, even though it contains matter which, without privilege, would be actionable as defamatory, and even though the duty is not a legal

one, but only a moral or social duty. *Richardson v Gunby*, 88 Kan 520, 127 P 533, quoting *Townshend, Slander & Libel* § 209; *Mullens v Davidson*, 133 W Va 557, 57 SE2d 1, 13 ALR2d 887.

A publication is conditionally or qualifiedly privileged where circumstances exist, or are reasonably believed by the defendant to exist, which cast on him the duty of making communications with certain other person to whom he makes such Communication in the performance of such duty, or where the person is so situated that it becomes right in the interest of society that he should tell third persons certain facts, which he in good faith proceeds to do. *Faber v Byrle*, 171 Kan 38, 229 P2d 718, 25 ALR2d 1379.

This type of a communication is a defamatory communication made on what is called an occasion of privilege without actual malice and as to such Communications there is no civil liability. *Mullens v Davidson*, 133 W Va 557, 57 SE2d 1, 13 ALR2d 887.

conditional obligation. An obligation which becomes binding only upon the fulfilment of a condition.

See **conditional contract**.

conditional pardon. A pardon granted either on a condition precedent, becoming operative when, and not until, the grantee has performed the designated act, or on a condition subsequent, in such case the pardon will take effect when it is delivered and accepted, but will become null and void upon the violation by the grantee of any of the specified terms or conditions. Anno: 60 ALR 1410.

conditional receipt. See **conditional binding receipt**.

conditional reversal. A reversal with conditions imposed upon the successful appellant, as where he is required to enter his assent that the original judgment shall stand as security for whatever damages may be found against him upon a second trial. 5 Am J2d A & E § 954.

conditional revocation. See **dependent relative revocation**.

conditional sale. A sale in which the vendee receives the possession and right of use of the goods or articles sold, but transfer of complete title to the vendee is made dependent upon the performance of some condition or the happening of some contingency, usually the full payment of the purchase price. 47 Am J1st Sales § 828.

A chattel mortgage is, in effect, a conditional style of the mortgaged property. *State Ins. Co. v Schreck*, 27 Neb 527, 43 NW 340; *Reinstein v Roberts*, 34 Or 87, 55 P 90.

conditional sale contract. A contract for the sale of goods by the terms of which the goods are to be delivered to the buyer, but the seller is to retain or reserve the right of possession or property in the goods until certain conditions specified in the contract have been fulfilled. *John Deere Plow Co. v Hamilton* (CA7 Ill) 19 F2d 965.

See **conditional sale**.

Conditional Sales Act. A uniform act specifically repealed by the Uniform Commercial Code. 15 Am J2d Com C § 6.

conditional stipulation. A stipulation which is dependent upon a condition.

conditional subscription. A subscription in which the liability of the subscriber is dependent upon the performance of some act by the beneficiary or other person. 50 Am J1st Subscr § 19.

conditional will. A will which is dependent for its operation upon the happening of a specified condition or contingency. If the condition fails, the will is inoperative and void thereafter, unless it is republished. *Kimmels Estate*, 278 Pa 435, 123 A 405, 31 ALR 678.

conditioned. Subject to one or more conditions; made dependent on one or more conditions; good

physical condition; ready for exertion; inured to the climate and one's surroundings.

Conditionem testium tune inspicere debemus cum signarent, non mortis tempore. We ought to consider the condition of witnesses as of the time when they signed, not at the time of the testator's death.

Conditiones quaelibet odiosae; maxime autem contra matrimonium et commercium. Any conditions are odious, especially those in restraint of marriage and trade.

condition implied in law. See **implied condition.**

condition in law. See **implied condition.**

condition in restraint of marriage. See **in terrorem; restraint of marriage.**

condition meritorious. A condition which exists where the event upon which an obligation becomes payable is in the power of the obligee, and is to be brought about by his doing or not doing a certain thing. *Sterling v Sinnickson*, 5 NJL 885, 892.

condition precedent. A condition which is precedent either to the existence of a contract (17 Am J2d Contr § 24) or to the inception of an obligation immediately to perform a contract previously made. 17 Am J2d Contr § 321; in the law of estates, a condition which must take place before an estate can vest or be enlarged. 28 Am J2d Est § 132. In the law of insurance, a condition without the performance of which a contract of insurance, although in form executed by the parties and delivered, does not spring into life. *Chambers v Northwestern Mut. Life Ins. Co.* 64 Minn 495, 67 NW 367; in a lease, a condition that must occur or be performed before the lease becomes binding and the tenancy comes into existence. 32 Am J1st L & T § 825.

condition resolutory. Same as **condition subsequent.**

conditions in terrorem. See **in terrorem.**

condition subsequent. A condition in a contract which follows liability upon the contract and operates to defeat or annul such liability upon the subsequent failure of the other party to comply with its terms. 17 Am J2d Contr § 323; in the law of estates, a condition which operates on an estate conveyed or devised so as to render it liable to be defeated for breach of the condition; the title passes to the grantee or devisee, subject to divestiture on failure of performance of the condition. 28 Am J2d Est § 132; in the law of insurance, a condition which presupposes an absolute obligation under the policy, and provides that the policy shall become void, or its operation be defeated or suspended, upon the happening of some event or the doing or omission of some act. 29 Am J Rev ed Ins § 718. In a lease, a condition which has no relation to the inception of the lease and the commencement of the tenancy, but, instead, gives the landlord, on its happening or not happening or its performance or nonperformance, a right to re-enter and terminate the lease. 32 Am J1st L & T § 825.

See **interest upon condition subsequent.**

condition suspensive. Same as **condition precedent.**

Conditio praecedens adimpleri debet priusquam, sequatur effectus. A condition precedent is to be fulfilled before the effect can follow.

conditio sine qua non. A condition without which not, -an indispensable condition.

condom. A contraceptive and a prophylactic. State v Tracy, 29 NJ Super 145, 102 A2d 52.

condominium. Joint ownership; a multiunit dwelling, each of whose residents, known as unit owners, enjoys exclusive ownership of his individual apartment or unit, holding a fee simple title thereto, while retaining an undivided interest, as a tenant in common, in the common facilities and areas of the building and grounds which are used by all the residents. 15 Am J2d Cond Apt § 1.

condonable offense. A single act or series of acts of misconduct constituting a ground for divorce which in theory may be forgotten or forgiven, or a species of misconduct which considerate and affectionate treatment might serve to obliterate. 24 Am J2d Div & S § 204.

condonacion. The forgiveness or discharge of a debt.

condonation. The forgiveness, either express or implied, by a husband of his wife, or by a wife of her husband, of a breach of marital duty, with an implied condition that the offense shall not be repeated. 24 Am J2d Div & S § 204.

See **condonable offense.**

conduct. Noun: Behavior, as portrayed by that which one does or omits to do. Church of Christ v McDonald, 180 Tenn 86, 171 SW2d 817, 146 ALR 1173. Verb: To carry on, to manage; to regulate, to guide, as to conduct a group on tour. Harvey v Vandegrift, 89 Pa 346, 352.

conductio. A hiring.

conduction. A transmitting or conveying; the flow of electricity through the medium of the earth, from one wire to another without actual contact. Phillipay v Pacific Power & Light Co. 120 Wash 581, 207 P 957, 211 P 872, 23 ALR 1251.

conduct-money. Money paid to a witness to reimburse him for expenses.

conductor. A railroad employee in charge of a train or, at least, such part of the operations as are not within the province of the engineer.

conduit. A channel or structure by which flowing water can be conducted from one point to another. Sefton v Prentice, 103 Cal 670, 37 P 641. A tube or trough in which telegraph, telephone, or electric wires may be strung.

See **underground conduit.**

cone and key. Accounts and keys, a symbol of the fitness of a woman to assume the care of a house.

confarreatio. An ancient Roman marriage ceremony.

confectio. A Civil Law term for the execution of a written instrument.

confectionary. Candy, and other sweets; a place where sweets are sold.

confederacy. A union of people, groups of people, even nations, for a common purpose; a union of people for an unlawful purpose, a conspiracy. State v Crowley, 41 Wis 271, 284.

Confederate States. The eleven southern states which seceded from the Union in 1860 and 1861 and formed the Confederate States of America.

Confederate States of America. The confederacy formed by the eleven seceding southern states in 1861, which waged a war for four years against the United States, but never acquired the status of a government de jure or de facto as those terms are known and used in the law of nations. *Thorington v Smith* (US) 8 Wall 1, 19 L Ed 361.

confederating clause. A clause, also known as the common conspiracy clause, of a bill in equity under the old chancery practice, consisting of all allegation to the effect that the grievance complained of by the plaintiff was brought about by a conspiracy among the several defendants and others not made parties to the bill, and that they had all conspired to injure the plaintiff and co-operated in the perpetration of the wrong. 19 Am J2d Eq § 222.

confederation. An agreement or compact between two or more governments.

See **Articles of Confederation; Confederate States of America.**

conference. See **Judicial Conference.**

Confessio facta in judicio omni probatione major est. A confession made in court is more important than all proof.

confession. A voluntary admission, declaration or acknowledgment by one who has committed a felony or a misdemeanor that he committed the crime or offense or participated in its commission; a voluntary admission or declaration of one's agency or participation in a crime. 29 Am J2d Ev § 523.

A confession is voluntary when made of the free will and accord of the accused, without fear or threat of harm and without hope or promise of benefit, reward, or immunity. 29 Am J2d Ev § 529.

See **judicial confession; plea in confession and avoidance; third degree.**

confession and avoidance. See **plea in confession and avoidance.**

confession in open court. A plea of guilty in a criminal prosecution. *State v Willis*, 71 Conn 293, 308, 41 A 820.

confession of error. A party's admission, express or implied, made on appeal, that the court below committed an error in his favor, or prejudicial to the rights of all adverse party. *Burgen v State*, 32 Ariz 111 256 P 111; *Halpin v Scotti*, 415 Ill 104, 112 NE2d 91.

confession of judgment. The entry of a judgment upon the admission or confession of the debtor, without the formality, time, or extent involved in all ordinary action or proceeding. *Cuikendall v Doe*, 129 Iowa 453, 105 NW 698.

See **cognovit actionem; cognovit note; confession reicta verificatione.**

confession reicta verificatione. Confession of judgment after pleading and before trial, the defendant confessing the plaintiff's cause of action and withdrawing or abandoning his defense or other procedures taken by him. 30A Am J Rev ed Judgm § 156.

confessor. A priest who hears confessions; one who confesses.

Confessus in judicio pro judicato habetur et quodammodo sua sententia damnatur. One who confesses in court is held to have been adjudged and in a manner is condemned by his own sentence.

confidence. Assurance; trust in one's own abilities; assurance of secrecy; reliance upon another. An obsolete technical term for all interest by way of trust or use. Jones v Jones, 223 Mo 424, 123 SW 29.

See **faith**.

confidence game. Essentially, a swindling operation in which advantage is taken of the confidence reposed by the victim in the swindler. State v Theriot, 139 La 741, 72 So 191.

confidence man. A swindler; a trickster.

See **confidence game**.

confidential communications. Communications made in confidence; communication made to such persons that the law regards them as privileged beyond forcing a disclosure thereof.

See **privileged communications**.

confidential position. A position in civil service involving secrecy, integrity, trust, confidence, skill, and competence. Klan v Akcrs, 232 Iowa 1312, 5 NW2d 605, 146 ALR 808.

confidential relation. A technical fiduciary relation, such as trustee and beneficiary, and any informal relation between parties wherein one of them is in duty bound to act with the utmost good faith for the benefit of the other party, 57 Am J1st Wills 390; a relation between two persons as a result of which there is confidence reposed on one side and a resulting superiority in position and influence on the other, 37 Am J2d Fraud §§ 15, 16; a relation in which confidence is reposed, and in which dominion and influence resulting from such confidence may be exercised by one person over another, Burgdorfer v Thielemann, 153 Or 354, 55 P2d 1122, 104 ALR 1407; State v Russell (Mo) 265 SW2d 379, 45 ALR2d 617; a peculiar relation which exists between attorney and client, principal and agent, principal and surety, landlord and tenant, parent and child, guardian and ward, ancestor and heir, husband and wife, trustee and cestui que trust, executor or administrator and creditors and in many other cases. Robins v Hope, 57 Cal 493.

Some courts, in dealing with the question of fraud, indiscriminately use the terms "fiduciary relation" and "confidential relation." as being synonymous insofar as they affect the good-faith dealings between the parties to the relation. There is, however, a technical distinction between the two terms, the former being more correctly applicable to legal relationships between the parties, such as guardian and ward etc., while the latter includes them and also every other relationship wherein confidence is rightfully reposed and is exercised, among which is a situation involving superiority of knowledge on the part of the one seeking to uphold the contract and confidence reposed in him by the other. Rohcrts v Parsons. 195 Ky 274, 242 SW 594.

confine. Verb: To deprive one of his liberty; to place in prison or jail; to keep a person in bed; to require a person to remain at home; to keep animals within an enclosure. Walker v McAfee. 82 Kan 1212, 107 P 637. Noun: A limit, end, or boundary.

[245]

confined. Imprisoned; required to remain in one place. As the word is used in a sick benefit insurance policy, a person is "confined," when his illness keeps him at home and totally disables him from following his vocation. The word does not import that he shall be confined to his bed. Home Protective Asso. v Williams, 150 Ky 134, 136, 150 SW 11.

See **close confinement; solitary confinement**.

confined to bed. A familiar term in the law of health and accident insurance, as to which there is divergence of opinion in interpretation, some cases holding that the term is satisfied only by an actual confinement to bed, while other cases hold that the term is intended to express a required degree of disability, not necessarily an actual confinement to bed. 29A Am J Rev ed Ins § 1531.

confined to house. See **house confinement clause**.

confined to institution. A term appearing in some statutes which prescribe grounds for divorce based on insanity of the defendant requiring his confinement for a specified continuous period. Under statutory provisions requiring that the insane spouse shall have been confined within an institution for a specified continuous period as a necessary condition to the granting of a divorce on the ground of insanity, there are conflicting decisions as to whether "confined" is to be taken in its literal sense, or merely in the sense of supervision by the authorities, so as to permit periods of absence, not amounting to discharges from the institution, to be considered as a part of a period of continuous confinement, rather than interruptions thereof. Anno: 24 ALR2d 878.

confinement. State of being confined; lying in for childbirth.

See **confined; confined to bed; confined to institution; house confinement clause.**

confinio comitatus. See **in confinio comitatus.**

confirm. To strengthen; to approve; to make certain, as to "confirm" a hotel reservation.

Confirmare est id quod prius infirmum fuit simul firmare. To confirm is to make firm that which was previously infirm.

Confirmare nemo potest priusquam jus ei acciderit. No one can confirm a right before it has fallen to him.

confirmatio. A confirmation.

Confirmatio Cartarum. A famous statute enacted in the twentyfifth year of the reign of Edward I, providing that Magna Charts should thereafter be taken as common law, that all judgments contrary to Magna Charts should be void, that copies should be sent to all cathedral churches and read to the people twice each year, and that any person who should offend against it should be excommunicated. 1 Bl Comm 128.

Confirmatio Chartarum. Same as **Confirmatio Cartarum,**

confirmatio crescens. A confirmation increasing a rightful estate.

confirmatio diminuens. A confirmation the effect of which was to release a part of the services supporting a tenure.

Confirmatio est nulla, ubi donum praecedens est invalidum. A confirmation is a nullity, where the preceding gift is invalid.

confirmation. The affirmation or making certain of that which before was not certain; the removal of a doubt, Riddle Boggs v Merced Mining Co. 14 Cal 279, 306; an approval which gives purpose, effect, and finality, for example, the confirmation of an award by arbitrators. 5 Am J2d Arb & A § 152. A religious service in which boys and girls, having reached a certain age and having attained a desired proficiency in the catechism or other statement of principles of the church, are formally received into full membership.

Confirmation of Charter. See **Confirmatio Chartarum.**

confirmation of estate. The conveyance of an estate, or right, that one has in land, to another who has possession of it, or some estate in it, making valid a voidable estate, or increasing and enlarging a particular estate. Langdeau v Hanes, 21 Wall 521, 22 L Ed 606. Confirmation may make good a voidable or defensible estate, but it cannot operate upon or aid an estate which is void in law. As to such an estate, a confirmation only confirms its infirmity. Branham v Mayor & Common Council of San Jose, 24 Cal 585, 605.

confirmation of executor. The formal clothing of the executor with title.

confirmation of sale. The formal approval of our executor's or administrator's sale of property of the estate of his decedent by the probate court, which, in some jurisdictions is made a condition precedent to the passing of a valid title to the property. *Norton v Jack*, 115 Cal 29, 46 P 920. The approval by the court of a judicial sale upon report thereof made by the officer conducting the sale. 30A Am J Rev ed Jud S § 114. A court's approval of the report made by an officer, usually a commissioner, of his sale on foreclosure. See 37 Am J1st Mtg § 637.

See **decree of confirmation.**

Confirmatio omnes supplet defectus, licet id quod actum est ab initio non valuit. Confirmation supplies all defects, though what has been done was not valid at the beginning.

confirmatio perficiens. A confirmation which makes valid a defensible title.

Confirmat usum qui tollit abusum. He confirms a use who removes an abuse.

confirmavi. I have confirmed or ratified.

confirmee. A person to whom a right is confirmed.

confirmor. A person who makes a confirmation.

confiscare. To confiscate.

confiscata. See **bona confisca**ta.

confiscate. To take property from a private person for the state; to appropriate property for the state as forfeited. *Ware v Hylton* (US) 3 Dall 199, 234, 1 L Ed 568, 583; to take property belonging to the enemy in time of war. 56 Am J1st War § 154.

[246]

confiscation. See **confiscate; incautacion.**

Confiscation Acts. The acts of Congress of August 6, 1861, and July 17, 1862, providing for the seizure and sale of property used to abet the Confederate cause. 56 Am J1st War § 78.

Confiscation Cases. Cases arising under the act of Congress of August 6, 1861, authorizing the confiscation of property used in aiding, abetting or promoting insurrection against the government of the United States. *Confiscation Cases* (US) 7 Wall 454, 19 L Ed 196; *United States v Clarke* (US) 20 Wall 92, 22 L Ed 320.

confiscation loss. A loss, deductible in an income tax return, resulting from the confiscation or nationalization of the taxpayer's property. *Elek v Commissioner*, 30 T CT 731(A).

confiscatory order or regulation. A rate order or regulation fixing the rate or rates of a common carrier or public utility so low that the carrier or utility is deprived of a fair return on its investment, or providing rates so low that they tend toward depriving the carrier or utility of a fair return. *Pennsylvania Railroad Co. v Philadelphia County*. 220 Pa 100, 68 A 676; *Minneapolis, St. Paul & Sault Ste. Marie Railroad Co. v Railroad Com. of Wisconsin*, 136 Wis 146, 116 NW 905.

confisk. To confiscate.

confitens reus. A person who confesses after being charged with the commission of a crime.

conflicting evidence. Evidence from different sources which cannot be reconciled; evidence for the plaintiff and evidence for the defendant, considered together and presenting at least a fair and reasonable ground for difference of view as to which should prevail. *Lefrooth v Prentice*, 202 Cal 215, 259 P 947.

conflicting grants. Deeds by the same grantor covering the same premises but running to different grantees.

conflicting interest. A term, the legal significance of which is confined to representation of the interest, as where a real estate broker is representing both buyer and seller, and an attorney at law attempts to act both for his client and for one whose interest is adverse to or conflicting with that of his client in the same general matter. 7 Am J2d Attys § 154.

conflicting presumptions. Presumptions arising from the same facts which are so opposed in the fact presumed that one of them must give way, to the other and stronger of the two, for example, the presumption of identity of person from identity of name gives way to the presumption of regularity of official acts and proceedings. 29 Am J2d Ev § 167.

conflict of laws. A subject otherwise known as private international law, which is that part of the law of each state or nation which determines whether, in dealing with a legal situation, the law of some other state or nation will be recognized, be given effect, or be applied. 16 Am J2d Confl L § 1.

conflicts in administration. Conflicts between administrative agencies. 2 Am J2d Admin L §§ 209 et seq.

conformably to the laws. In accordance with a recognized long established system of laws existing in states adopting constitutions, as well as in the prior political organizations from which the states were formed. *McCoy v Kenosha County*, 195 Wis 273, 218 NW 348, 57 ALR 412.

conformity. Correspondence in form and manner, resemblance, agreement, harmony. *Westlake Mercantile Finance Corp. v Merrill* (Cal App) 262 P 815, 817. (Ecclesiastical.) Adherence to the Church of England.

Conformity Act. The act of Congress of June 1, 1872, providing that the practice, pleadings, and forms and modes of proceeding in civil causes, other than equity and admiralty causes, in the Federal circuit and district courts, shall conform, as near as may be to the practice, pleadings, and forms and mode of proceeding existing at the time in like causes in courts of record of the state within which such circuit or district courts are held, any rule of court to the contrary notwithstanding.

conform to proofs. See **amendment to conform to proofs.**

confrarie. A brotherhood.

confront. To come face to face with a person.

confrontation of witness. A constitutional right of an accused to face a witness in court so that the accused may make any objection he has to the witness, be present when the witness is examined, and have opportunity for cross-examination. *Garcia v State*, 151 Tex Crim 593, 210 SW2d 574. The act of placing an accused in such proximity to the witness that he may see him and hear his testimony. *People v Elliott*, 172 NY 146, 64 NE 837.

confrontment. A confrontation. See **confrontation of witness.**

confusio. Same as **confusion.**

confusion of debts. Same as **confusion of rights and obligations.**

confusion of goods. An intermingling or intermixture of goods owned by different persons to such extent that the property of each person can no longer be distinguished. 1 Am J2d Access § 1. A confusion may be the result of a wilful and fraudulent intermixture, but may arise also from a mixture made by the consent of the owners, or by mistake, inevitable accident, or *vis major*. 1 Am J2d Access § 1.

The doctrine of confusion is that where an owner of goods wilfully and tortiously mixes and confuses his goods with the goods of another so that they are indistinguishable and not susceptible of division according to the rights of each owner, the one who mixed the goods must bear the whole loss, and the innocent party will take the whole property. 1 Am J2d Access § 15.

confusion of rights and obligations. A merger of the obligor and the obligee in one person; the concurrence of two adverse rights to the same thing in one and the same person; the concurrence of the character of the sole debtor and the sole creditor in the same person, thereby extinguishing the debt. Woods v Ridley, 30 Tenn (11 Humph) 195, 198.

congé. Leave or permission.

congeable. Lawful.

congé d'accorder. The *licentia concordandi*, or leave to agree the suit. This was the second step in the levying of a fine to convey land. As soon as the action was brought, the defendant, knowing himself to be in the wrong, was supposed to make overtures of peace to the plaintiff. The plaintiff then applied to the court for leave to ac-

[247]

cord or agree, lest he might lose the pledges he had given to prosecute the action. 2 Bl Comm 350.

congé d'appel. (Civil law.) Leave to appeal.

congé de défaut. The dismissal of an action by reason of the default of the plaintiff.

congé d'emparler. The *licentia loquendi*, or leave to imparl, which was the leave of court which a defendant might demand before putting in his plea, for time in which to talk with the plaintiff for the purpose of ascertaining whether the action might be settled amicably. 3 Bl Comm 299.

congé d'eslire. Leave to elect or choose. The term was applied to the king's leave or license to a dean and chapter to proceed to elect a bishop. If the king refused such leave, the electors could proceed without it. 1 Bl Comm 379.

congested district. A district in which there is very heavy traffic upon the streets and highways. Craft v Stone, 74 Ind App 71, 124 NE 473.

congius. An old Roman liquid measure equal approximately to the modern gallon.

congregation. A collective word signifying the electors of a religious corporation and embracing the stated hearers or attendants on divine worship who are competent to vote for trustees. Robertson v Bullions (NY) 9 Barb 64, 93; an assemblage or union of persons in society for some religious purpose, to unite in the public worship of their God, in such manner as they

deem most acceptable to Him. Runkel v Winemiller (Md) 4 Harr & McH 429, 452; the body of worshipers in attendance at a religious service.

congress. A formal gathering of delegates or representatives.

Congress. The national legislature of the United States, consisting of the Senate and the House of Representatives.

congressional authentication. A method of authentication of a public act, proceeding, or record for use as evidence in another state, provided by Act of Congress, the effect of which is to create a uniform method of authentication which all the courts in the United States are bound to respect. 30 Am J2d Ev § 989.

Congressional Cemetery. A burial ground or premises of Christ Church in Washington, D. C., established by the Vestry in the early days of the country, frequently used for some years as a place for the burial of Senators, Representatives, and Executive Officers who died in the city and whose homes were at a distance, and recognized as having a semi-official status by an appropriation made by Congress in 1816 in order to make certain the reservation of part of the ground for the burial of officials of the government.

congressional court. Any federal court established by act of Congress under Section 1 of Article III of the Constitution of the United States.

congressional districts. The divisions of a state for representation in the House of Representatives of the Congress of the United States, each district being separately represented by a member of the House. 54 Am J1st US § 21.

congressional grant. A grant of public land of the United States made by an act of Congress. Such an act is both a law and a grant, and the intent of Congress when ascertained is to control in the interpretation of the law. 42 Am J1st Pub L § 32.

congressional investigations. Investigations conducted by Congress though through committees into matters of concern to Congress in the exercise of its function of legislation. 54 Am J1st US § 32.

Congressional Library. See **Library of Congress.**

Congressional Record. The printed record of the proceedings of the Congress of the United States.

Congressional Survey. The method of survey first established by Congress for the lands in the Northwest Territory, since extended to public lands in the western and many other states of the Union, whereby the lands are surveyed and platted into square or rectangular tracts, known as townships, sections, and fractional parts of sections. 42 Am J1st Pub L § 40.

congressional township. An area six miles square under the survey of public lands made by the government. 52 Am J1st Towns § 2.

See **Congressional Survey.**

Congressman. Literally, a member of Congress, whether of the House of Representatives or the Senate, but usually confined to members of the House.

Congress of Industrial Organizations. An affiliation of labor unions established in 1938, since combined with the American Federation of Labor under the abbreviated heading CIO-AF of L.

congruere. (Civil law.) To agree.

conjectio causae. A statement of the case.

conjectural evidence. Evidence not of a character to permit a reasoned conclusion; evidence so slight as to permit nothing better than a guess in respect of its application to an issue. 29 Am J2d Ev §§ 251-253, 256.

conjecture. A guess or, at best, a very slight inference; a vast field into which no jury is permitted to roam. Meidel v Anthis, 71 Ill 241, 245.

conjoints. Persons owning property jointly; the term is sometimes applied to husband and wife.

conjoint will. A joint will bequeathing or devising property which the testators own in common. Anno: 169 ALR 12.

See **joint will.**

conjugal. Pertaining to the marital relation.

conjugal duties. Marital duties; the duties of husband and wife as such. 26 Am J1st H & W § 5.

conjugal fellowship. See **consortium.**

conjugal kindness. The treatment which one spouse has the right to expect from the other; a condition of condonation of a ground of divorce. Anno: 32 ALR2d 163.

conjugal rights. Marital rights; the rights of husband and wife, as such. 26 Am J1st H & W §5.

conjugal seducer. One who accomplishes a seduction under promise of marriage. Cropp v Tilney (Eng) 3 Salk 225.

conjuges. See **inter conjuges.**

[248]

conjugium. Marriage.

conjunct. Concurrent; joint.

conjuncta. Joined; united.

conjunctim. Jointly.

conjunctim et divisim. Jointly and severally.

Conjunctio mariti et feminae est de jure naturae. The union of husband and wife is according to the law of nature.

conjunction. A union; in grammar as a connective.

See **conjunctive.**

conjunctive. Together; jointly; connecting the elements of a sentence, thereby imparting a meaning.

conjunct persons. Persons related to one another in some degree.

conjuratio. A conspiracy.

conjuration. Appealing to supernatural forces in the spirit world for the accomplishment of extraordinary feats in allaying storms and healing sickness; the pretension of ability to secure the aid of supernatural and superior powers. *Cooper v Livingston*, 19 Fla 684, 694.

conjurator. A conspirator; a person combining with another or with others in a conjuration.

See **conjuration**.

conjuror. See **conjuration**.

conjuror. See **conjuration**.

Connally Act. A federal statute having the purpose of aiding the enforcement of state laws limiting the production of oil, in certain fields, by prohibiting the shipment in interstate commerce of oil, known as hot oil, produced in excess of the limit set by state statute. 15 USC §§ 715 et seq.; *Bolting v Bowen* (CA4 Va) 118 F2d 59.

connecting carrier. Any one of several common carriers whose lines or parts thereof together constitute the entire route over which a shipment of goods is transported. 14 Am J2d Car § 662.

connecting carrier's lien. The lien of a connecting carrier on the goods in the shipment for its charges, including the charges of preceding carriers in the succession of carriers paid by it, such lien being for the amount due it under the legal and fixed rate, notwithstanding the amount may be in excess of a through rate guaranteed by the initial carrier, the connecting carrier, however, not being entitled to a lien if it has accepted the shipment with knowledge that a through contract of shipment has been made with the initial carrier and the entire charge paid in advance. 14 Am J2d Car § 666.

conner. See **ale conner**.

connivance. A secret cooperation in an illegal or wrongful act. As a defense in an action for divorce on the ground of adultery: -a corrupt consent by one spouse that the other shall commit adultery. *Giddings v Giddings*, 167 Or 504, 114 P2d 1009.

A wife is guilty of connivance where, with corrupt intention, she behaves in such a way as to promote or encourage the continuation of an adulterous intercourse started by the husband without any fault on the part of the wife. *Woodbury v Woodbury*, [1949] Prob 154, [1948] 2 All Eng 684, 17 ALR2d 334.

connoisement. (French.) A bill of lading.

connubial. Pertaining to the married state; conjugal; marital.

connubium. Marriage.

conocimiento. (Spanish.) A bill of lading.

coposessio. A joint possession.

conquereur. The first purchaser of an estate.

See **first purchaser**.

conqueror. William the Conqueror, king of England from 1066 to 1087; a purchaser.

conquest. A method by which a nation may acquire territory in the absence of treaties or conventions to the contrary. 30 Am J Rev ed Internat L. § 41; 54 Am J1st US § 78. The acquisition of property otherwise than by inheritance or conveyance in manner permitted by law.

The Norman Conquest is often referred to as "The Conquest."

An island is "acquired" by the United States, so as to bring it within the scope of a workmen's compensation act covering employees at a military or air base acquired after a certain date, upon its capture from an enemy force. Anno: 2 L Ed 2d 1980.

conquestus. Acquisition.

conquets. (C'ivil law.) Same as acquest.

See **acquests and conquets.**

conquisitio. Acquisition.

conquisitor. A conqueror; a purchaser.

consanguineos. Blood relations, persons who have in their veins a portion of the blood of a common ancestor. 2 Bl Comm 205.

See **de consanguineo.**

consanguineus. Related by blood

See **frater consanguineus.**

Consanguineus est quasi eodem sanguine natus. A person related by consanguinity is, as it were, one born of the same blood.

consanguineus frater. A brother by the father's side, that is, a brother born of the same father. 2 Bl Conn 212.

consanguinity. Relationship by blood. Re Bordeaux Estate, 37 Wash 2d 561, 225 P2d 433, 26 ALR2d 249. The having of the blood of some common ancestor. Bioged v Brinsmaid, 9 Vt 27, 30.

See **collateral consanguinity; kin; kindred; lineal consanguinity.**

conscience. A person's natural judgment of right and wrong. "Principle" the result of judgment, is tested by reason, defended by argument, and yields to the decision of an intelligent mind. "Conscience" springs from some internal source of self-knowledge, which acknowledges no superior, bows to no authority, yields to no demonstration, and is governed by no law; it ignores reason, defies argument, and is unaccountable and irresponsible to all human tests and standards; it is a law unto itself, and its scruples and its teachings are not amenable to human tribunals, but rest alone with its possessor and his God. People v Stewart, 7 Cal 140. An ele-

[249]

ment of equitable jurisdiction, not the private opinion of an individual court, but rather to be regarded as a metaphorical term designating the common standard of civil right and expediency combined, based upon general principles and limited by established doctrines, to which the court appeals and by which it tests the conduct and rights of suitors. National City Bank v Gelfert, 284 NY 13, 29 NE2d 449, 130 ALR 1472.

conscience money. Money paid in settlement of an obligation which the person paying has previously evaded or concealed.

Conscientia dicitur a con et scio, quasi scire cum Deo. Conscience is so called from "con" (meaning "with") and "scio" (meaning "I know"), as it were, I know with God.

conscientiae detrimentum. Shipwreck of conscience.

conscientia rei alieni. Knowledge of another person's ownership.

conscientious objector. One seeking exemption from required military service as opposed on religious grounds to participation in war. United States v Seeger, 380 US 163, 13 L Ed 2d 733, 85 S Ct 850.

conscionable. According to honesty.

conscious. Possessing sufficient power of mind to understand the real nature and true character of one's acts. Brown v Commonwealth, 78 Pa 122, 128.

conscription. Requiring the performance of military service. 36 Am J1st Mil § 22. Enforcing the employment of capital or labor in military service.

See **selective draft.**

Consecratio est periodus electionis; electio est praemambula consecrationis. Consecration is the termination of election; election is the preamble of consecration.

consecration. The act of devoting to religious use or making sacred.

See **parish church.**

consecutive sentences. Sentences succeeding one another in a regular order, with an uninterrupted course or succession, and without interval or break, State v Rider, 201 La 733, 10 So 2d 601; the opposite of concurrent sentences, Subas v Hudspeth (CA 10 Kan) 122 F2d 85; sometimes called accumulative or cumulative sentences. 21 Am J2d Crim L § 547.

consedo. Same as **cedo**.

Conseil. (French.) Counsel; advice; sanction.

Conseil de famille. (French.) The consent of the family.

Conseil judiciale. (French.) A kind of guardian appointed by the court to protect the estate of a spendthrift.

consensual. Depending upon consent; existing by consent.

consensual contract. (Civil law.) An agreement which was enforceable merely because the parties consented to it.

consensu regio. By royal command. 3 Bl Comm 95.

consensus. Agreement, especially in a matter of opinion; a general opinion.

consensus ad idem. An agreement for the same thing; a meeting of the minds without which no contract can arise. Wheat v Cross, 31 Md 99.

Consensus est voluntas plurium ad quos res pertinet, simul juncta. Consent is the joint will of many persons to whom the thing belongs.

Consensus tacit jus. Consent makes law. The parties make their own law by their agreement. Shields v Ohio, 95 US 319, 326, 24 L Ed 357, 359. The maxim probably means that it is the consent of the governed which causes law to come into being, and conversely that without such consent we would have no law. St. Louis & San Francisco R. Co. v Gill, 54 Ark 101, 15 SW 18. Taking account of the oft repeated axiom that "there is no law in a settlement," perhaps the real meaning of the maxim is that consent takes the place of law.

Consensus, non concubitus, facit matrimonium. A meeting of the minds, and not cohabitation, constitutes a marriage. This was a maxim of the common law, the civil law and of the ecclesiastical law as well, and the sounder rule established by express decisions on the question is that mutual consent only is necessary. 35 Am J1st Mar § 29.

Consensus, non concubitus, tacit nuptias vet matrimonium et consentire non possunt ante annos nubiles. Consent, not cohabitation, makes nuptials or marriage, and those under marriageable age cannot consent.

Consensus tollit errorem. Consent permits error. A person cannot object to that to which he has consented. Fuller v State, 100 Miss 811, 57 So 806.

Consensus voluntas multorum ad quos res pertinet, simul juncta. Consent is the will of several persons joining simultaneously in one transaction.

consent. Verb: To agree or to give assent to something proposed or requested. Noun: Agreement; approval; acquiescence. Unity of opinion -accord of minds -to thinking alike -being of one mind. Consent involves the presence of two or more persons, for without at least two persons there cannot be a unity of opinion, or an accord of minds, or any thinking alike. Huntley v Holt, 58 Conn 445, 449. As a defense in a prosecution for rape: -an exercise of the intelligence, based upon knowledge of the significance of the act and the question of morality involved therein, in making a choice between resistance and assent. People v Palvino, 216 App Div 319, 321, 214 NY 577, 578.

consent decree. A decree entered in an equity suit on consent of the parties. Such a decree, when entered, is binding on the consenting parties, and it cannot be heard or reviewed except on a showing that consent was obtained by fraud or that the decree was based on mutual error. 27 Am J2d Eq § 246.

[250]

Consententes et agentes pari poena plectentur. Persons who consent and those who act are subject to the same penalties.

Consentire matrimonio non possunt infra annos nubiles. Persons who are under marriageable age cannot consent to marriage.

Consentire videtur qui facet. Those who are silent are deemed to have consented. Silence gives consent.

consent judgment. A judgment entered by consent of the parties for the purpose of executing a compromise and settlement of an action; in effect, an agreement or contract of the parties acknowledged in court, and ordered to be recorded, with the sanction of the court. 30A Am J Rev ed Judgm § 144.

A consent judgment is a determination by the parties, rather than by the court, but it is equally immune to collateral attack as a judgment rendered after a determination by the court. 30A Am J Rev ed Judgm § 847.

consent of insured. An expression in the omnibus clause of an automobile liability insurance policy, meaning the permission of the insured owner for the use of the automobile by another. *Didlake v Standard Ins. Co.* (CA10 Okla) 195 F'2d 247, 33 ALR2d 941.

consent reference. See **reference on consent.**

consent rule. A rule employed to facilitate the legal fiction whereby an ejectment suit is employed as a remedy for determination of title, the rule requiring the defendant to confess the fictitious lease, entry, and ouster, and to plead not guilty. 25 Am J2d Eject § 2.

consent to. The words "consent to" and "approve of" do not, singly or combined, express the idea of wilful contribution to or procurement of a felonious act, which is essential to guilt. A person may be present and heartily approve of an act after its commission, without being at all willing or capable of advising, aiding or procuring the act; or he may consent in the sense of offering no resistance, without the slightest contribution to it by his own will. *True v Commonwealth*, 90 Ky 651, 654, 14 SW 1 685.

consequence. That which follows as the result or effect of a cause. *Tierney v Occidental L. Ins. Co.* 89 Cal App 779, 265 P 400. When an event is followed in natural sequence by a result which it is adapted to produce, or aid in producing, that result is a consequence of the event. *Landstrom v Thorpe* (CA8 SD) 189 F'2d 46, 26 ALR2d 1170.

See **natural and probable consequences; natural consequences; probable consequence.**

consequentiae non est consequentia. A consequence is not the result of a consequence.

consequential damages. An equivocal expression, meaning both damages which are so remote as not to be actionable, and damages which are actionable, *Eaton v Boston C. & M. R. Co.* 51 NH 504; in one sense, the direct or proximate damages, 22 Am J2d Damg § 20; in another sense, indirect damages; damages which are not produced without the concurrence of some other event attributable to the same origin or cause. *Loiseau v Arp*, 21 SD 566, 114 NW 701.

A provision, in a contract for the installation of elevators, against liability of the elevator company for "consequential damages," provides against liability for damages that do not arise according to the usual course of things from the breach of the contract itself, that is, against liability for damages that are the consequence of special circumstances. *Boylston Housing Corp. v O'Toole*, 321 Mass 528, 74 NE2d 288, 172 ALR 1251.

See **compensatory damages.**

conservancy districts. Essentially the same as drainage districts, being organized under statutes enacted for the purpose of controlling floods and protecting life and property against their ravages. *Re Proposed Middle Rio Grande Conservancy Dist.* 31 NM 188, 242 P 683.

conservation. The protection of property against loss, misuse, or waste, particularly, in the modern sense of the term, natural resources, wildlife, and natural settings in mountains, rivers, lakes, prairies, etc., in which the people may find recreation.

conservator. One placed in charge of property by a court as a temporary guardian or custodian. *Re Guardianship of Hampson's Estate.* 190 Or 279, 223 P2d 1039, 21 ALR2d 873; one appointed to take custody of the property or estate of a missing person, 1 Am J2d Absent § 2; a person appointed for the custody and protection of property of an insane person. 29 Am J Rev ed Ins Per § 62.

conservatores pacis. Keepers of the peace, peculiar officers appointed by the common law for the maintenance of the public peace. 1 Bl Comm 349.

conservatorship. The holding of property by a conservator.

See **conservator**.

conservators of the peace. Same as **conservatores pacis**.

conservators of truce and safe-conduct. Officers who were appointed in every port in England and who were empowered to hear and determine breaches of truce and safe-conduct. 4 Bl Comm 69.

conservatrix. A female conservator.

consessimus. We have granted or given.

considerable provocation. A term of reference in the law only to express an element reducing a homicide from murder to manslaughter, and so elusive of accurate definition that the most that can be said is that it means "legal provocation" or "adequate provocation," such being matters for determination by the court. McClurg v Commonwealth (Ky) 36 SW 14, 15.

consideratio curiae. The consideration of the court.

consideration. An essential of a valid and enforceable contract. 17 Am J2d Contr § 86; a matter of contract, something within the contemplation of the parties to the contract. Van Houten v Van Houten, 202 Iowa 1085, 209 NW 293; the price bargained and paid for a promise, in other words, something given in exchange for the promise. 17 Am J2d Contr § 85; a benefit to the promisor or a loss or detriment to the promisee. Test v Heaberlin, 254 Iowa 521, 118 NW2d 73; 11 Am J2d B & N § 216; some right, interest, profit, or benefit accruing to one party to a contract, or some forbearance, detriment, loss, or responsibility given, suffered or undertaken by the other. 17 Am J2d

[251]

Contr § 85; 11 Am J2d B & N § 216; an act or a forbearance, the creation, modification, or destruction of a legal relation, or a return promise bargained for and given in exchange for a promise. 17 Am J2d Contr § 85.

See **good consideration; failure of consideration; moral consideration; past consideration; valuable consideration.**

consideratione legis. See **in consideratione legis**.

consideratione praemissorum. See **in consideratione praemissorum**.

consideration of a sale. The amount paid or to be paid for the articles furnished. See 46 Am J1st Sales § 60.

consideratum est per curiam. It is considered by the court. A judgment takes this form to show that it is the act of the law as interpreted by the court and so declared after due deliberation; for if a judgment recited "it is decreed, or resolved," by the court, it might appear to be the act of the court rather than the act of the law. 3 Bl Comm 396.

consideratur. It is considered.

considered. Thought about, brought into a process of reasoning, but not necessarily determining a decision. Schreiber v Pacific Coast Fire Ins. Co. 195 Md 639, 75 A2d 108, 20 ALR2d 951. In some connections, the word has been construed as meaning "reasonably regarded." Polsgrove v Moss, 154 Ky 408, 413, 157 SW 1133.

considered as a unit. As the phrase appears in an inheritance statute, it refers to the total of all transfers to one beneficiary. 28 Am J Rev ed Inher T § 298.

considered dictum. An expression of opinion on a point deliberately passed upon by the court, although not necessary to the disposition of the case. Scovill Mfg. Co. v Cassidy, 275 Ill 462, 114 NE 181.

consign. To commit or entrust goods to a person for care or sale by such person. Sturm v Boker, 150 US 319, 37 L Ed 1099, 14 S Ct 99; to send or transfer goods to a merchant or factor for sale. Wasey v Whitcomb, 167 Mich 58, 132 NW 572; to place goods in the hands of a carrier for transportation and delivery to a designated person.

consignatio. A consignment.

consignation. A deposit under French law, which a debtor makes by authority of the court of the thing or sum which he owes, in the hands of a third person. Weld v Hadley, 1 NH 295, 304.

consignee. The person to whom a carrier is to deliver a shipment of goods; the person named in a bill of lading to whom or to whose order the bill promises delivery. 15 Am J2d Com C § 13; a factor or other person to whom goods are consigned, shipped, or otherwise transmitted, either for sale or for safekeeping. Powell v Wallace, 44 Kan 656, 25 P 42; Sturm v Boker, 150 US 319, 37 L Ed 1099, 14 S Ct 99; Anno: 53 ALR 364. The term itself implies an agency. Wasey v Whitcomb, 167 Mich 58, 132 NW 572.

consignment. The entrusting of goods to another, to a carrier for delivery to a consignee designated or to one who is to sell the goods for the consignor. A consignment is nothing more than a bailment for sale. Re Sachs (DC Md) 21 F2d 984, 986.

consignment contract. A consignment of goods to another with the understanding that the consignee shall either sell the property for the consignor and remit to him the price, or if he does not sell the property, return the goods to the consignor. 8 Am J2d Bailm § 34. Such a transaction is a bailment for sale. 8 Am J2d Bailm § 34.

consignor. A person who sends goods to another on consignment; a shipper or transmitter of goods; the person named in a bill of lading as the person from whom the goods have been received for shipment. UCC § 7-102(1)(b)(c).

Consilia multorum requiruntur in magnis. The advice of many is required in affairs of magnitude.

consiliarius. A counselor.

consilium. A day set for an argument or hearing.

consimili casu. A writ by which a reversioner might recover land from the alienee of a life tenant or tenant by the curtesy. See 3 Bl Comm 183, note.

consistory. An ecclesiastical court.

consistory court. Also called the bishop's court, -a court of every diocesan bishop which was held in their several cathedrals, for the trial of all ecclesiastical causes arising within their respective dioceses. The bishop's chancellor, or his commissary was the judge and from the sentence of this court an appeal lay to the archbishop of the province. 3 Bl Comm 64.

consolato del mare. A maritime code which was at one time in effect on the Mediterranean Sea. It was compiled about 1000 A. D.

consolidate. To unite into one mass or body, as to consolidate the forces of an army, or various funds. In parliamentary usage, to consolidate two bills is to unite them into one. In law, to consolidate benefices is to combine them into one. Independent Dist. of Fairview v Durland, 45 Iowa 53, 56.

consolidated corporation. The single corporation that exists after a consolidation of two or more corporations. State ex rel. Nolan v Montana Railway Co. 21 Mont 221, 53 P 623.

consolidated fund. The combined revenue of Great Britain and Ireland.

consolidated income tax return. A return by the parent company for all the members of an affiliated group of corporations in place of a separate corporate income tax return by each member. IRC §§ 1501-1505.

Consolidated Orders. A compilation of the orders which regulated practice in the English chancery court, made in 1860.

consolidation. A bringing together of separate things to make one thing; uniting or bringing together the parts of a thing to make it more firm.

consolidation of actions. The joining of separate pending suits for trial as one suit, in the interest of justice or procedural convenience. 2 Am J2d Adm § 197; 53 Am J1st Tr § 66; the fusing by order of court of several pending actions which might have been brought as a single action or suit; the stay of some actions or proceedings pending before a court until it can be determined whether the disposition

[252]

of another case may not dispose of all of them. 1 Am J2d Actions § 156.

consolidation of appeals. The joinder on motion to the reviewing court, or on the court's own motion, of appeals from a single judgment or from identical judgments, and from judgments which involve the same question and the same parties. 5 Am J2d A & E § 681; Joining numerous appeals to the court from a single legislative order by an administrative agency, pursuant to an order of the court, thereby permitting the several appeals to be maintained as one appeal. 2 Am J2d Admin L § 730. Reviewing courts may, and frequently do, without formally consolidating cases, hear and determine two or more of them together for reasons of convenience or because of the similarity of the facts or questions involved. 5 Am J2d A & E § 681.

consolidation of corporations. A union, blending, or coalescence of two or more corporations in one corporate body whereby, in general, their properties, powers, rights, and privileges inure to, and their duties and obligations devolve upon, a new organization thus called into being; and whereby they cease to exist except constructively in certain cases, as, for example, where the jurisdiction of the courts and the power of the state to tax and regulate are concerned. 19 Am J2d Corp § 1491.

There can never be a consolidation of corporations except where all the constituent companies cease to exist as separate corporations and a new corporation, the consolidated corporation, comes into being. Anno: 27 ALR2d 777.

"Amalgamation" is the older English word for consolidation. State ex rel. Nolan v Montana R. Co. 21 Mont 221, 53 P 623.

For distinction between "consolidation" and "merger," see **merger of corporations.**

consolidation of hearings. A practice within the discretion usually reposed in an administrative agency. 2 Am J2d Admin L § 408.

consolidation of municipal corporations. The joining of existing municipal corporations, usually by creating a new corporation, whereby the original corporations cease to exist. 37 Am J1st Mun Corp § 21.

consolidation of railroads. In the most simple sense of the term, a consolidation of two or more railroad corporations, but in actual practice, a long and involved process, the success of which depends upon the approval of the consolidation by the Interstate Commerce Commission and sometimes by state regulatory commissions, the business of railroads touching the public interest so closely that the regulatory commissions are alert to the possibility that a proposed consolidation will eliminate competition, thereby resulting in higher rates, or be adverse to the public interest in point of service. State ex rel. Nolan v Montana Railway Co. 21 Mont 221, 63 P 926; 44 Am J1st RR §§ 319 et seq.

consolidation of school districts. The uniting of two or more school districts into one district. 47 Am J1st Sch § 22. The annexing of one school district to another is indistinguishable from the consolidation of one district with the other. Evans v Hurlburt, 117 Or 274, 243 P 553.

See **centralization of schools.**

consolidation of schools. See **centralization of schools.**

consolidation rule. A rule or order of court for the consolidation of two or more actions into one. Dunning v Bank of Auburn (NY) 19 Wend 23.

See **consolidation of actions.**

consuls. A word used for certain state bonds, but better known as annuities issued at one time by Great Britain in funding public debt. English consuls are but annuities; the interest only is paid, the principal is never reimbursed, and the government can only redeem them by buying them in the market. Henry v Henderson, 81 Miss 743, 33 So 960.

consort. A husband or wife.

See **prince consort; queen consort.**

Consortio malorum me quoque malum tacit. The companionship of the wicked makes me wicked also.

consortium. At earlier common law, the status and rights of the husband arising from the marriage relationship, while "coverture" denoted the status and rights of the wife arising therefrom.

But "consortium" has now come to mean the rights and duties of both husband and wife, resulting from the marriage, in other words, the marital rights and duties of the spouses inter se, the reciprocal rights and duties of society, companionship love, affection, aid, services, co-operation, sexual relations, and comfort, such being special rights and duties growing out of the marriage covenants. Hitaffer v Argonne Co. 87 App DC 57, 183 172d 811, 23 ALR2d 1366. Loss of consortium is not a bodily injury. 7 Am J2d Auto Ins § 212.

consortium vicinorum. The society of one's neighbors.

conspectu ejus. See **in conspectu ejus.**

conspicuous. Clearly visible; easily seen. In the case of a posted notice the place must be conspicuous and the notice must be conspicuous in the sense that it may be easily read. R. S. Oglesby Co. v Lindsey, 112 Va 767, 72 SE 672. In reference to a

term or clause in an instrument, the words must be so written that a reasonable person against whom they are to operate ought to have noted them. 15 Am J2d Com C § 7.

conspiracy. An agreement between two or more persons to accomplish together a criminal or unlawful act or to achieve by criminal or unlawful means an act not in itself criminal or unlawful. 16 Am J2d Consp § 1. Conspiracy is a criminal offense, a misdemeanor in some jurisdictions, a felony in others. 16 Am J2d Consp §§ 2, 3. Conspiracy is also a wrong which will constitute a cause for a civil action. 16 Am J2d Consp § 43. The cause of action is the damage suffered. It is the civil wrong resulting in damage, and not the conspiracy which constitutes the cause of action. Mox, Inc. v Woods. 202 Cal 675, 262 F 302.

conspiracy clause. The clause of a bill in equity under the older practice, consisting of an allegation that the wrong complained of was brought about by a conspiracy between the several defendants, that they had all conspired to injure the plaintiff, and had co-operated in the perpetration of the wrong. 19 Am J 2d Eq § 181.

conspiratione. See **de conspiratione.**

conspirators. Persons who participate in a conspiracy.

[253]

constable. A public officer, a peace officer, of a county or a town, whose special duty is the execution of process in and of the courts of justices of the peace. Formerly, the office was important in both England and France, a constable in those earlier days being one of the high officers of the crown, having military as well as judicial duties. 47 Am J1st Sher § 2.

constable of England. The lord high constable of England, -an officer of great and numerous functions and powers, both military and civil, which originated with the Normans and diminished to an ornamental rank for state occasions only during the reign of Henry the Eighth. See 1 Bl Comm 355.

constabulary. The jurisdiction of a constable.

constablewick. The jurisdiction of a constable.

constabulary. A collective word denoting the constables of a district.

constant watch. A term, in a provision of a fire insurance policy relative to insured's duty in protection of the premises, construed as a representation rather than a warranty, imposing upon the insured the duty to use all reasonable care and to take all reasonable means to see that a constant watch was kept. King Brick Mfg. Co. v Phoenix Ins. Co. 164 Mass 291, 41 NE 277.

constat. It is clear; a certificate that certain matters appear of record.

See **clare constat.**

constat de persona. There is proof as to the person; certainty as to the person is established; the formal identification of the defendant in a criminal prosecution, by his holding up his hand upon his arraignment and thus acknowledging himself to be the person charged in the indictment. See 4 Bl Comm 323.

constate. To verify or prove.

constating instruments. The charter, the organic law of a corporation, or the grant of powers to it. Ackerman v Halsey, 37 NJ Eq 356, 363.

constipation. Infrequency in movement of waste matter from the bowels. United States v Ridgeway (CC Ga) 31 F 144, 147.

constituent. A person represented by another, as the principal in the relation of principal and agent, and an inhabitant of a state or district represented by a United States Senator, a Congressman, or a member of the state legislature; one of the corporations joining in a consolidation.

constituere. To appoint; to establish; to ordain.

constitute. To set up or establish, for example, a government or a body of law; to form the elements of something; to ordain or appoint a person to an office or position.

constituted authorities. The existing and lawfully appointed officers of the government

constitutio. A constitution; a statute.

constitutio dotis. The establishment of dower.

constitution. A system of fundamental laws or principles for the government of a nation, state, society, corporation, or other aggregation of individuals. 16 Am J2d Const L § 1.

Although a constitution, in the broad sense of the term, may be written or unwritten, in the United States, the word as applied to the organization of the federal and state governments, always implies a writing. 16 Am J2d Const L § 1.

"A written constitution is not only the direct and basic expression of the sovereign will, but is the absolute rule of action and decision for all departments and offices of government in respect to all matters covered by it, and must control as it is written until it shall be changed by the authority that established it." Wright v Hart, 182 NY 330, 75 NE 404.

A constitution differs from a statute in that a statute must provide at least to a certain degree, the details of the subject of which it treats, whereas a constitution usually states general principles and builds the substantial foundation and general framework of the law and government. 16 Am J2d Const L § 3

See **state constitution; United States Constitution.**

constitutional. Pertaining to a constitution; in accordance with, agreeably to, consonant with, not in conflict with, the constitution.

constitutional convention. A representative body meeting to form and adopt a constitution, such as the Federal Convention of 1787, meeting in Philadelphia to form and adopt the Constitution of the United States, or meeting to form, consider, and adopt amendments to an existing constitution.

constitutional courts. Courts which are directly established by the constitution, and therefore beyond the power of the legislature to abolish or alter. 20 Am J2d Cts § 17; Federal courts established by Congress pursuant to Article 3, section 1 of the Constitution of the United States. 20 Am J2d Cts §8.

constitutional disease. A disease which has, at least, some bearing upon the general health. 29 Am J Rev ed Ins § 748.

constitutionality. The matter of being in accord with, or in conflict with, and opposed to, the provisions and principles of a constitution.

See **constitutional.**

constitutional law. A body of principles which apply in the interpretation and construction of constitutions and the application of the law of constitutions, that is, fundamental law, to statutes and other public acts. 16 Am J2d Const L § 1. In the form which it has taken in the United States, "constitutional law" is an American graft on English jurisprudence. Its principles and rules are mainly the outgrowth of the development of this country and the states. They rest upon the fundamental conception of a supreme law, expressed in written form, in accord with which all private rights must be determined and all public authority administered. State v Main, 69 Conn 123, 37 A 80.

constitutional liberty. The liberty guaranteed under the American system of constitutional government; a very broad and extensive concept, embracing not only freedom from physical restraint, but the right of man to be free in the enjoyment of the faculties with which he is endowed by the Creator, subject only to such restraints as are necessary for the common welfare. 16 Am J2d Const L §§ 358, 359.

constitutional limitations. Those provisions of a constitution which restrict or confine the power of the

[254]

legislature to pass laws. 16 Am J2d Const L §§ 228 et seq.

constitutional office. A public office created by the United States Constitution or by a state constitution, as distinguished from an office created by statute, or from an office which, like that of notary public, has existed in nearly all countries for centuries. Opinion of Justices, 165 Mass 599, 43 NE 927.

constitutional right. A right guaranteed to a person by the Constitution of the United States or a state constitution, and so guaranteed as to prevent legislative interference with that right. 16 Am J2d Const L § 328.

constitutions. The laws of the Roman emperors.

Constitutiones tempore posteriores potiores sunt his quae ipsas praecesserunt. (Civil law.) Later laws prevail over those which preceded them.

Constitution of the United States. The Constitution as it was adopted in the Convention of 1787, was ratified by the states, and went into effect on March 4, 1789, together with the Amendments to that constitution, duly adopted and ratified.

Constitutions of Clarendon. English statutes enacted in 1164, limiting the powers of the Church of England.

constitutor. (Civil law.) A person who promised to pay the debt of another.

constitutum. (Civil law.) An agreement to pay a pre-existing debt.

Constitution esse cam domum unicuique nostrum debere existimari, ubi quisque sedes et tabulas haberet, suarumque rerum constitutionem fecisset. (Civil law.) It is established that the home of each of us is considered to be the place where he has his abode and his books and where he may have made an establishment of his business.

constraint. Duress; restraint; compulsion. Gates v Hester, 81 Ala 357, 360; an abridgment of liberty or hindrance of the will. Edmondson v Harris, 2 Tenn Ch 427, 433.

construct. To build; to erect; sometimes used in the sense of "to provide." Seymour v Tacoma, 6 Wash 138, 32 P 1077.

constructed value. A technical term in the law of customs duties which refers for calculation to cost of materials, expenses and profit, and cost of containers and packaging. 19 USC § 1401a(d).

constructio arcium. See **arcium constructio**.

Constructio legis non tacit injuriam. The interpretation of the law works no injury. See Broom's Legal Maxims 603.

construction. The erection of buildings; the creation of structures; something constructed; ascertaining the meaning of a constitution, statute, charter of a corporation, bylaws of a mutual benefit society, contract, will, or any other instrument in litigation or having a bearing upon litigation. There is an abstract distinction between "construction" and "interpretation," in that "construction" is the drawing of conclusions from elements known from, given in, and indicated by, the language used, while "interpretation" is the art of finding the true sense of the language itself, or of any form of words or symbols. In other words, "interpretation" is used with respect to language or symbols themselves, while "construction" is used to determine, not the sense of the words or symbols but the legal meaning of the entire contract. But, on the whole, it is doubtful whether anything is to be gained by attempting the difficult and unrewarding task of making a distinction between the two terms. 17 Am J2d Contr § 240.

See **broad construction; equitable construction; interpretation; liberal construction; narrow construction; original construction; practical construction; rational interpretation; strict construction.**

construction car. A car used in work on a railroad, carrying equipment, materials, even laborers.

construction contract. A contract for the construction of a building or other structure, the distinguishing characteristics of which are the plans and specifications, according to which the work is to be performed by the builder or contractor; the performance of a part, sometimes all the work required to be performed by subcontractors, and public regulation of the contracting business, which, of course, by imposing licensing requirements determines who are competent to contract as builders.

construction interest. That sum of money estimated for payment of interest accruing on special assessment warrants, sold to defray the cost of an improvement, from the time of such sale until special assessments become due and payable and begin to draw interest, such sum being added to the cost of the improvement and included in the total amount of the special assessment warrants issued and sold. Hoffman v Minot (ND) 77 NW2d 850, 58 ALR2d 1338.

construction work. Work in erecting buildings, providing other structures, such as bridges and viaducts, improving harbors, digging canals, making and repairing highways, etc. As used in workmen's compensation acts to describe a particular type of employment, the term includes reconstruction, and applies to the strengthening, by the addition of stays and supports, of a completed building found to be faulty. 58 Am J1st Workm Comp § 98.

construction workers. Persons engaged in the construction work.

See **construction work**.

constructive. Informative; helpful; inferred, deduced, or presumed from circumstances, sometimes by forced or strained conclusions.

constructive acceptance. An element of an implied relation of bailor and bailee, where the latter has acquired possession by chance, as by finding the property, or where wearing apparel or other article has been left in a store, office, or other place of business by a customer, client, or patient. 8 Am J2d Bailor § 60.

constructive admission. The effect of failure to respond, or a bad response, to a request for an admission under the federal rule which supports such request. 23 Am J2d Dep §§ 303, 306.

constructive adverse possession. See **constructive possession.**

constructive annexation. The assumption of the character of realty by movable things which have

[255]

been fitted and adapted to realty, such as doors, mantels, casings, columns, etc., although not affixed to the realty. 35 Am J2d Fixt § 11.

constructive assignment. An assignment for the benefit of creditors arising by operation of law, as where a preferential or fraudulent transfer is converted by statute into an assignment for the benefit of creditors. 6 Am J2d Assign for Crs § 47.

constructive attachment. An attempt to perfect an attachment without seizure and removal of personal property. 6 Am J2d Attach §§ 296, 297.

constructive bailment. The holding of a chattel under such circumstances that the law imposes upon the person in possession the obligation to deliver the chattel to another. 8 Am J2d Bailm § 8.

constructive breaking. In the law of burglary, such a breaking as is effected where the entry is accomplished by means of fraud or threats, or by confederacy with the servants in the house. 13 Am J2d Burgl § 13.

constructive contempt. A contempt of court committed, not in the presence of the court, but at some distance away from it, usually consisting in disobeying or resisting process, intimidating a witness, or giving a false report of judicial proceeding while the same is pending before the court. 7 Am J2d Contpt § 6. Often referred to as indirect contempt.

See **indirect contempt.**

constructive contract. Same as **quasi contract.**

constructive conversion. A conversion which takes place when a person does such acts in reference to the goods of another as amount in law to appropriation of the property to himself. Laverty v Snethen, 68 NY 522, 524.

See **equitable conversion.**

constructive delivery. A symbolic delivery whereby the party to whom delivery is made is clothed with all the usual muniments of title and indicia of ownership, as in the case of the deposit of a warehouse receipt or bill of lading for goods in store or in transit. 46 Am J1st Sales §434. By carrier: -the disposition of a shipment where the carrier agrees with the consignee or some person entitled under the latter to hold the goods for some purpose other than that of carriage to and delivery at the destination directed by the shipper. State v Intoxicating Liquors, 104 Me 463, 72 A 331. Of life insurance policy: -an unconditional acceptance of the terms of the contract by the insured, coupled with both insurer and insured treating the policy as in force, although the policy remains in the possession of the agent of the insurer. 29 Am J Rev ed Ins § 215.

constructive desertion. Misconduct by a spouse so serious as to compel the other spouse to leave or remain away from it. 24 Am J2d Div & S § 112.

constructive dividend. A division of profits of a corporation among the stockholders without a formal declaration of a dividend or an intent by the directors to declare a dividend. Morgan v Wisconsin Tax Com. 195 Wis 405, 217 NW 407 218 NW 810 61 ALR 357, error dismd 278 US 583, 73 L Ed 519, 49 S Ct 186, cert den 279 US 835, 73 L Ed 983, 49 S Ct 250.

constructive escape. The obtaining by a prisoner of more liberty than the law allows him, although he still remains confined. 27 Am J2d Escape § 23.

constructive eviction. As a breach of a covenant of title: it yielding by the grantee to the hostile assertion of an adverse paramount title. 20 Am J2d Cov § 101. Any disturbance of a tenant's possession by the landlord, or someone acting under his authority, or an omission by the landlord to act or perform where it is his duty to act or perform, which renders the premises unfit for occupancy for the purposes for which they were demised or which deprives the tenant of the beneficial enjoyment of the premises, causing him to abandon them, amounts to a "constructive eviction," provided the tenant abandons the premises within a reasonable time. 32 Am J1st L & T §§ 246-248.

constructive flight. A fiction which has been adopted to secure the return, from a sister state as a fugitive from justice, of a person who has by his constructive presence committed a crime in the demanding state. 31 Am J2d Extrad § 5.

constructive force. In robbery, such force consists of any demonstration of force, menace, or means by which the person robbed is put in fear sufficient to suspend the free exercise of his will, or to prevent resistance to the taking. See 46 Am J1st Rob § 16.

constructive fraud. Legal fraud as distinguished from actual fraud, being presumed from the relation of the parties to a transaction or from the circumstances under which it takes place, not necessarily a matter of conscious wrongdoing. 37 Am J2d Fraud § 4.

In its generic sense, "constructive fraud" comprises all acts, omissions, and concealments involving a breach of legal or equitable duty, trust or confidence which result in damage to another. Constructive fraud exists in cases in which conduct, although not actually fraudulent, ought to be so treated—that is, in which such conduct is a constructive or quasi fraud which has all the actual consequences and legal effects of actual fraud. *Re Arbuckle's Estate* 98 Cal App 2d 562, 220 P2d 950, 23 ALR2cl 372.

constructive levy. The act of an officer armed with a writ of attachment or execution in reference to property of the defendant which would render the officer liable for conversion or trespass if it were not for the protection given him by the writ. 6 Am J2d Attach § 296. A paper levy upon real estate, that is, a levy accomplished by the officer without actual entry upon the land. 6 Am J2d Attach § 312.

constructively received. For income tax purposes: -a dividend which, although not actually received by the stockholder, has been made unqualifiedly subject to his demand. Anno: 120 ALR 1282.

See **constructive delivery.**

constructive mortgage. An instrument in the form of an absolute deed of real estate but intended as a mortgage, being given as security for the payment of a debt. *Plumner v Isle*, 41 Wash 5, 82 P 1009.

constructive notice. Not actual notice; such circumstances as the law deems the equivalent of actual notice since they are such as, under the law, put a party upon inquiry. 55 Am J1st V & P § 697. The substitute in law for actual notice, being based upon a presumption of notice which is so strong that the law does not permit it to be controverted. 39 Am J1st Notice § 7. Sometimes confused with "implied notice" which is a matter of actual notice rather than legal inference. 39 Am J1st Notice § 6.

A recorded deed is an instance of notice. It is of no consequence whether the second purchaser has actual notice of the prior deed or not. He is bound to take, and is presumed to have the requisite notice. Legal notice is the same as constructive notice,

[256]

and cannot be controverted by proof. *Cooper v Flesner*, 24 Okla 47, 103 P 1016. Recording statutes are intended ordinarily to make a recorded instrument effective to give constructive notice to all with whom the person in possession may undertake to deal. But the protection is not entirely one-sided or absolute. The statute has another function, namely, to provide an opportunity

for investigation of the title. The opportunity to investigate is the foundation of constructive notice. But the statute is a bulwark, not a trap, and such notice may be negated by the fraud or misrepresentations of the party recording the instrument. *Fogle v General Credit*, 74 App DC 208, 122 F2d 45, 136 ALR 814.

See **implied notice**.

constructive placement of cars. An assumed placement where a carrier is prevented from making an actual placement by reason of conditions for which the shipper or consignee is responsible, and it is necessary under the rules and regulations of the carrier to have a point of time from which the period of detention of the cars for the purpose of imposing demurrage charges can be calculated. 13 Am 12d Car § 485.

constructive possession. That possession which the law annexes to the title; sometimes called legal possession, or possession in law, to distinguish it from possession in deed or in fact, which actual occupancy gives. 42 Am J1st Prop § 42. As applied to a dissessor: -a claim of ownership under color of title to a tract of land of which only a part is in the actual possession of the claimant. 3 Am J2d Adv P § 18.

By force a statute, payment of taxes, under color of title, is constructive possession of unimproved and uninclosed land. Such possession is constructive adverse possession as distinguished from actual adverse possession. *Canaday v Miller*, 102 Kan 577, 171 P 651.

constructive presence. A fiction of criminal law whereby a person who is physically elsewhere at the time of the commission of the crime, is regarded as being present at the scene of the crime committed through agencies set in motion by that person. *Hyde v United States*, 225 US 347, 362, 56 L Ed 1114, 1124, 32 S Ct 793.

In the eyes of the law a person may be present, although he is absent. If a person keeps away from the place where a crime is being committed for the purpose of facilitating the commission of the offense, he is considered as being constructively present as a principal to the crime, although he is not sufficiently near to give assistance if required. *State v Poynier*, 36 La Ann 572.

constructive repeal. See **implied repeal**.

constructive seizure. See **constructive levy**.

constructive service doctrine. The doctrine that an employee unlawfully dismissed from employment who holds himself ready and willing to perform the work for which he was employed shall be regarded in law as having actually performed it -that is, that readiness to perform is for all purposes equivalent to performance. 35 Am J1st M & S § 53. The doctrine that the right of a father to the services of his unmarried infant daughter is sufficient to support an action for her seduction, although it does not appear that she rendered any actual services for him. 47 Am J1st Seduc § 75.

constructive service of process. Service of process by publication, posting, mail, or any method of service other than personal. 42 Am J1st Proc § 57. The term is also applied in some jurisdictions to service by leaving a copy of the process at the usual place of abode of the person to be served, but in other jurisdictions such service is regarded as personal service. 42 Am J1st Proc § 60.

constructive taking. A taking by fraud, trick, or deception. 32 Am J1st Larc § 12.

constructive total loss. A loss of such a character as to authorize the insured to abandon the property and recover as for a total loss, although there is not an absolute extinction of the subject of the insurance. 29A Am J Rev ed Ins § 1571.

constructive trust. A trust by operation of law which arises contrary to intention and against the will, declared against one who, by fraud, actual or constructive, by duress or abuse of confidence, by commission of wrong, or by any form of

unconscionable conduct, artifice, concealment, or questionable means, either has obtained or holds the legal right to property which he ought not, in equity and good conscience, hold and enjoy. 54 Am J1st Trusts § 218.

construe. To interpret; to read for the purpose of ascertaining the meaning of a writing or a statute. O'Donnell v Glenn, 9 Mont 452, 23 P 1018.

See **construction.**

constuprate. To violate; to debauch; to defile.

consuetudinary law. The law which is established by custom.

consuetudines. Usages. See 1 Bl Comm 314.

consuetudinibus et servitiis. See **de consuetudinibus et servitiis.**

consuetudo. A custom or usage.

Consuetudo contra rationem introducta, potius usurpatio quam consuetudo appellari debet. A custom introduced which is contrary to reason ought rather to be called a usurpation than a custom.

consuetudo curiae. The custom or usage of the court.

Consuetudo debet esse certa. A custom ought to be certain.

Consuetudo debet esse certa; nam incerta pro nullis habentur. A custom should be certain, for uncertain things are held as nothing.

Consuetudo est altera lex. Custom is another kind of law.

Consuetudo est optimus interpres legum. Custom is the best interpreter of the law. Boyd v United States, 116 US 616, 622, 29 L Ed 746, 748, 6 S Ct 524.

Consuetudo et communis assuetudo vincit legem non scriptam, si sit specialis, et interpretatur legem scriptam, si lex sit generalis. Custom and common usage override the unwritten law, if it is special, and they explain the written law, if the law is general.

[257]

Consuetudo ex certa causa rationabili usitatia privat communem legem. Custom adopted from certain reasonable cause, supersedes the common law. See Broom's Legal Maxims 919.

Consuetudo licet sit magnae auctoritatis, nunquam tamen praejudicat manifestae veritati. Custom, although it may be high authority, should never be prejudicial to plain truth.

Consuetudo loci observanda est. The custom of the locality should be observed.

Consuetudo manerii et loci observanda est. The custom of the manor and the locality should be observed.

consuetudo mercatorum. The custom of merchants.

Consuetudo neque injuria oriti, neque tolli potest. A custom can neither spring from, nor be overcome by, a wrongful act.

Consuetudo non habitur in consequentiam. A custom should not be turned into a consequence.

Consuetudo non trahitur in consequentiam. Custom should not be drawn into consequence.

Consuetudo praescripta et legitima vincit legem. A prescriptive and lawful custom prevails over law.

Consuetudo regni Angliae est lex Angliae. The Custom of the English kingdom is the law of England.

Consuetudo semel reprobata non potest amplius induci. A custom once denied cannot be further invoked.

Consuetudo tollit communem legem. Custom supersedes the common law.

Consuetudo vincit communem legem. Custom supersedes the common law.

Consuetudo volentes dicit; lex nolentes trahit. Custom leads those who are willing; the law drags those who are unwilling.

consul. An officer commissioned by a government to hold office and to represent it at a particular place in a foreign country for the purpose of promoting and protecting its interests and those of its citizens or subjects. He is not a diplomatic officer and as a rule he has no diplomatic powers. 4 Am J2d Ambss § 11.

consular agent. An officer whose functions are similar to those of a consul, but whose authority is more limited.

consular court. A court held by a consul, that is, a representative of a country other than that in which the court sits.

consolatory response. Same as **consultative opinion**.

consoles a consulendo; reges enim tales sibi associant ad consulendum. Advisors for consultation; for such the kings gather around them for consultation.

consult. To seek advice, as to consult a lawyer.

consultation. The deliberation of two or more persons on some matter; a council or conference to consider a special case. Dunbar v Lant, 170 SC 414, 170 SE 460, 90 ALR 1412; a writ awarded by the superior court upon its refusal to issue a writ of prohibition for the removal of a cause from the ecclesiastical court to the superior court. See 3 Bl Comm 114.

consultation with physician. An application by a person concerning some disease or ailment to a physician, for diagnosis, treatment, advice, or prescription: a term in an application for a policy of life insurance which has been construed as requiring the disclosure of a consultation with reference to even a slight and temporary illness, while to other cases the seriousness of the ailment is considered material. 29 Am J Rev ed Ins § 758.

consultative opinion. The opinion of a court on a point of law rendered, not in an actual case or controversy before the court, but at the request of a public officer or body.

See **advisory opinion**.

consulto. See **ex consulto**.

consume. To use up; to eat; to destroy, as by fire.

consumer. Literally, one who consumes; in economics and also in law, one of the great class affected by rising and falling prices, good and poor quality of merchandise, and public regulation of producers and middlemen.

consumer cooperative. A cooperative association of consumers of merchandise, dry goods, shoes, clothing, groceries and food products, for the purpose of obtaining such goods and articles at a reasonable price and of good quality, the function usually being carried out by the establishment and operation of a store. 18 Am J2d Co-op Asso § 1.

consumer goods. Articles used or bought for use primarily for personal, family, or household purposes. UCC § 9-- 109(1)

consummate. To complete; to carry out, as, to consummate an agreement for the exchange of property. Connor v Riggins, 21 Cal App 756, 760, 132 P 849.

consummate dower. See **dower consummate.**

consummation of marriage. Cohabitation of the spouses. 4 Am J2d Annul § 1. The usual meaning of the term, in a common-law sense, is sexual intercourse between the parties after the marriage has been formally solemnized, or consent given, but statute has given the term a wider meaning in some jurisdictions. Sharon v Sharon, 75 Cal 1, 16 P 345.

consummation of offense. The completion of a criminal offense by the performance of acts requisite to the offense.

consumption. A consuming; destruction by use. Revzan v Nutelman, 370 Ill 180, 18 NE2d 219; use of a thing, sometimes, but not necessarily, to the complete extermination of the thing. 47 Am J1st Sales T § 25. The disease of **tuberculosis**.

consumption tax. See **use tax.**

[258]

contagious. Communicable; spreading by contact.

contagious abortion. A disease of cows, generally contracted through the digestive tract from infected food, which causes the premature birth of calves. Gesme v Potter, 118 Or 621, 247 P 765.

contagious disease. A disease communicable by contact, or by bodily exhalation. Grayson v Lynch 163 US 468, 477, 41 L Ed 230, 233, 16 S Ct 1064.

See **infectious disease.**

container. A box can, or jug; a wrapper. People v Harris, 135 Mich 136, 97 NW 402.

containing. A technical term of the law of customs duties, meaning that the imported article contains a significant quantity of the named material. 19 USC § 1202, headnote 9(f).

contamination. A condition of impurity resulting from mixture or contact with a foreign substance. Anno: 80 ALR2d 1289.

contango. A broker's charge for carrying over the account of a customer to the next settlement day.

contek. Strife; contention; contestation.

contemner. A person who commits a contempt.

contemnor. A person guilty of contempt of court.

contemplated. In expectation.

contemplated suicide. As the term appears in a statute relative to the defense of suicide in an action on a life insurance policy, it means an insured who intended or had resolved to commit suicide at the time he applied for the policy. *Aetna Life Ins. Co. v Florida* (CA8 Mo) 69 F 932, cert den 163 US 675, 41 L Ed 311, 16 S Ct 1198.

contemplation of bankruptcy. A phrase of some pertinence under former bankruptcy acts, having reference to an assignment, conveyance, or transfer made or given with bankruptcy proceedings, voluntary or involuntary in mind, and with the intent of removing the thing assigned or property conveyed from administration and distribution in bankruptcy.

It is to be observed that under the present Bankruptcy Act, actual intent is not an element of a voidable preference. 9 Am J2d Bankr § 1082; neither is it an element of a fraudulent preference under the Act. 9 Am J2d Bankr § 1115.

contemplation of death. That expectancy of death which actuates the mind of the person on doing the act in question. Anno: 4 ALR 1523; something more than the general expectation of death which all persons entertain; an apprehension of death arising from some existing infirmity or impending peril. Anno: 21 ALR 1336.

Within the meaning of the inheritance tax statutes, for a transfer of property to be "in contemplation of death," it is not necessary that the transerrer be in fear of immediate death from an existing malady, as a gift causa mortis, but, on the contrary it is conceivable that a person of comparative youth, enjoying perfect health and vigor, may, nevertheless, make a transfer of his property in contemplation of death. *Chambers v Larronde*, 196 Cal 100, 235 P 1024, 41 ALR 980, 989.

As the words are used in succession tax statutes dealing with gifts made "in contemplation of death," they refer to an expectation of death which arises from such a bodily or mental condition as prompts persons to dispose of their property, and bestow it on those whom they regard as entitled to their bounty. *Re Dessert*, 154 Wis 320, 142 NW 647.

contemplation of insolvency. The attitude of the officers of a bank when it becomes known, or reasonably should be apparent, to them that the bank presently will be unable to meet its obligations and will be obliged to suspend its ordinary operations. *Smith v Baldwin*, 63 App DC 72, 69 F2d 390.

See **contemplation of bankruptcy.**

contemplation of parties rule. The rule of damages applied in actions for breach of contract that the damages recoverable for the breach are such as may fairly and reasonably be considered as arising naturally -that is, according to the usual course of things from the breach of contract itself, or such as reasonably may be supposed to have been in the contemplation of both parties at the time they made the contract, as the probable result of the breach. 22 Am J2d Damg § 56. In the great majority of cases the courts have refused to apply this rule in tort actions. Anno: 48 ALR 318.

Contemporanea expositio est fortissima in lege. A contemporaneous interpretation is best in law. *State v George*, 134 La 177, 63 So 866.

Contemporanea expositio est optima et fortissima in lege. A contemporaneous construction is best and most powerful in law. *Boyd v United States*, 116 US 616, 622, 29 L Ed 746, 748, 6 S Ct 524.

contemporaneous. Occurring at the same time as another occurrence or event; occurring at a time within a period during which another occurrence or event is occurring. *Hilton Lumber Co. v Atlantic Coast Line Railroad Co.* 141 NC 171, 53 SE 823.

contemporaneous construction. The doctrine of statutory interpretation that a statute under construction, because of ambiguity, should be viewed in the light of conditions surrounding at the time of the passage of the statute. *Houghton v Payne*, 194 US 88, 48 L Ed 888.

contemporaneously. In a statute prohibiting discrimination in freight rates, the word does not mean that the shipment must have been made the exact day and hour, or necessarily in the same month; but it means a period of time through which the shipments of goods or freight are made by the complaining party at one rate and by other shippers at another rate. *Hilton Lumber Co. v Atlantic Coastline Railroad Co.* 141 NC 171, 53 SE 823.

contemporaneous services. As the term is used in a statute forbidding discrimination by a carrier, it means services within a period of time through which shipments of goods are made by one shipper at one rate and by other shippers at another rate. *Hilton Lumber Co. v Atlantic Coastline R. Co.* 141 NC 171, 53 SE 823.

contempt. An exhibition of scorn or disrespect toward a court or legislative body.

contemptibiliter. Contemptuously; with intent to commit a contempt.

contempt of Congress. Conduct against the dignity or in disrespect of Congress in its proceedings of a legislative character, or in the course of an inquiry within the legitimate scope of the legislative functions of Congress, where such conduct has the

[259]

effect of obstructing the proceedings or inquiry. 17 Am J2d Contpt § 125.

contempt of court. Conduct tending to bring the authority and administration of the law into disrespect or disregard, interfering with or prejudicing parties or their witnesses during the litigation, or otherwise tending to impede, embarrass, or obstruct the court in the discharge of its duties. 17 Am J2d Contpt § 3.

See **civil contempt; criminal contempt.**

contempt of legislature. Conduct exhibiting such disrespect for a legislative body as to impair its usefulness or conduct impeding the body or a committee thereof in performing legislative functions. 17 Am J2d Contpt § 119.

See **contempt of Congress.**

contenement. Countenance; appearance; that which is necessarily appurtenant to a tenement. Lord Coke says "contenement signifieth his countenance, as the armour of a soldier is his countenance, the books of a scholar his countenance, and the like." See 4 Bl Comm 379.

contention. That for which one contends; that which one claims, or asserts, or argues in support of.

contentious jurisdiction. That jurisdiction of the ecclesiastical courts which is concerned with administering redress to injuries, that is in the litigation of controversies between adverse parties. The term is employed in contradistinction to voluntary jurisdiction, which merely administers those routine affairs connected with the church in which there is no opposition, such as the granting of dispensations, which Blackstone refers to as "remnants of papal extortions." See 3 Bl Comm 66.

contents. All articles and things contained in a designated holder or place; a word of comprehensive meaning in the context of a will, except as a consideration of the will in its entire context reveals the testator's intent to use the word in a special and restricted sense. *Old Colony Trust Co. v Hale*, 302 Mass 68, 80 NE2d 432, 120 ALR 1207.

contents of a chose in action. The rights created by the chose in action in favor of the party in whose behalf stipulations are made in it which he has a right to enforce in a suit founded on the contract; and a suit to enforce such stipulations is a suit to recover such contents. *Austin Corbin v Black Hawk County*, 105 US 659, 26 L Ed 1136.

contents unknown. An expression used in filling out bills of lading importing that the carrier has received certain packages described as containing, or purporting to contain, certain specified articles, the actual contents of which were unknown to the carrier. A qualifying phrase in a bill of lading which permits the shipper to show that a quantity of goods greater than that shown by the bill of lading was delivered by him to the carrier. 13 Am J2d Car § 283.

conterminous. Adjoining; a common boundary,

contest. Noun: An attempt to defeat the probate of an instrument offered as a will, being inclusive of resistance to probate and an action or proceeding to set aside probate. 57 Am J1st Wills § 743; a technical term for a proceeding to cancel or defeat an entry of public lands. 42 Am J1st Pub L § 31; within the meaning of an uncontested clause in an insurance policy: -some affirmative or defensive action taken in court to cancel the policy or prevent its enforcement, to which the insurer and the insured, or his representatives or beneficiaries, are parties. Anno: 36 AL.K 1245, 64 ALR 959, 101 ALR 868; a proceeding by which a disagreement as to the result of an election of a public officer may be determined. 26 Am J2d Elect § 316.

The phrase "contested election" has no technical or legally defined meaning, but an election may be said to be contested whenever an objection is formally urged against it which, if found to be true in fact, would invalidate it. This must be true both as to objections founded upon some constitutional provision as well as upon any mere statutory enactment. *Robertson v State ex rel. Smith*, 109 Ind 79, 116.

Verb: To make a subject of dispute, contention, or litigation; to call in question; to controvert; to oppose; to dispute; to defend, as a suit or other judicial proceeding; to dispute or resist, as a claim, by course of law; to litigate. *Robertson v Stale ex rel. Smith*, 109 Ind 79, 116; *Moran v Moran*, 144 Iowa 451, 123 NW 202.

contestatio litis. (Civil law.) The general assertion of the defendant in an action that the plaintiff has no ground of action, which assertion is afterwards extended and maintained in the defendant's plea. Sec 3 Bl Comm 296.

Contestatio litis eget terminos contradictarios. An issue requires contradictory conclusions.

contested. Opposed; resisted; attacked through legal proceedings.

See **contest**.

contest of election. See **contest**.

contest of land entry. See **contest**.

contest of life insurance policy. See **contest**.

contest of will. See **contest**.

context. The words or language of a written instrument or a statute which accompany the part of the instrument or statute which is under construction.

contiguous. Literally, in actual contact, an actual touching. One parcel of land is "contiguous" to another parcel of land when the two parcels are not separated by outside land. See *Vestal v Little Rock*, 54 Ark 321, 15 SW 891. Appearing in statutes, the term is construed at times somewhat differently, depending upon the context and subject matter of the entire statute. 50 Am J1st Stat § 288. In its popular sense, and as used in local improvement acts, the word means in actual or close contact; touching;

adjacent; or near. 48 Am J1st Spec A § 119. Within the meaning of homestead statutes, whether lands touching at a common corner only are contiguous is a question upon which the decisions are in conflict. Some decisions hold that they are. Others hold that the homestead law may not be invoked in respect to two parcels which only corner with each other. The view has also been expressed that under the strict definition of the term "contiguous," as meaning touching sides, adjoining, or adjacent, two tracts of land which touch only at one point are not contiguous. 26 Am J1st Home § 37. A building 25 feet from another building is not "contiguous" to it within the meaning of the provision in a fire insurance policy as to the erection of the building contiguous to that insured. 29A Am J Rev ed Ins § 878.

See **adjacent**.

[260]

contiguous territory. Touching, adjoining, and connecting territory, as distinguished from territory separated by other territory. 25 Am J2d Elect § 18.

continens. (Roman law.) Joined together.

Continental Shelf. See **Outer Continental Shelf**.

continenti. See **ex continenti**.

contingency. That which possesses the quality of being contingent or casual; the possibility of coming to pass; an event which may occur; a possibility. Anno: 41 ALR 146. A technical term in an inheritance tax statute which has reference to a contingent interest which might affect the duration of the interest to be enjoyed by the person receiving the transfer or succession. 28 Am J Rev ed Inher T § 561.

contingency on which the claim is founded. A term appearing in limitation provisions in a federal statute on veterans' insurance which means, in the case of death benefits, the death of the insured, and, in the case of disability benefits, the inception of total disability. 29A Am J Rev ed Ins § 1995.

contingency with a double aspect. See **remainders on a contingency with a double aspect**.

contingent. Possible, or liable, but not certain, to occur; incidental; casual; dependent on that which is undetermined or unknown; dependent for effect on something that may or may not occur. All anticipated future events which are not certain to occur are contingent events, and may be properly denominated mere possibilities, more or less remote, while anticipated events which are certain to occur, or must necessarily occur, are in no degree contingent. Anno: 41 ALR 146.

See expressions commencing "**conditional**."

contingent beneficial interest. See **contingent interest**.

contingent bequest. A legacy which is intended by the testator to vest only in the event and upon condition of the happening of a contingency named therein. If the time of payment merely be postponed, and it appears to be the intention of the testator that his bounty should immediately attach, the legacy is of the vested kind; but if the time be annexed to the substance of the gift, as a condition precedent, it is contingent, and not transmissible. *Furness v Fox*, 55 Mass 1 Cush 134; *Magoffin v Patton (Pa)* 4 Rawle 113, 116.

See **conditional legacy or devise**.

contingent claim. A liability which depends upon some future event which may or may not happen, and which, therefore, makes it wholly uncertain whether ultimately there ever will be a liability. *Re Ayeres*, 123 Neb 453, 243 NE 274. A claim

against an insolvent contingent upon the happening of some occurrence which has not happened at the time when claim is made. 29 Am J Rev ed Insolv § 35.

contingent delivery. Same as **conditional delivery**.

contingent estate. An estate limited so that the person to whom or the event upon which it is to take effect remains uncertain. 33 Am J1st Life Est § 97.

contingent fee. A fee of an attorney the amount of which or the payment of which depends upon the outcome of the litigation. 7 Am J2d Attys § 214.

contingent fee contract. A contract between an attorney at law and a client wherein the former agrees to represent the latter as the latter's attorney at law in the commencement and prosecution of a suit on behalf of the latter for a fee amounting to a certain percent of the amount of the judgment obtained in the action for the client, no charge to be made by the attorney against the client in the event the action is not successful in behalf of the client. In general, such contracts are valid, but they are made invalid by the inclusion of a condition whereby the attorney obligates himself to save the client harmless from costs and expenses of the litigation. 7 Am J2d Attys §§ 214 et seq.

contingent intent. An intent to act, subject to a contingency, as where one proposes to inflict violence upon the person of another, provided the latter does not comply with an order. 6 Am J2d Asslt & B § 30.

contingent interest. An interest which is uncertain either as to the person who will enjoy it in possession or as to the event on which it will arise. 57 Am J1st Wills § 1217. A future interest is contingent where the person to whom or the event upon which it is limited to take effect in possession or become a vested estate is uncertain. Caine v Payne, 86 App DC 404, 182 F2d 246, 20 ALR2d 823. If the condition upon which a future interest depends is precedent, the interest is contingent; if the condition is subsequent, the interest is vested, subject to defeasance. Anno: 131 ALR 712.

contingent legacy. See **contingent bequest**.

contingent liability. A liability arising out of contract, the duty to perform which is dependent as to when or whether the obligation shall become absolute, upon the occurrence of an event the happening of which is a matter of some uncertainty. Haywood v Shreve, 44 NJL 94, 104.

contingent remainder. An estate in remainder under a limitation which is uncertain as to the person who is to take or as to the event upon which the preceding estate is to terminate, so that the preceding estate may terminate and yet the remainder never take effect. Re Youngs Will, 248 Iowa 309, 79 NW2d 376.

A contingent remainder is only the possibility or prospect of an estate, which exists when what would otherwise be a vested remainder is subject to a condition precedent, or is created in favor of an uncertain person or persons. Sands v Fly, 200 Penn 414, 292 SW2d 706, 57 ALR2d 188.

See **remainders on a contingency with a double aspect**.

contingent right. A right which depends on the performance of some condition or the happening of some event before some other event or condition happens or is performed. 16 Am J2d Const L § 421.

See **contingent interest**.

contingent use. A use, the vesting of which is conditioned upon the happening of some uncertain event. Haywood v Shreve, 44 NJL 94, 104.

contingent will. Same as **conditional will**.

continual claim. A formal claim of right to the possession of land made by a person entitled thereto who does not dare enter through fear of his life or bodily harm. The claimant thus effects a livery in law, if he makes such claim during the lilt of the feoffor. 2 Bl Comm 316.

continuance. An adjournment of a cause from one day to another, in the same or in a later term, or to a later hour of the same day. 17 Am 12d Contin § 1.

A continuance is usually thought of as an adjournment granted on an application by one of the parties, but it may result by the agreement of both parties, by an order made by the court on its own motion, or by operation of law, the latter result occurring where cases noted for trial are not disposed of at the end of a term of court; such cases necessarily must be continued to the next terin and are so continued without any special order of court. 17 Am J2d Contin § 2.

continuance in good health. A condition in a life insurance policy construed by some authorities to mean that there have been no changes in the condition of the insured's health following the making of the application for insurance, but other authorities hold that the condition requires that the applicant be in good health at the time the policy is issued or delivered, irrespective of whether or not the condition was the same at delivery as it was at the application for the policy. 29 Am J Rev ed Ins § 224.

continuando. In trespasses of a permanent nature, where the injury is continually renewed -as by spoiling or consuming the herbage with the defendant's cattle, -the declaration may allege the injury to have been committed by continuation from one given day to another -which is called laying the action with a "continuando" and the plaintiff shall not be compelled to bring separate actions for every day's separate offense. But where the trespass is by one or several acts, each of which terminates in itself, and being once done cannot be done again, it cannot be laid with a "continuando;" yet if there be repeated acts of trespass committed, as cutting down a certain number of trees, they may be said to be done, not continually, but at divers days and times within a given period. 3 Bl Comm 212.

continuando assisam. See **de continuando assisam.**

continue. To endure; to remain, as to remain in office. State ex rep. Robert v Murphy, 32 Fla 138, 197. To grant a continuance.

See **continuance.**

continued drunkenness. Gross and confirmed habits of intoxication. Gourlay v Gourlay, 16 RI 705, 19 A 142.

continuing bail. A form of statutory bail which extends the obligation of the surety from term to term, until the accused is discharged or surrendered to the proper official. 8 Am J2d Bail § 99.

continuing consideration. A consideration partly executed and partly executory. Hargroves v Cooke, 15 Ga 321, 326.

continuing contempt. A failure or refusal to comply with the order of the court to deliver or pay money, or the like, or to purge the contempt. Tindall v Westcott, 113 Ga 1114, 39 SE 450.

continuing contract. An executory, as distinguished from an executed contract. 17 Am J2d Contr § 6. A contract calling for performance in several units over a period of time. Spaeth v Becktell, 150 Or 111, 41 P2d 1064, 97 ALR 771.

continuing crime. Same as **continuing offense.**

continuing damages. Intermittent or occasional damages, sometimes called temporary damages, for the recovery of which successive actions may be required. 22 Am J2d Damg § 28.

continuing guaranty. A guaranty which covers a series of transactions or a succession of credits extended to the principal debtor, its purpose being to give him standing credit usable from time to time. 24 Am J1st Guar § 18.

continuing jurisdiction. An expression of variable meaning: --(1) the jurisdiction of a court, once invoked by the commencement of an action, from that time to the final termination of the action; (2) jurisdiction for relief after final judgment; (3) and the jurisdiction of a court to which a case has been sent in granting a motion for change of venue.

continuing offense. A continuous unlawful act or a series of acts set on foot by a single impulse and operated by an unintermittent force, however long a time it may occupy; a continuing offense is of such nature that it may be committed partly in one county or district and partly in another, or continuously in several. 21 Am J2d Crim L § 392.

continuing offer. An offer which is to be kept open for a certain time, or a proposal made to be accepted within a specified time. 17 Am J2d Contr § 32. If it is supported by a consideration, it is usually called an "option."

See **option**.

continuing recognizance. See **continuing bail**.

continuing trespass. A wrongful act involving a course of action which is a direct invasion of the rights of another. 52 Am J1st Tresp § 18. A trespass in the taking of goods, although without intent to appropriate them, followed by an appropriation, the original trespass being deemed to continue to the time of the appropriation, so that the subsequent appropriation is larceny. State v Coombs, 55 Me 477. But see People v Laurence, 137 NY 517, 33 NE 547.

continuing wrong. See **continuing trespass**.

continuous account. See **open account; running account**.

continuous adverse possession. See **continuous possession**.

continuous and uninterrupted use. A term of the law of prescription, meaning a use that is not interrupted by the act of the owner of the servient premises or by voluntary abandonment by the person claiming the easement. 25 Am J2d Ease §§ 56, 57.

continuous disability. A disability which continues without interruption. 29A Am J Rev ed Ins § 1528.

continuous casement. An easement, the enjoyment of which may continue without the necessity of any actual interference by man; an easement depending upon some artificial structure upon, or natural formation of, the servient tenement, obvious and permanent, and constituting a means of enjoying the easement, such as the bed of a running stream, an overhanging roof, a drain, or a sewer. 25 Am J2d Ease § 10.

continuous employment. See **continuously employed**.

continuously. Uninterruptedly, in an unbroken sequence, without intermission or cessation, without intervening time. Rocci v Massachusetts Acci. Co. 222 Mass 336, 1 10 NE 972. Regularly, protracted, enduringly, and without substantial interruption of sequence, as distinguished from irregularly, spasmodically, intermittently, or occasionally. 29A Am J Rev ed Ins § 1528.

continuously employed. As used in a provision of a group insurance policy requiring, as a condition of disability benefits, that claimants shall have been "continuously employed" for two full years, the

[262]

term refers to employment that has not been terminated or interrupted during the prescribed period; a layoff does not, of itself, interrupt or terminate the employment. Transky v Metropolitan L. Ins. Co. 232 Wis 474, 287 NW 731, 124 ALR 1489; Anno: 124 ALR 1494.

continuously resided. Remaining in a place without a change of legal residence, which does not mean that there has not been a temporary absence, or even somewhat of an extended period of absence, so long as the intent to change residence was not present. Allan v Allan, 132 Conn 1, 42 A2d 347, 159 ALR 493. Under an immigration act providing for exemption from exclusion in cases of five years of continuous residence, such continuous residence cannot be made up by tacking together two or more visits to this country, each of which was less than five years, although continuous residence in a place does not always mean continually remaining in that place, "residence" not being synonymous with "immovability." See United States v Curran (CA2 NY) 11 F2d 468.

continuous possession. An element of adverse possession, being such continuity of possession as will furnish a cause of action for everyday during the whole period required to perfect title by adverse possession, 3 Am J2d Adv P § 54; that possession of a claimant from which, his acts and conduct, it is apparent to men of ordinary prudence that he is asserting and exercising ownership over the property, taking into consideration the nature, character and location of the property and the uses for which it is fitted or to which it has been put. 3 Am J2d Adv P § 54.

continuous quotations. Market reports on prices of commodities or stocks bought and sold which are collected and circulated at intervals of less than 10 or 15 minutes. 50 Am J1st Stock Ex § 16. The modern instrumentalities in brokers' offices give quotations almost immediately after the transactions from which they are taken.

continuous residence. See **continuously resided.**

continuous retraction of agreement. This can mean no more than breach of agreement. Hotel & Restaurant Employees & Bartenders Union v Boca Raton Club, Inc. (Fla) 73 So 2d 867, 48 ALR2d 986.

continuous service. As a condition of a right to holiday pay under a collective bargaining agreement, "continuous service" is service without deliberate stoppage of work for several days but not without breaks for personal reasons which would appeal to reasonable men to be excusable under the circumstances. Kennedy v Westinghouse Elec. Corp. 16 NJ 280, 108 A2d 409, 47 ALR2d 1025.

continuous servitude. See **continuous and uninterrupted use; continuous easement.**

contra. Otherwise; the other way; disagreeing with; contrary to.

See a **contra.**

contraband. Intoxicating liquor kept or transported in violation of law. 30 Am J Rev ed Intox L § 475; intoxicating liquors imported into the state without the certificate prescribed by law. 30 Am J Rev ed Intox L § 204.

contraband of war. All such articles as may serve a belligerent in the direct prosecution of his hostile purposes. 56 Am J1st War § 157. The term is applicable to goods only, not to persons. 29A Am J Rev ed Ins § 989.

contra bonos mores. Contrary to good morals, having mischievous or pernicious consequences. Exchange Nat. Bank v Henderson, 139 Ga 260, 77 SE 36; against true principles of morality. State v Smith, 24 NC 402.

contracausator. A person who has committed a crime.

contraceptive. A drug or device used to prevent the fertilization of human ovum.

contraceptive method. A means or method of preventing pregnancy and the ultimate result, birth. 12 Am J2d Birth C § 1.

contract. Noun: A term which is simple in its superficial aspect but actually difficult of succinct definition, since nothing less than the whole body of applicable precedent will suffice for the purpose of definition. Williston, Contracts 3rd ed § 1; summarily defined as an agreement upon sufficient consideration to do, or refrain from doing, a particular lawful thing. 17 Am J2d Contr § 1. For the purposes of the Uniform Commercial Code, "contract" means the total legal obligation which results from the parties' agreement as affected by the code and other applicable rules of law. UCC § 1-201(1). In popular speech, the word "contract" is frequently used as meaning the work done under a contract. Independent Bridge Co. v Aetna Casualty & S. Co. 316 Pa 266, 175 A 644, 96 ALR 549; a work or improvement for the prosecution of which public authorities have entered into a contract. Independent Bridge Co. v Aetna Casualty & Surety Co. 316 Pa 266, 175 A 644, 96 ALR 549. Within the meaning of the obligation of contract clause of the Federal Constitution, the term "contract" includes not only contracts as the word is ordinarily understood, but all instruments, ordinances and measures, by whatever name known, which embody the inherent qualities or purposes of valid contracts and carry like them their reciprocal obligations of good faith. 16 Am J2d Const L §§ 438et seq. Verb: To enter into a binding obligation of contract.

See **consideration**; **executed contract**; **executory contract**; **implied contract**; **parol contract**; **quasi contract**.

contract against public policy. See **public policy**.

contract by parol. See **parol contract**.

contract by specialty. See **specialty**.

contract carrier. A private carrier; a carrier which does not undertake to carry for all persons indiscriminately but transport only for those with whom they see fit to contract. 13 Am J2d Car § 8.

See **contract hauler**; **private carrier**.

contract carrier by motor vehicle. A private carrier by motor vehicle; a carrier which does not carry for all persons indiscriminately but only under individual contracts with the various customers whom it chooses to serve. Interstate Commerce Com. v A. W. Stickle & Co. (DC Okla) 41 F Supp 268 Motor Haulage Co. v Maltbie, 293 NY 338, 57 NE2d 41, 161 ALR 401. The question of who are contract carriers by motor vehicle under statutes relating to the use of highways by such carriers depends upon the particular operations of the carrier, as well as the individual statutory provisions, involved. Anno: 175 ALR 1342.

contract clause. That clause contained in the first paragraph of the tenth section of the first article of the Federal Constitution, providing that no state

[263]

shall pass any law impairing the obligation of contract. Trustees of Dartmouth College v Woodward (US) 4 Wheat 518, 4 L Ed 629.

contract for hire. See **contract of hire**.

contract hauler. As defined by a state statute regulating motor carriers, the term means every person hauling, controlling or operating, or managing any motor vehicle used in the business of transporting property for compensation. State ex rel. Scott v Superior Court, 173 Wash 547, 24 P2d 87.

See **contract carrier**.

contract implied in fact or in law. See **implied contract**; **quasi contract**.

contract in restraint of trade. See **restraint of trade.**

Contractions. The shortening of a word or phrase, Eg. "don't" for do not; abbreviations.

Contractio rei alienae animo furandi, est furtum. Larceny is the taking and carrying away of a thing with intent to steal.

contract laborers. Emigrants who, without sufficient means in their own hands or in those of their friends, agree in consideration of the payment of their passage, to accept designated employment in the United States at stated wages, usually the lowest possible rate. *Church of Holy Trinity v United States*, 143 US 457, 36 L Ed 226, 12 S Ct 511.

See **convict labor.**

Contract Labor Law. The federal statute regulating and restricting the practice of inducing immigration by paying the expenses of travel to the United States for the purpose of obtaining cheap manual labor. 3 Am J2d Aliens § 62.

See **convict labor.**

contract lien. A security, charge, or claim in the nature of a lien on real or personal property whereof a party is the owner or in possession, which he may, by manifest intent and agreement create and which a court of equity will enforce against him, his heirs and personal representatives, and volunteers or claimants under him with notice of the agreement. See 33 Am J1st Liens § 19.

contract malam in se. See **contracts mala in se.**

contract mala prohibita. See **contracts mala prohibita.**

contract not to be performed within a year. See **agreement not to be performed within a year.**

contract of adhesion. See **adhesion contract.**

contract of affreightment. See **charter of affreightment.**

contract of agency. A contract between principal and agent which ordinarily is the basis of the relation between them. 3 Am J2d Agency §§ 2, 17, 18. The agency relationship is not necessarily based upon contract, since the relationship may be created by operation of law or by the agent's assuming his position gratuitously. 3 Am J2d Agency § 2.

contract of beneficence. A contract for the benefit of one of the parties only.

contract of carriage. The undertaking of a common carrier to transport goods to a particular destination, including the obligation of a safe delivery of them, within a reasonable time, to the consignee. *Alabama Great Southern Railroad Co. v Con turie*, 145 Ala 436, 40 So 120.

See **bill of lading; contract carrier; ticket.**

contract of employment. See **contract of hire; employment contract.**

contract of guaranty. See **guaranty.**

contract of hire. A contract whereby the use of a thing, or the services or labor of a person are stipulated to be given for a certain reward. *Wingate v Wingate*, 11 Tex 430, 437. As used in a state unemployment compensation law, the term means an agreement whereby one undertakes or obligates himself to render personal service for another for a remuneration to be paid

because the service was rendered, regardless of the element of profit or loss resulting from the work. Fuller Brush Co. v Industrial Com. 99 Utah 97, 104 P2d 201, 129 ALR 511.

contract of indemnity. See **indemnity**.

contract of indorsement. See **indorsement**.

contract of insurance. See **insurance; insurance contract**.

contract of marriage. A contract between a man and a woman whereby they mutually agree to enter into a matrimonial relationship, and which becomes executed by their act of marriage. Lewis v Tapman, 90 Md 294, 45 A 459.

See **marriage articles**.

contract of mateship. A contract called "mating" entered into between the masters of two whaling ships, whereby they enter into a species of partnership in the business of taking whales and procuring oil; so that if the ships cruise together, they divide equally the oil procured by both, before they separate; or, if they cruise separately, upon their first meeting afterward, they make an equal division of their oil. If they are not then full, they proceed independently or enter into a new contract of mateship. If, after agreeing to mate, they accidentally separate and do not meet again until after the completion of the voyage, neither can claim of the other if either returns filled with oil. But when they do meet abroad after such mateship, the settlement and division of oil take place immediately, unless one has filled. Baxter v Rodman, 20 Mass (3 Pick) 435.

contract of record. A contract recorded pursuant to recording statutes, for example, a contract for the sale of real estate. 45 Am J1st Records § 38.

While a judgment is in no proper sense a contract, judgments have sometimes been classed as "contracts of record." O'Brien v Young, 95 NY 428, 436.

contract of sale. See **contract to sell; executed contract of sale; executory contract of sale; land contract**.

contract of sale or return. See **sale or return**.

contract of suretyship. See **suretyship**.

contractor. Literally, a person who has assumed obligations as a party to a contract, but in common usage, a person who pursues an occupation or business, wherein he contracts to render services for others, including public bodies, in building, painting, excavating, etc., the most significant feature of which is that while he may have an "employer" in the broad sense of that term, he is not under direction in respect of the means by which his work is accomplished. Storm v Thompson, 185 Iowa 309, 170 NW 403, 20 ALR 658, 660; Smith v Milwaukee Builders & Traders' Exchange, 91 Wis 360, 367. As used in a mechanic's lien statute, a "contractor" is a person who furnishes labor and appliances necessary for the work, and who pays therefor, but who

[264]

does not work or labor personally. Little Rock, H. S. & T. Railway v Spencer & Maney, 65 Ark 183, 47 SW 196. The word in a statutory provision giving his employee a right to claim compensation, under the Workmen's Compensation Act, from the principal where specific conditions are met, has the same significance as "independent contractor," and the test in determining whether the employer is a "contractor" is the same as that which determines whether a person who is himself claiming compensation is an employee or an independent contractor. United States Fidelity & G. Co. v Spring Brook, 135 Conn 294, 64 A2d 39, 13 ALR2d 769.

See **independent contractor; subcontractor**.

contractors' bonds. Bonds of two types: -(1) a performance bond which guarantees that the contractor will perform the contract and if he defaults and fails to complete the contract, the surety will complete the work or pay damages up to the limit of the bond; (2) a labor and materials payment bond which guarantees the owner that all bills for labor and materials contracted for and used by the contractor will be paid by the surety if the contractor defaults. 17 Am J2d Cent Bonds § 1.

contractor's lien. A lien which arises by operation of law, independently of the express terms of any contract, which a contractor has upon the premises upon which he has erected improvements. This lien springs out of the obligation of the owner to pay for the stipulated labor and the promised materials, when furnished, provided the contractor shall give the notice required by statute. Richmond & Irvine Constr. Co. v Richmond, N. I. & B. Railroad Co. (CA6 Ky) 68 F 105.

See **mechanic's lien.**

contract price. Literally, the amount to be paid under a contract of sale, a contract to render services, or a construction contract. In a contract for the construction of a building, the words "contract price" were held to mean not the abstract price or amount agreed to be paid by the owner to the builder, but the sum which the builder was actually entitled to receive for the whole of the work done by him. Doll v Young, 149 Ky 347, 350, 149 SW 854.

See **total contract price.**

contract right. Any right to payment under a contract not yet earned by performance and not evidenced by an instrument or chattel paper. 15 Am J2d Com C § 52.

contracts mala in se. Contracts which are absolutely void because the acts to be performed thereunder are immoral, iniquitous, and contrary to a sound public policy, as well as in violation of statute. 17 Am J2d Contr § 167.

contracts mala prohibita. Contracts which are not absolutely void in all instances because the acts to be performed thereunder are prohibited by statute, but are void or voidable according to the nature and effect of the act prohibited. 17 Am J2d Contr § 167. It is to be noted, however, that substantial authority supports the elimination of distinction based upon theories playing upon the terms "mala in se" and "mala prohibita. 17 Am J2d Contr § 167.

contract system. The system in vogue in the management of the prisons whereby the labor of prisoners is sold or farmed out by contract. People v Hawkins, 157 NY 1, 51 NE 257.

contract to adopt. A contract to adopt another as a child of the latter which is usually ineffective to complete a legal adoption in itself, but, even if not consummated and given legal effect by adoption proceedings during the lifetime of the adopting parent, may, upon the latter's death be enforced by declaring a right of inheritance in favor of the child. 2 Am J2d Adopt § 8.

contract to contract. A contract, upon a valid consideration, that the parties will at some specified time in the future, at the election of one of them, enter into a particular contract, specifying its terms. 17 Am J2d Contr § 26.

contract to repair. See **repair.**

contract to sell. A contract whereby the seller agrees to transfer the property in goods to the buyer for a consideration called the price. 46 Am J1st Sales § 2.

See **executed contract of sale; executory contract of sale; land contract; sale.**

contractu. See **ex contractu.**

contractual. Pertaining to a contract or to a relation between persons created by a contract, express or implied. A term often applied to the older concept of the assumption by an employee of the risks and dangers covered by the contract of employment. Ashton v Boston & Maine Railroad Co. 222 Mass 65, 109 NE 820.

contractual consideration. Literally, the consideration for a contract, but in a more technical sense, a consideration to be determined as to amount, manner, and means of payment according to a provision or provisions of the contract, such being distinguished from a consideration merely recited in the contract, as to which parol evidence in explanation is admissible.

contractual obligation. An obligation arising out of a contract, express or implied. Halsey v Minnesota-South Carolina Land & Timber Co. 174 SC 97, 177 SE 29, 100 ALR 1.

contract uberrimae fidei. A contract which calls for the utmost of good faith and fair dealing between the parties, of which an insurance contract is a good example. 29 Am J Rev ed Ins § 689.

See **uberrima fides**.

contract under seal. A specialty; a written promise signed by the promisor and sealed with his seal. Such obligations derived their force from their form and were enforceable before the evolution of the doctrine of consideration as applicable to simple contracts. 17 Am J2d Contr § 85.

See **specialty**.

contractus. A contract See **forum contractus**.

contractus bonae fidei. A Roman law contract which was subject to an equitable defense.

Contractus est quasi actus contra actum. A contract is, as it were, "actus" (an act) "contra" (for) "actum" (an act).

Contractus ex turpi causa, vel contra bonus mores nullus est. A contract with an evil consideration or one against good morals is void.

Contractus legem ex conventione accipiunt.

[265]

(Civil law.) Contracts take their law from the agreement.

contradict. To say the contrary; to give evidence to disprove testimony which has been received.

contradiction in terms. An expression which contradicts itself.

contradiction of witness. The introduction of evidence contrary to the testimony of the witness. A method of impeachment where confined to matters material to the issue. 58 Am J1st Witn §§ 782, 783.

contradictory defenses. See **inconsistent defenses**.

contradictory instructions. Instructions given to the jury containing contradictory and conflicting rule without explanation, so that following one of them will lead to a result different from that which will obtain if another is followed. 53 Am J1st Trial § 557.

contraescritura. An instrument executed secretly by parties to a public contract, the effect of which is intended to change or modify the terms of the contract.

contrafactio. Counterfeiting.

Contra fictionem non admittitur probatio. Proof is not received to contradict a fiction of the law. See 3 Bl Comm 43, note.

contra formam collationis. Against the form of the collation, -a writ by which a donor of lands to be held by religious service, could recover the lands after they had been wrongfully alienated.

contra formam doni. Against the form of the gift or grant.

contra formam feoffamenti. Against the form of the feoffment, -a writ whereby a tenant could resist the demanded performance of more services than the charter of his ancestor required.

contra formam statuti. Against the form of the statute.

contra formam statuti in hoc casu nuper edict et provis. Against the form of the statute in such case lately made and provided.

contra hostem. See **expeditio contra hostem.**

contrainte par corps. An arrest of the body; an imprisonment for debt.

contra jus belli. Against the laws of war.

contra jus commune. Against common right.

Contra legem facit qui id facit quod lex prohibet; in fraudem vero qui, salvis verbis legis, sententiam ejus circumvenit. He who does what the law prohibits acts contrary to law; he who acts in fraud of it, the letter of the law being inviolate, cheats the spirit of it.

contra legem terrae. Against the law of the land.

contra leges et statuta. Against the laws and the statutes.

contraligatio. A counter-obligation.

contramandatio placiti. An extension of the time to plead.

Contra negantem principia non est disputandum. It is useless to dispute with one who denies principles.

Contra non valentem agere non currit praescriptio. Prescription does not run against a person who is under a legal disability to sue. The maxim is from the civil law, which held as does our law, that there must not only be a fight of action to support a cause of action, but also there must be some person in existence who may sue. Tynan v Walker, 35 Cal 634, 637.

Contra non valentem agere nulls currit praescriptio. No prescription runs against a person who is unable to act. See Broom's Legal Maxims 903.

contra omnes gentes. Against all the people.

Contra omnes homines fidelitatem fecit. He took oath of fealty against all men. See 1 Bl Comm 367.

contra pacem. Against the peace.

contra pacem ballivorum. Against the peace of the bailiffs. By the ancient law, in all peculiar jurisdictions, offenses were said to be committed against the peace of the court in which they were tried and if they were tried in the court of a corporation they were "contra pacem ballivorum." See 1 Bl Comm 117.

contra pacem domini. Against the peace of the king. At common law all crimes were treated as being against the king's peace. See 1 Bl Comm 166.

contra pacem regis. Against the peace of the king. Any public offense which was committed within the kingdom of England was said to be committed against the king's peace. Commonwealth v Macloon, 101 Mass 1.

contra pacem vice-comitis. Against the peace of the sheriff. That is, against the peace of the sheriff's court in which the offense was tried. See 1 Bl Comm 117.

contraplacitum. A counter plea.

contrapositio. A plea.

contra proferentem. Against the offeror; against the party offering the evidence.

contra regiam proclamationem. Against the royal proclamation. See Proclamations, 12 Coke's Rep. (Eng) 74.

Contrariorum contraria est ratio. The reason for contrary things is contrary.

contrarotulator. (French.) A controller.

contrary to good morals. Immoral; having mischievous or pernicious consequences. Exchange Nat. Bank v Henderson, 139 Ga 260. 77 SE 36.

contrary to law. Illegal; contrary to any law. General Motors Acceptance Corp. v United States, 286 US 49, 76 L Ed 971, 52 S Ct 468, 82 ALR 600. If the term is used in a later statute dealing with the same subject, it may refer to an infraction of the earlier

[266]

statute. Callahan v United States, 285 US 515, 76 L Ed 914, 52 S Ct 454.

See **verdict contrary to law.**

contrat. (French.) A contract.

contra tabulas. (Civil law.) Contrary to the instrument.

contrat aléatoire. Same as **aleatory contract.**

contrat de vente. (Civil law.) A contract of sale.

contratenere. To hold against; to withhold.

contravene. To go against; to violate: as, to contravene the constitution.

contravention. Violation; infraction.

Contra veritatem lex nunquam aliquid permittit. The law never allows anything contrary to the truth.

contra voluntatem suam. Against his own will; involuntarily.

contrectare. To take; to deal with; to meddle with.

Contrectatio rei alienae animo furando, est furtum. The taking of the goods of another with intent to steal, is larceny.

contrefacon. (French.) An infraction or infringement of a copyright.

contribute. To make a gift with others, as to a community chest; to help to cause, or to furnish some aid in causing, the result. Broschart v Tuttle, 59 Conn 1, 21 A 925. In the ordinary signification of the word, one thing is understood "to contribute" to a given result when such thing has some share or agency in producing such result, and is not understood to convey the idea that such thing was the efficient cause of such result in the sense that without it such result would not have occurred; for it is possible that such result may have occurred, even in the absence of the thing which is supposed to have had some share or agency in producing such result. Wragge v South Carolina & Georgia Railroad Co. 47 SC 105, 25 SE 76.

contributing to delinquency. An act or omission causing or tending to cause juvenile delinquency. 31 Am J Rev ed Juv Ct § 95.

contribution. A gift made with others, as to the Cancer Fund; the money, property, skill, knowledge, or services, which a party to a joint enterprise puts into the venture. 30 Am J Rev ed Jnt Adv § 9. An aid in following an objective or reaching a result. As used in the law of negligence, the word necessarily connotes a share in causation. Snyder v Bicking, 115 NJL 549, 181 A 161, 102 ALR 409. A payment made by each person, or by any of several persons, having a common interest or liability, of his share in the loss suffered or in the money necessarily paid by one of the parties in behalf of the others. 18 Am J2d Contrib § 1. A joint tortfeasor's right of contribution, where it exists under the law of a particular jurisdiction, is a quasi-contractual right arising by reason of an implied engagement of each tortfeasor to help bear the common burden. Builders Supply Co. v McCabe, 366 Pa 322, 77 A2d 368, 24 ALR2d 319.

See **general average.**

contribution between beneficiaries. The right of a devisee or legatee, whose device or legacy has been impaired by the payment of debts of the testator, by the payment of charges imposed against the devise or legacy, or by the exercise of the election of the surviving spouse in respect of the will, to have other devisees and legatees contribute in defraying the loss caused by such impairment. 57 Am J1st Wills §§ 1408, 1502, 1551.

contribution between cotenants. The principle that where one cotenant has paid a debt or obligation for the benefit of the common property, has discharged a lien or assessment imposed against it, or has purchased an outstanding title, with his own money, he is entitled to have his cotenant or cotenants refund to him their proportionate shares of the amount paid by him or else abandon their interests in the property. Sec 20 Am J2d Coten §§ 76, 77.

contribution between insurers. The obligation of an insurer who has issued a policy covering the same risk and loss as that insured by one or more other insurers to contribute ratably to the other insurer, or one of the other insurers, who has paid the entire loss. 29A Am J Rev ed Ins § 1717.

contributione facienda. See **de contributione facienda.**

contributory. Additional; added to; supplementary; acting with something else. As a noun the word is applied to a person who is liable as a member of a company to contribute to the assets on the winding up of the company.

contributory cause. A cause aiding in the production of a result. Broschart v Tuttle, 59 Conn 1, 21 A 925.

contributory infringement. Any act or acts whereby one who is not himself in strict parlance an infringer of a patent may yet be held accountable for having aided or encouraged others to infringe. 40 Am J1st Pat § 151.

contributory negligence. A breach of duty on the part of the plaintiff in an action to recover damages for negligence to exercise the standard of care, which is ordinary care, the care that a reasonably prudent person would exercise, for his own safety, such breach constituting a defense, in the absence of legislation to the contrary, where it was a legally contributing cause of the accident. Brakensiek v Nickles, 216 Ark 889, 227 SW2d 948, 34 ALR2d 94, 28 NCCA NS 275; Wertz v Lincoln Liberty L. Ins. Co. 152 Neb 451, 41 NW2d 740, 17 ALR2d 629, 30 NCCA NS 133; Heinis v Lawrence, 160 Neb 652, 71 NW2d 127, 52 ALR2d 1428; 38 Am J1st Negl § 181.

Mutual contributory or co-operative negligence exists when the injury would not have happened but for the negligence or wrong of both parties. See Alexander v Missouri, Kansas & Texas Railroad Co. (Tex Civ App) 287 SW 153, 155.

The use of the expression "contributory negligence" is restricted to cases in which it appears that both of the parties to the injurious occurrence are responsible therefor. An employer having been negligent, it is appropriate to say that the employee was guilty of contributory negligence, provided, of course, his conduct is subject to such evaluation. 35Am J1st M & S § 243.

contrition. (Eccles.) Regret or penitence for wickedness.

contrivance. Something contrived or arranged, often to deceive; a device; a disguise. Matey v Heichemer,

[267]

81 Colo 379, 256 P 4. A tool, instrument, or other article, made with more or less ingenuity, to accomplish some mechanical purpose, perhaps the twirling of a wheel upon which wagers may be placed. 24 Am J1st Gaming § 57.

contrivance used for gambling. Any instrument whereby money or things of value are won or lost. Gilley v Commonwealth, 312 Ky 584, 229 SW2d 60, 19 ALR2d 1224.

control. Verb: To check, restrain, govern, have under command, and authority. Wolffe v Loeb, 98 Ala 426, 432. Noun: A position of authority in direction and management.

control group. The officers and agents of a corporation authorized to make decisions. Anno: 98 ALR2d 245.

controller. An officer who has charge of the financial affairs of a public or private corporation; a state officer in some states.

controlling interest. A majority of the shares of stock of a corporation. 18 Am J2d Corp § 496.

controlment. The auditing or checking of an account. control of bidding. See **chilling bids.**

control of car. See **control of vehicle.**

control of child. The exercise of guardianship, whether that existing by nature, as in the case of a parent, or by operation of law, as in the case of a guardian, over a child, directing him and imposing discipline as direction and discipline are required. A person to whom the control of a child is intrusted ordinarily has the care and the custody of the child, but the word may be so used as to convey the idea that the person may be intrusted with a legal power to direct and dispose of the child without having actual physical care and custody. *Cowley v People*, 83 NY 464.

control of corporation. Power to dictate the action of the corporation, not the mere management of a department of the operations. 36 Am J1st Monop etc § 132; the ownership or control of the stock of a corporation which has power to dominate the business, together with the voting strength to make that domination effective. *Commissioner v Shillito Realty Co.* (CA6) 39 F2d 830, 69 ALR 1266; ultimately, the control exercised by the owners of a majority of the shares of stock. 18 Am J2d Corp § 496.

In a legal sense, one corporation cannot be said to "control" another corporation because nearly all of the stock of the latter corporation is owned by the former. Under such circumstances, the corporation owning the shares can elect the board of directors, but there its power of management stops and the control is lodged in the board of directors. *Pullman's Palace Car Co. v Missouri Pacific Railway Co.* 115 US 587, 596, 29 L Ed 499, 6 S Ct 194.

control of prices. See **price control.**

control of vehicle. A term of variable meaning: operating with due care; being ready to stop quickly; being attentive in anticipation of the necessity of a sudden turn or stop; having the ability to avoid collision with one using the highway and exercising proper caution on his own part. 7 Am J2d Auto § 354.

See **assured clear distance.**

control test. A criterion applied in determining whether an organization in the form of a business trust is, in legal effect, a true trust or a partnership. 13 Am J2d Bus Tr § 11.

See **loaned servant doctrine.**

control tower. A structure built and equipped for the management of air space, the guiding or controlling of aircraft in the air or landing and taking off at airports. 8 Am J2d Avi § 92.

controver. A person who invents false news.

controversy. A word used in delimiting judicial power meaning an issue appropriate for judicial determination, being definite and concrete, concerning legal relations among parties with adverse interests, and being so real and substantial as to be capable of a decision granting or denying specific relief. *Aetna Life Ins. Co. v Haworth*, 300 US 227, 81 L Ed 617, 57 S Ct 461, 108 ALR 1000, reh den 300 US 687, 81 L Ed 889, 57 S Ct 667. As used in Article III, Section 2, of the Constitution of the United States, the term "controversy" refers to the claims or contentions of litigants brought before the courts for adjudication by regular proceedings established for the protection or enforcement of rights, or the prevention, redress, or punishment of wrongs. *Interstate Commerce Com. v Brimson*, 154 US 447, 475, 38 L Ed 1047, 1057, 14 S Ct 1125. A "controversy" under the Civil Practice Act provision for bringing in other parties where a complete determination of the controversy cannot be had without their presence, is not confined to the claim originally asserted by the plaintiff against the defendant; it is sufficient that the controversy as delimited by the complaint and counterclaim relates to a single occurrence and presents common questions of law and fact. *Johnson v Moon*, 3 Ill 2d 561, 121 NE2d 774, 46 ALR2d 1246.

See **case; case or controversy.**

controverted facts. Facts in issue; a ground for trial and, conversely, for the denial of summary judgment. Associated Press v United States, 326 US 1, 89 L Ed 2013, 65 S Ct 1416.

contubernium. A marriage of slaves.

contumace capiendo. See **de contumace capiendo.**

contumacious. Stubborn; disobedient.

See **contempt.**

contumacious witness. A witness who testifies in such a manner as to render him guilty of contempt of court. Re Blim, 5 F Supp 678; a witness who refuses to testify or testifies falsely. 17 Am J2d Contpt §§ 28-33.

contumacy. The contemptuous disobedience of an order of the court; refusal to submit to authority.

See **contempt.**

contumax. An outlaw.

contumely. Rudeness; indignity; in some jurisdictions, a ground for divorce. 24 Am J2d Div & S § 159.

contusion. A bruise; an injury without a breaking of the skin.

See **visible contusion.**

contutor. A joint guardian.

conus. Known.

[268]

conusance. Same as **cognizance.**

conusance of pleas. Exclusive jurisdiction.

conusant. Knowing; having notice or knowledge of anything.

conusee. A person to whom a recognizance is made.

conusor. A person who enters into a recognizance; an ancient form of the word **cognizor.**

convalescent. Recovering health.

convalescent home. See **nursing home.**

convalescere. To become valid.

convenable. Suitable; proper.

convene. To assemble; to meet as a body; to call a meeting. (Civil law.) To file an action; to sue.

convenience. Whatever conduces to freedom from difficulty, from trouble, or from annoyance; whatever promotes one's ease or advantage or is fit for one's use or suitable for one's wants. Boston Safe Deposit & T. Co. v Stebbins, 309 Mass 282 34 NE2d 616, 148 ALR 1036; Anno: 2 ALR2d 1390. An opportunity to purchase a thousand-mile ticket for less than the standard rate is not a "convenience," within the rule that the legislature may make regulations of the business of carriers to provide for the safety, health and convenience of the public. Lake Shore & M.S.R. Co. v Smith, 173 US 684, 43 1, Ed 858, 19 S Ct 565.

convenience of employer rule. The rule that excludes the value of meals and lodging furnished an employee in calculating the gross income of the latter. Anno: 84 ALR2d 1217, 1219.

convenience of the maker. An expression used in a note in reference to the time of payment, which, in no event, entitles the maker to more than a reasonable time. 11 Am J2d B & N § 288.

convenient. Fit or adapted to an end; suitable; becoming; appropriate. Grand Island v Oberschulle, 36 Neb 696, 699.

See **payable as convenient.**

convenient place of business. A suitable or proper place. Susquehanna Fertilizer Co. v Malone, 73 Md 268, 20 A 900.

convening order. A term, otherwise known as the placita, for the statement, usually appearing in the caption of an order of court, that the court was regularly held at a certain time and place.

See **placita.**

convenire. To covenant; to sue.

convenit. It is agreed.

conventicle. A prayer meeting of dissenters.

conventio. An agreement; a covenant; a writ for breach of covenant.

Conventio facit legem. An agreement makes law. A maxim meaning that the law binds the parties to that to which they have consented. Newcomb v Wood. 97 US 581, 24 L Ed 1085.

convention. An organized assemblage of delegates representing a political party or a political principle. 18 Am J1st Elect § 135; a meeting of delegates or representatives of subordinate bodies of a national or state fraternal, social, or religious body; an agreement, particularly an agreement between nations.

"The governors of North Carolina and Virginia then entered into a 'convention' upon the subject of the boundary between the two provinces. The king and council approved it." Virginia v Tennessee, 148 US 503, 507, 37 F, Ed 537, 539, 13 S CI 728.

See **treaty.**

conventional. Formal; conforming to rules; based or founded upon a contract or agreement; expressly created by acts of the parties. See 2 Bl Comm 120.

conventional estate. An estate in land created by agreement rather than by operation of law.

conventional heir. See **heir conventional.**

conventional interest. A charge, made pursuant to agreement between lender and borrower, by way of rental or compensation for the use of money. 30 Am J Rev ed Int § 2.

conventional life estate. A life estate created by the act of the parties, by deed, will, or contract. 28 Am J2d Est § 56. Conventional life estates are also frequently created, not by express words, but by general grant, not defining or limiting any specific estate. They are then truly created by the act of the parties, but recognized through construction or implication. They are not to be deemed as arising by operation of law, as do "legal life estates." 28 Am J2d Est § 56.

conventional obligation. An obligation arising out of a contract.

conventional subrogation. A contract right of subrogation; subrogation founded upon some understanding or agreement, express or implied, and not arising merely from the equities of the situation. New York Ins. Co. v Tice, 159 Kan 176, 152 P 2d 836, 157 ALR 1233; a subrogation whereby the party paying does so at the request of either the debtor or the lienor, with the understanding that he, the party paying, shall be subrogated. Kocher v Kocher, 56 NJ Eq 547, 548, 39 A 536; a subrogation depending upon a lawful contract which occurs where one having no interest in or relation to the matter pays the debt of another, and by agreement is entitled to the securities and rights of the creditor so paid. 50 Am J1slt Subro § 3.

convention candidate. A candidate at a primary election nominated at a preprimary convention.

conventione. See **de conventione**.

convention in unum. An agreement on one thing; a meeting of the minds.

Conventio privatorum nun potent publico juri derogare. An agreement of private parties cannot derogate from public right.

Conventio vincit Iegem. The contract controls the law. Winkley v Salisbury Mfg. Co. 80 Mass (14 Gray) 443, 446.

conventual church. A church which is attached to a convent.

conventus. A contract; an agreement.

conventus juridicus. A Roman civil court.

conventus magnatum vel procerum. An assembly of the great men or the nobles, -an ancient name of the

[269]

general council from which the British parliament was eventually developed. See 1 Bl Comm 148.

conversantes. Persons who are conversant with or informed upon or versed in. converse trusts. See **reciprocal trusts**.

conversion. A distinct act of dominion wrongfully exerted over another's personal property in denial of or inconsistent with his title or rights therein, or in derogation, exclusion, or defiance of such title or rights. 18 Am J2d Conversion § 1. It is an essentially tortious act, an unlawful act, an act which cannot be justified or excused in law. 18 Am J2d Conversion § 1; the act of placing absolute faith in a religion.

See **equitable conversion**.

conversion by bailee. Acts in derogation of the bailor's title or his possessory rights by a destruction of the property or some unlawful interference with his use and enjoyment of it, or dominion over it an appropriation of it by the bailee to his own use, or

to the use of a third person, in disregard of or defiance of the owner's right, or a withholding of possession under a claim of title inconsistent with the title of the bailor. 8 Am J2d Bailm § 106.

conversion by bailor. The act of the bailor in taking possession of the bailed property from the bailee in contravention of the latter's rights, or having received possession for a special purpose, after such purpose has been answered and before termination of the bailee's right to possession under the bailment, to refuse to restore possession to the bailee. 8 Am J2d Bailm § 102.

conversion insurance. See **theft insurance**.

conversion of insurance policy. The surrender of a life insurance policy to the insurer in exchange for another policy pursuant to a right or privilege provided the insured in the original policy. 29 Am J2d Ins § 367.

See **exchange of policy**.

converso. See **a converso**.

convert. To change or transform, as by making soap out of grease; to appropriate the property of another, thereby committing the tort of conversion.

converted term insurance. Term life insurance which has been changed to a policy providing surrender and paid-up values by virtue of a provision in the term policy.

convertible. An automobile with a top that can be withdrawn so as to have an open car; anything that can be changed to something else.

convertible bonds or debentures. Bonds or debentures issued with the privilege of converting them into other securities, usually the common stock of the issuing corporation. 19 Am J2d Corp § 1070.

convertible stock. Corporate stock which the stockholder is entitled to surrender for another class of stock or for other obligations of the corporation. 18 Am J2d Corp § 217.

convertible term insurance. Term insurance with a conversion privilege under which the insured may convert the policy to ordinary life, endowment, or other form of life insurance written by the insurer, without an additional medical examination.

convey. To carry; to transfer the title to property from one person to another by deed. When used in a deed the word shows an intent to transfer title presently by the instrument, as distinguished from a writing which contemplates transfer of title by a subsequent instrument. 23 Am J2d Deeds § 35.

To lease is not to "convey," and although the word is sometimes used with reference to a leasing, the preferable word in that connection is the word "transfer." Duff v Keaton, 33 Okla 92, 124 P 291.

conveyance. A means of transportation; in most common usage, a deed transferring the title to land from one person to another, both the term "deed" in the restricted sense and the term "conveyance" being an abbreviated form of the expression "deed of conveyance." 23 Am J2d Deeds § 2. The term "conveyance", however, is susceptible of a broader meaning. As used in some recording acts, a conveyance is a written paper or instrument signed and delivered by one person to another, transferring the title to or creating a lien on property, or giving a right to a debt or duty. Warnock v Harlow, 96 Cal 298, 31 P 166.

Some authority regards a contract or lease creating a term for years as a "conveyance." 32 Am J1st L & T § 3. In its broadest aspect, the term "conveyance" includes a transfer of personal property. As used in the Uniform Fraudulent

Conveyance Act, the word "conveyance" includes every payment of money, assignment, release, transfer, lease, mortgage, or pledge of tangible or intangible property, and also the creation of any lien or incumbrance. Uniform Fraudulent Conveyance Act § I.

See **deed**.

conveyance by lease and release. See **lease and release**.

conveyance by record. A conveyance evidenced by the order, judgment or decree of a court of record.

conveyance in fraud of dower. The conveying away of his real estate by a husband to be, before his marriage, without consideration, and without the consent or knowledge of his betrothed, with the purpose and result of unfairly depriving her of dower. 25 Am J2d Dow § 98.

conveyancer. A person who makes a business of conveyancing.

See **conveyancing; scrivener**.

conveyance to uses. A conveyance creating an executory interest known as a shifting or springing use. 28 Am J2d Est § 333.

See **shifting uses**.

conveyancing. Preparing documents for the transfer of real property, and investigating the title to such property.

convey and warrant. Words in a conveyance sufficient to convey a fee in some jurisdictions. Palmer v Cook, 159 Ill 300, 42 NE 796.

conveyor belt. An endless belt, sometimes constructed of steel webbing moving under power capable of carrying somewhat of a load, and put to a variety of uses, such as carrying grain into an elevator, loading cargo upon ships or freight cars, and especially in factories to carry parts for assembly or completed articles for inspection.

Convicia si irascaris tua divulgas; spreta exolescunt. If you are angered by insults, you publish them; if despised they disappear.

convicium. An insult; a slander.

convict. Noun: A person who by reason of having been convicted of a crime has forfeited for a certain time his liberty or right of locomotion and who is by law subject to confinement and labor for a

[270]

specified time. 41 Am J1st Pris & P § 2. One who is under sentence as the result of a conviction for crime is a "convict" within the meaning of a statute requiring photographs for identification purposes, although an appeal from the conviction is pending. 41 Am J1st Prrs & P § 2. Verb: To find a person guilty of a crime with which he is charged, upon either the verdict of a jury or a plea of guilty.

See **conviction**.

convicted. See **conviction**.

conviction. An adjudication that a person is guilty of a crime based upon a verdict or, in a proper case, the ascertainment of guilt by a plea of guilty or polo contender;. 21 Am J2d Crim L § 617. Such is the primary and usual meaning of the term "conviction," but "it is possible that it may be used in such a connection and under such circumstances as to have a secondary or

unusual meaning, which would include the final judgment of the court." United States v Watkinds (CC Or) 6 F 152, 158, 159; 39 Am J1st Pard § 38. There is no conviction, within the meaning of constitutional or statutory provisions disfranchising one convicted of crime, unless there is something in the nature of a final judgment upon the verdict of guilt declared by the jury; suspension of sentence or granting of probation is insufficient. Truchon v Toomey, 116 Cal App 2d 736, 254 P2d 638, 36 ALR2d 1230; Anno: 36 ALR2d 1238. The weight of authority is to the effect that the word "conviction" as used in statutes providing for increased punishment for persons formerly convicted of crime necessitates the pronouncement of sentence upon the verdict or plea of guilty in order to obtain a judgment that is final, so far as the trial court is concerned. Anno: 5 ALR2d 1104. In a few instances the view has been taken that a "conviction" results within the meaning of a habitual criminal statute even though no sentence was imposed. Anna: 5 ALR2d 1107.

convict labor. The performance of services by convicts hired out to employers of labor. 21 Am J2d Crim L § 615.

A statutory provision which forbids the hiring out of convicts, except under order of the court, embodied in the sentence, applies only to farming out convicts to individuals and corporations, and does not extend to labor employed upon public works, and under the supervision and control of public agents. State v Yandle, 119 NC 874, 25 SE 796.

See **convict labor contract**.

convict labor contract. A contract, such as the statutes of some states have authorized, under which convicts or persons imprisoned in jails under conviction of crime are hired out. 41 Am J1st Pris & P §30.

convict lease. Another term for convict labor contract.

convincing evidence. Satisfactory and sufficient evidence. 30 Am J Rev ed Ev § 1080. To "convince" is primarily to overcome or subdue, and, in logic, to satisfy the mind by proof. If evidence is convincing, in any case it is sufficient, and to say it ought to be more convincing in one case than in another, is giving the word degrees of comparison which it does not possess, the word itself being superlative. Evans v Rogers, 57 Wis 623, 626.

convivium. A kind of land tenure by the service of providing food and drink for the lord.

convocation. An assembly of the English clergy.

See **court of convocation**.

convoy. An escort for a merchant ship, composed of one or more naval vessels.

cony. A rabbit, a beast of the warren.

co-obligor. See **joint obligor**.

Ck. One who cooks; One who pursues the occupation of cooking; an employee whose services are maritime services within admiralty jurisdiction, where employed on a vessel. 2 Am J2d Adm § 72.

cooling system. The radiator with connecting hose and pipes through which water circulates for the purpose of preventing a motor vehicle engine from overheating; the system of pipes and ducts in a building whereby the structure is kept cool by the circulation of air cooled by water.

cooling time. A relative term, as it applies to a period for reflection between the provoking act or circumstance and the infliction of the fatal stroke by one charged therefor with homicide, depending for its meaning upon the nature of man and the laws of the human mind, as well as art the nature and circumstances of the provocation, the extent to which the passions have been aroused, and the nature of the act causing the provocation. 26 Am J1st Homi § 24; a familiar expression in labor cases,

meaning a period provided by statute or collective labor agreements during which differences between labor and management may be composed. 31 Am J Rev ed Lab §§ 392, 510; a period provided by law, otherwise known as a "waiting period," between the commencement of an action for divorce and the trial of the case. 24 Am J2d Div & S § 331.

co-op. Abbreviation for co-operative.

cooper. A maker of barrels.

cooperage. The work or workshop of a cooper; a term applied in the brewing business to bottles, cases, and other containers. Falstaff Brewing Carp. v Iowa Fruit & Produce Co. (CA8 Neb) 112 F2d 101.

co-operation. See **co-operation and assistance clause.**

co-operation and assistance clause. Essentially the same as co-operation clause.

See **co-operation clause.**

co-operation clause. A clause in an automobile liability policy which provides in substance that the insured shall cooperate with the insurer, and, upon the insurer's request, shall attend hearings and trials and shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses, and in the conduct of suits. 7 Am J2d Auto Ins § 176; 29A Am J Rev ed Ins § 1471. When persons "co-operate." they act jointly and concurrently toward a common end. In an insurance case they are governed by the contract. The common end is not that the assured, regardless of truth, shall establish nonliability for himself or for the company, but in this connection "co-operation" means that there shall be a fair and frank disclosure of information reasonably demanded by the insurer to enable it to determine whether there is a genuine defense. Ocean Acci. & Guaranty Corp. v Lucas (CA6 Ohio) 74 F2d 115, 98 ALR 1461.

co-operative. Noun: A co-operative association; a word, the use of which is restricted by law. 18 Am J2d Co-op Assn § 5. Adjective: Co-operating or ready to co-operate.

[271]

See **co-operation clause; co-operative association.**

co-operative apartment house. A multiunit dwelling in which each resident has (1) an interest in the entity owning the building and (2) a lease entitling him to occupy a particular apartment within the building. 15 Am J2d Con Apt § 2.

co-operative association. Any combination of the efforts of two or more persons for the achievement of a common purpose; a corporation created by a banding together of persons for their common advantage or advancement, financial or otherwise, and organized for the mutual benefit of its members. 18 Am J2d Co-op Asso § 1. A co-operation association organized and acting in furnishing gas or electricity to its members becomes a public utility where it serves or is willing to serve the Public. 43 Am J1st Pub Util § 6.

co-operative business corporation. A corporation which is authorized to divide its profits with persons who hold no stock in the corporation.

The word "co-operative" has been used in the names of ordinary business corporations. Such use is now restricted by statute in many jurisdictions. 18 Am J2d Co-op Asso § 5.

co-operative marketing association. A co-operative association of producers, particularly farmers, organized to secure for their members the advantages of co-operative bargaining in selling their products, and to perform certain functions at a lower cost per unit than can the individual acting alone. An additional feature of great importance is a marketing contract between

members and the association which requires each member to sell all of his product to or through the association. 18 Am J2d Co-op Asso §§ 2-4.

co-operative negligence. See **contributory negligence.**

co-operative store. A store operated by a co-operative association.

See **Rochdale store.**

co-operative utility. A utility which supplies service such as is furnished by a public utility but on a co-operative basis, not for profit. Anno: 172 ALR 1022.

co-opertus. Covered; covert.

co-ownership. Ownership by more than one person; ownership in which there is a plurality of tenants.

See **cotenancy; joint tenancy.**

cop. Slang for policeman.

coparcenary. An estate arising in any case where the ownership is in heirs who take from the same ancestor, such heirs being regarded as one heir joined together by unity of interest, unity of title, and unity of possession.

The estate is of little importance at the present time, since statutes have converted the estate to a tenancy in common. 20 Am J2d Coten § I.

coparcener. One who, with others, holds an estate in coparcenary. Gibson v Johnson, 331 Mo 1198, 88 ALK 369, 56 SW2d 783.

coparticeps. A coparcener. See **copareenary.**

coparties. See **joint parties.**

copartner. One of two or more members of a partnership; a partner.

copartnership. A partnership.

See **partnership.**

copartnery. A partnership.

cope. A duty on lead exported from the mines of Derbyshire.

copelman. A chapman; a peddler.

copesmate. A merchant.

copia. (Latin.) Abundance; opportunity.

copie. (French.) Copy.

copia libelli deliberanda. An ecclesiastical writ commanding the defendant to furnish the plaintiff with a copy of the complaint.

copia vera. A true copy.

coppa. Crops which have been stacked for the reckoning of tithes.

copper. A base metal which has been known from the most ancient periods of which we have any historical account. Bronze which is made of copper with an alloy of tin is the first metallic compound which history records. It was known 3500 years before the time of Christ. United States v Aluminum Co. of America (DC NY) 144 F Supp 97.

coppice. Same as **copse**.

copy. An abbreviation of copyright.

copse. A thicket; a hedge.

copula. Sexual intercourse; the term is sometimes spoken of as referring to the consummation of a marriage. Sharon v Sharon, 75 Cal 1, 16 P 345.

copulation. Coition; sexual intercourse.

Copulatio verborum indicat quod accipiuntur in codem sensu. The coupling of words together shows that they are to be taken in the same sense. Saltonstall v Sanders, 93 Mass (11 Allen) 446, 470.

When the meaning of any particular word is doubtful or obscure, or when the expression taken singly is inoperative, the intention of the parties using it may frequently be ascertained and carried into effect by looking at the adjoining words, or at expressions occurring in other parts of the same instrument. Breasted v Farmers' Loan & Trust Co., 8 NY 299.

copulative condition. A condition which depends upon the happening of each one of several events.

copy. Noun: A reproduction of an original work. 18 Am Jur 2d Copyr § 1: Anno; 23 ALR2d 337; a reproduction or transcript of a writing; secondary evidence of a written instrument. 29 Am J2d Ev § 486.

See **certified copy; close copies; duplicate; examined copy; exemplified copy; facsimile; model; office copy; sworn copy; tracing; transcript.**

copy fee. The fee allowed an attorney in some jurisdictions for preparing the copy of a pleading for the adverse party or the attorney of the adverse party; the expense incurred in obtaining a copy of a document for use in a case. 20 Am J2d Costs § 60.

copyhold. See **copyhold estate.**

copyholder. A tenant who held his estate by copyhold; the holder of a copyhold estate; one who reads manuscript to a proofreader.

copyhold estate. A form of English land tenure, unknown in this country, being an estate at will which

[272]

was enrolled, thereby establishing the rights of the tenant and giving more permanency to his estate than an ordinary estate at will. Anno: 114 ALR 626.

copyhold tenure. See **copyhold estate.**

copyright. The exclusive privilege, by force of statute, of an author or proprietor to print or otherwise multiply, publish, and vend copies of his literary, artistic, or intellectual productions, and to license their production and sale by others during the term of its existence. 18 Am J2d Copyr § 1.

See **literary property; notice of copyright.**

copyright after publication. The right to multiply copies secured by statute. 18 Am J2d Copyr § 1.

copyright before publication. A term of loose usage for the common law right of first publication.

See **first publication.**

copyrighted. Protecting a publication by a copyright. Solis Cigar Co. v Pozo, 16 Colo 388, 26 P 556.

See **copyright.**

copyright notice. See **notice of copyright.**

cor. An abbreviation of the word "corner," used in descriptions of real property, also of "coroner."

coram. Before; in the presence of.

coram domino rege ubicunque tunc fuerit Angliae. Before our lord the king wherever he may then be in England.

coram ipso rege. In the presence of the king himself. This was the style given to the court of king's bench from the fact that the king formerly sat there in person. See 3 Bl Comm 41.

coram judice. Within the jurisdiction of the court. The United States v Arredondo (US) 6 Pet 691, 8 L Ed 547, 554.

coram me vel justiciariis meis. Before me or my justices.

coram nobis. In our presence; before us. A writ used to obtain review of a judgment for the purpose of correcting errors of fact in criminal as well as in civil proceedings. 18 Am J2d Coram Nobis § 1.

For fine distinction between "coram nobis" and "coram vobis," see coram vobis.

coram non judice. Before one who is not the judge. That is, before a court which has no jurisdiction of the matter. A proceeding had and determined by a court without such jurisdiction is said to be "coram non judice," the situation being the same as if there were no court. Grunion v Raymond, 1 Conn 40.

coram paribus. In the presence of his peers. As was the custom with all other solemn transactions, the attestation of a deed was always coram paribus, and this was often done when they were assembled in the court-baron, hundred, or county court. See 2 Bl Comm 307.

coram paribus de vicineto. In the presence of the peers or freeholders of the neighborhood.

coram rege. In the presence of the king. "For at first the words nisi per legate judicium parium (unless by the lawful judgment of his peers) had no reference to a jury: they applied only to the pares regni (the peers of the realm), who were the constitutional judges in the court of exchequer and coram rege. Hurtado v California, 110 U.S. 516, 529, 28 L Ed 232, 236, 4 S Ct 111, 292.

coram sectatoribus. Before or in the presence of the suitors.

coram vobis. Before you; in your presence. A writ for the correction of error which is essentially the same as a writ of coram nobis, the only distinction being that where the writ is directed by the reviewing court to another arm of the same court, it is called "coram nobis," while if it is directed by the reviewing to the trial court it is called "coram vobis." 18 Am J2d Coram Nobis § 1.

cord. A unit of wood-measure applied to wood cut for fuel, being a pile of wood eight feet long, four feet high and four feet wide, containing one hundred and twenty-eight cubic feet. Kennedy v Oswego & Syracuse Railroad Co. (NY) 67 Barb 169, 178.

See **umbilical cord.**

cordial. Noun: A liqueur. Adjective: Hearty; friendly with warmth of feeling exhibited.

corespondent. The third party in the triangle of persons presented in an action for divorce on the ground of adultery. The person who is accused by the plaintiff in a suit for divorce of having committed adultery with the defendant.

corf. A box for carrying coal, used in coal mining.

corium forfisfacere. The forfeiture of skin, a punishment for crime which was administered by flogging.

corn. In the very broad sense of the term, "corn" is grain, but in this country, "corn" means the grain or the plant of maize, often called Indian corn. A coarse spot on a toe caused by a thickening of the skin produced by pressure of ill-fitting shoes. A slang term for corn whiskey, also for banal or overly sentimental expressions.

carnage. Same as **carnage tenure.**

carnage tenure. A tenure by the service of blowing a horn when the Scots or other enemies entered the land, in order to warn the king's subjects. Like other services of the same nature, it was a species of grand serjeanty. See 2 Bl Comm 74.

Carnelian law. See **lex Cornelia, et seq.**

corner. The point at which converging lines meet: a point established by a survey and located by calls in a description of the boundaries of a tract of land. 12 Am J2d Bound § 72. The northeast, southeast, southwest, and northwest extremities of sections, quarter sections, and one-sixteenth sections of land as laid out by the government survey. The situation which exists where a person or a number of persons acting jointly have entered into contracts for future purchases of a given commodity in excess in the aggregate of the supply of such commodity in the market. Anno: 83 ALR 587. Acquiring control of all or a dominant quantity of a commodity with the purpose of artificially enhancing the price, executed by purchases and sales of the commodity and of options and futures therein, in such a way as to depress the market price, whereby the participants are enabled to purchase the commodity at satisfactory prices and withhold it from the market for a time, thereby inflating the price. United States v Patters, 226 US 525, 57 L Ed 333, 33 S Ct 141.

corner lot. A lot at a corner of intersecting streets.

See **frontage.**

[273]

cornice. A projecting top on the wall of a building. 1 Am J2d Adj L § 123.

corn laws. English statutes which regulated commerce in grain.

corn-rent. See **grain rent.**

corodium. Same as **corody.**

corody. An incorporeal hereditament which allowed a means of sustenance to the holder.

corona. The crown.

coronare. To crown; to make of a person a priest.

coronare filium. To make one's son a priest.

coronary. Pertaining to an artery which supplies blood to the tissues of the heart.

coronary occlusion. A blocking of the coronary artery, resulting in unconsciousness and death, unless medical aid is available and availing. Heart trouble within the meaning of a policy excepting from coverage disability caused by "heart trouble." Frank v United Ben. Life Ins. Co. (Mo App) 231 SW2d 234.

coronator. See **coroner.**

coronatore eligendo. See **de coronatore eligendo.**

coronatore exonerando. See **de coronatore exonerando.**

coroner. A judicial and ministerial officer of great importance in the middle ages and an office of great dignity under the earlier common law, but whose functions have gradually been diminished in importance by legislation, until today, where the office exists at all, the coroner has little, if anything to do except to serve some process in the absence of the sheriff and, in some jurisdictions, conduct an inquiry, sometimes with the aid of a jury, into the cause of death of persons who appear to have come to an end from other than natural causes. 18 Am J2d Corn § 1.

coroner's court. An English court of record presided over by the coroner of the county. Cox v Royal Tribe, 42 Or 365, 71 P 73.

coroner's inquest. See **inquest.**

coroner's jury. A jury summoned by a coroner to make an inquiry into the cause of the death of a person. 18 Am J2d Corn § 12.

corporal. Noun: A noncommissioned officer of the army. Adjective: Pertaining to the body; as a corporal injury.

corporale sacramentum. Same as **corporal oath.**

Corporalis injuria non recipit aestimationem de futuro. Bodily injury does not look to future proceedings for compensation. See Broom's Legal Maxims 278.

corporal oath. An oath in which the affiant lifts an arm or touches the Holy Bible with his hand. 39 Am J1st Oath § 3.

corporal punishment. Physical punishment; any kind of punishment inflicted on the body, such as whipping or slapping, but not the execution of the death penalty itself. Imprisonment may come within the term "corporal punishment," where such is construed with the context of the statute.

Within the meaning of the statute prohibiting "corporal punishment" aboard a vessel, the term implies that the punishment must have been inflicted by virtue of an authority to which the person punished was subject. Fights resulting from private differences and personal quarrels between officers and seamen have nothing to do with their employment on the vessel and do not come within the purview of the statute. *Fowler v American Line* (CA9 Cal) 69 Fed 905.

corporate. Pertaining to corporations, sometimes indicating a private as distinguished from a public body. *Trustees of Academy v City Council of Augusta*, 90 Ga 634, 17 SE 61.

In other uses, the term "corporate" is not limited to private corporations, for example, the "corporate limits" and "corporate authorities" of a municipality.

corporate act. The act of a corporation. The act of a municipal corporation in performance of a proprietary, as distinguished from a governmental, function. 37 Am J1st Mun Corp § 114.

corporate agents. The officers and employees of a corporation who have the authority to act for the corporation at least in some capacity. Literally, persons authorized to act for a corporation in one or more matters; technically, persons under employment in an agency created by officers of a corporation. 19 Am J2d Corp § 1090.

corporate authorities. Those officers of cities and villages to whom is given the ordinance-making power; the legislative branch of a city government. *State ex rel. Gerry v Edwards*, 42 Mont 135, 111 P 734. The term has also been defined as referring to those municipal officers who are either directly elected by the people of the municipality, or appointed in some mode to which the people have given their assent. *Boolen v Pinson*, 27 W Va 412, 89 SE 985; 51 Am J1st Tax § 137.

corporate body. See **body corporate**.

corporate bond. A bond which is issued by and becomes the obligation of a corporation.

See **bonds**.

corporate bylaws. See **bylaws**.

corporate charter. See **charter**.

corporate citizenship. Citizenship attributed to a corporation for some specific purpose, such as the obtaining of a liquor license. 30 Am J Rev ed Intox L § 126:

A corporation of a state is a "citizen of the United States," within the meaning of the Act of Congress providing for the adjudication of claims of citizens of the United States for property taken or destroyed by Indians. *United States v Northwestern Express, Stage & Transp. Co.* 164 US 686, 41 L Ed 599, 17 S Ct 206.

corporate conduct. The conduct of a corporation; that is, a corporation's act or omission, formal or informal, done or omitted by any agency through which the corporation is authorized to act. *People v North River Sugar Refining Co.* 121 NY 582, 24 NE 834.

corporate directors. See **directors**.

corporate domicil. The situs or residence of a corporation belonging exclusively to the state or sovereignty under whose laws it is created. 18 Am J2d Corp § 159. A corporation is domiciled and has its residence in the state of its creation, although it engages in business elsewhere under local authority and has a "business situs" or "commercial domi

[274]

cil" there for taxation and other purposes. Unlike a natural person a corporate entity cannot change its domicil at will. State v Garford Trucking, 4 NJ 346, 72 A2d 851, 16 ALR2d 1407. The domicil of a corporation within the state is the town or city in which the principal office or place of business of the corporation is located, and not where the principal labor of its employees is carried on. 51 Am J1st Tax § 805.

corporate entity. The status of a corporation distinct from its individual members or stockholders, who, for the purpose of the existence of the corporation are merged in the corporate identity. 18 Am J2d Corp § 13.

See **disregarding corporate entity.**

corporate excess. In the language of a Massachusetts statute, "corporate excess employed within the commonwealth by a foreign corporation (shall mean) such proportion of the fair cash value of all the shares constituting the capital stock on the first day of April, when the return called for by the statute is due, as the value of the assets, both real and personal, employed in any business within the commonwealth on that date, bears to the value of the total assets of the corporation on that date." Alpha Portland Cement Co. v Massachusetts, 268 US 203, 208, 69 L Ed 916, 920, 45 S Ct 477.

corporate franchise. See **franchise.**

corporate function. See **corporate act.**

corporate limits. The territorial limits of a municipal corporation. 37 Am J1st Mun Corp § 16.

corporate name. The name of a corporation, as fixed by its charter or the statute by which the corporation was created, such being an essential of existence as a corporation and a part of the franchise to be a corporation. 18 Am J2d Corp § 141.

corporate office. See **principal place of business.**

corporate officers. The officers of corporations, such as president, vice-president, secretary, treasurer or comptroller, and often a manager or general manager; technically, the persons filling offices created by the charter or bylaws of the corporation. 19 Am J2d Corp § 1080.

corporate pocketbook. A graphic expression of tax lawyers for the personal holding company.

corporate powers. The powers granted to a corporation in its charter, or by the statutes under which it is created, or such powers as are necessary for the purpose of carrying out its express powers and the object of its incorporation. 19 Am J2d Corp § 952.

See **capacity of corporation.**

corporate practice of law, medicine, etc. See **professional corporation.**

corporate purpose of a municipal corporation. See **municipal purposes.**

corporate purposes. The purposes for which corporations may be organized, as declared by statute, it now being usual for the general corporation laws of a state to provide for the formation of corporations for any lawful purpose, business purpose or

purposes, other than the practice of a profession or the conducting of specified classes of business for the conduct of which corporations are to be formed under other statutory provisions. Uniform Business Corporation Act § 2; 18 Am J2d Corp § 31.

The word "unlawful", as it pertains to purposes for which a corporation may be organized, is not used exclusively in the sense of malum in se or malum prohibitum; it is also used to designate powers which corporations are not authorized to exercise, or contracts which they are not authorized to make, or acts which they are not authorized to do; or in other words, such acts, powers, and contracts as are ultra vires. People ex rel. Peabody v Chicago Gas Trust Co. 130 Ill 268, 22 NE 798.

See **ultra vires**.

corporate records. The transcript of charter and bylaws, the minutes of meetings of directors and stockholders, the books containing the accounts of official doings of the corporation, and the written evidence of its contracts and business transactions. United States v Louisville & N. R. Co. 236 US 318, 59 L Ed 598, 35 S Ct 363.

corporate reorganization. The act or process of organizing again or anew to effect a corporate readjustment of existing interests, almost invariably involving a corporation in financial distress or in a condition of inability to compete in the commercial world. 19 Am J2d Corp §§ 1515 et seq. A means whereby those variously interested financially in a distressed corporation seek, through continuance of the business as a going concern, to work out of the difficulty for themselves and thus gain more than they could by a sale of the assets or of the business to others. Warner Bros. Pictures, Inc. v Lawton-Byrne-Bruner Ins. Agency Co. (CA8 Mo) 79 F2d 804. Often accomplished by a judicial sale of the corporate property and franchises and the formation by the purchasers of a new corporation in which the property and franchises are thereupon vested, and the stock and bonds of which are divided among such of the parties interested in the old company as are parties to the plan of reorganization. 19 Am J2d Corp § 1515. A proceeding in the bankruptcy court to obtain a change in the capital structure, a reduction of indebtedness, and other permissible changes to rehabilitate a failing corporation and promote the prospects of creditors to obtain a full realization of their claims or a better realization than would occur through immediate realization. 9 Am J2d Bankr § 1496.

corporate report. See **report**.

corporate rights. See **rights**.

corporate seal. The seal of a corporation, no longer necessary to validate an act or a contract of a corporation which would not require a seal if it were the act or contract of a natural person, or which does not require the corporate seal by virtue of charter or statutory provision, and consisting of a seal of any character, even a variety of seals for different occasions. 18 Am J2d Corp § 154. A scroll, a printed impression, or the letters "L. S." inclosed in brackets is sufficient. Cannon v Gorham, 136 Ga 167, 71 SE 142.

corporate securities. Stock, bonds, debentures, certificates of indebtedness, notes, and other evidences of indebtedness issued by a corporation for the purpose of obtaining funds to use in the business of the corporation. Wilkinson v Mutual Bldg. & Sav. Assn. (CA7 Wis) 13 F2d 997; United States v American Trust & Banking Co. (CA6 Tenn) 125 F2d 113. Anno: 36 ALR2d 975.

See **securities**.

corporate stock. See **stock**.

corporate stockholder. See **stockholder**.

corporate stock rights. See **rights**.

corporate surety. Literally, a surety which is a corporation, but, in common usage, a corporation engaged in the business of acting as surety for a compensation. 12 Am J2d Bonds § 22; 50 Am J1st Suret § 312.

See **fidelity company; surety company.**

corporate trustee. An incorporated trustee, such as a bank or trust company empowered to act in the capacity of a trustee.

corporation. An artificial being, invisible, intangible, and existing only in contemplation of law; an association of persons to whom the sovereign has offered a franchise to become an artificial juridical person, with a name of its own, under which they can act and contract and sue and be sued, and who have either accepted the offer and effected a corporation in substantial conformity with its terms (in which case a corporation de jure has been constituted) or have done acts indicating a purpose to accept such offer and effected an organization designed to be, but, in fact not, in substantial conformity with its terms (in which case a corporation de facto has been constituted). 18 Am J2d Corp § 1. For some purposes, as in a venue statute, the term "corporation" includes unincorporated associations or at least special forms of them, such as joint stock companies. 56 Am J1st Ven § 7. For the purposes of the Federal income tax, the term "corporation" includes associations, joint-stock companies, and insurance companies. 33 Am J2d Fed Tax ¶ 2005. As defined by the Bankruptcy Act the term "corporation" includes all bodies having any of the powers and privileges of private corporations not possessed by individuals or partnership and further includes partnership associations organized under laws making the capital subscribed alone responsible for the debts of the association, joint stock companies, unincorporated companies and associations, and any business conducted by a trustee or trustees wherein beneficial interest or ownership is evidenced by certificate or other written instrument. Bankr Act § 1(8); 11 USC § 1(8). Business trusts have frequently been held to be subject to statutory regulations of corporations and to provisions aimed primarily at corporations. Hernphill v Orloff, 277 US 537, 72 L Ed 978, 48 S Ct 577.

See **incorporation; municipal corporation; person; public corporation.**

corporation affected with a public interest. A public service corporation, otherwise known as a quasi public corporation. 18 Am J2d Corp § 9.

See **public service corporation.**

corporation aggregate. A collection of individuals united in one body under a special denomination, and vested by the policy of the law with the capacity of acting in several respects as an individual; a legal institution devised to confer upon the individuals of which it is composed powers, privileges, and immunities which they would not otherwise possess, the most important of which are continuous legal identity, and perpetual or indefinite succession under the corporate name, notwithstanding successive changes by death or otherwise in the corporation or members of the corporation. 18 Am J2d Corp § 1. An artificial body of men, composed of divers constituent members ad instar corporis humanis (after the manner of the human body), the ligaments of which body politic, or artificial body, are the franchises and liberties thereof, which bind and unite all its members together; and in which the whole frame and essence of the corporation consist. Louisville, Cincinnati & Charleston Railroad Co. v Letson (US) 2 How 497, 552, 11 L Ed 353, 375.

corporation de facto. See **de facto corporation.**

corporation de jure. See **de jure corporation.**

corporation excise tax. A tax on the conduct of business in a corporate capacity, sometimes measured by the income of the corporation, but not becoming an income tax because of such feature. 34 Am J2d Fed Tax 1; 8860 et seq.

corporation for profit. See **profit corporation.**

corporation franchise tax. See **franchise tax.**

corporation not for profit. A charitable corporation; a membership; corporation; an eleemosynary corporation.

A proposed corporation is not entitled to incorporation as a "corporation not for profit" where its clear purpose is to confer direct and indirect benefits on its members consisting of a saving of expense or obtaining a service at a cost lower than that which otherwise would be paid therefor, notwithstanding a provision of the articles of incorporation that each member agrees not to accept pecuniary gain or profit from any corporate surplus. The character of a proposed corporation warranting its incorporation as a "corporation not for profit" is determined, not by the authority that probably will actually be exercised by the corporation, but rather by the authority it actually possesses and may exercise under the articles recorded. State ex rel. Russell v Sweeney, 153 Ohio St 66, 91 NE2d 13, 16 AI,R2d 1337.

corporation officers. See **corporate officers.**

corporation president. See **president of corporation.**

corporation sole. A corporation consisting of one person only and his successors. An older concept of the status of a king or a bishop as incorporated in order to give to them and their successors legal capacities and advantages, particularly that of perpetuity, which they could not have in their natural capacities. 18 Am J2d Corp § 7.

corporator. A person who joins in the formation of a corporation; a promoter; a stockholder; a shareholder; a member. 18 Am J2d Corp § 35.

See **promoter.**

corporeal. Possessing physical substance; tangible; perceptible to the senses.

corporeal hereditaments. Property and things of substance capable of being inherited.

corporeal property. Property which has corporeal tangible substance. See 42 Am J1st Prop § 12.

corpore comitatus. See **de corpore comitatus.**

corpore et animo. In body and mind.

corps diplomatique. The diplomatic corps.

corpse. The dead body of a human being.

corpus. The body or substance of anything; the capital or res of an estate or fund, as distinguished from the income thereof.

corpus comitatus. The body of a county, the inhabitants of a county considered collectively.

[276]

corpus corporatum. An incorporated body, a corporation.

corpus cum causa. See **habeas corpus cum causa.**

corpus delicti. The body of the crime the fact that a crime has actually been committed, that someone is criminally responsible. Hilyard v State, 90 Okla Crim 435, 214 P2d 953, 28 ALR2d 961; 29 Am J2d Ev § 149. In homicide cases, the facts of death and the criminal agency of another person as the cause thereof. 26 Am J1st Homi § 6. In larceny cases, the facts that the owner of property was deprived thereof and that he was deprived by a felonious taking. 32 Am J1st Larc § 121.

Corpus humanum non recipit estimationem. A human body is not susceptible of valuation. *Griffith v Charlotte, Columbia & Augusta Railroad Co.* 23 SC 25.

corpus juris. The body of the law.

Corpus Juris. The title of an encyclopedic work on the law.

corpus juris canonici. The decrees of the Roman church. See 1 Bl Comm 82.

Corpus Juris Civilis. The whole body of the Roman law, being the Digest, the Institutes, and the Novellae of Justinian.

Corpus Juris Secundum. A successor of the encyclopedic work on the law published under the title "Corpus Juris."

correct. To eliminate error; to amend; to make to conform to law. *Hutcheson v Storrie*, 92 Tex 685, 51 SW 848.

correction. See **amendment**.

correctional institutions. See house of correction; industrial school; reformatory.

corregidor. The chief magistrate of a town.

Corregidor. A small island at the entrance to Manila Bay in the Philippines, most vividly brought to the attention of the American people by the valiant stand made there by American and Philippine troops against much larger Japanese forces.

correi credendi. (Civil law.) Joint creditors.

correi debendi. (Civil law.) Joint debtors.

correlative rights. Another term for the reasonable use doctrine in reference to percolating waters. 56 Am J1st Wat § 114.
See **reasonable use doctrine**.

correspondence course. See **correspondence school**.

correspondence school. A school in which the contact between teacher and student is by mail, the lessons being mailed to the student with written tests to be accomplished and returned to the teacher for grading.

corroborate. To state facts tending to produce confidence in the truth of a statement made by another person. *People v Ranney*, 153 Mich 293, 116 NW 999.

corroborating circumstances. Facts which tend to support the testimony of a witness, especially circumstances which tend to fix the transaction in the mind of the witness. 58 Am J1st Witn §§ 807, 808.

corroborating evidence. Additional evidence of a different character to the same point. *People v Sternberg*, 111 Cal 11, 43 P 201. Such evidence as tends to confirm and strengthen the testimony of the witness sought to be corroborated; that is, such as tends to show its truth, or the probability of its truth. *Rosinski v Whiteford*, 87 App DC 313, 184 F2d 700, 21 ALR2d 1009.

See **corroborating circumstances**.

corroboration. Producing corroborating evidence. As a requirement in a divorce action: evidence of such substantial facts and circumstances as will produce in a sound and prudently cautious mind a confident conclusion that the testimony of the complainant is true in all essentials. 24 Am J2d Div & S § 382. Corroboration is somewhat less than confirmation; evidence of corroboration need not be of such weight as is required to prove the alleged ground for divorce. Carter v Carter, 191 Kan 80, 379 P2d 311.

corroborative. Confirmatory; tending to support or uphold.

corroborative evidence. See **corroborating evidence.**

corrupt. Contaminated; spoiled; subverting the instrumentalities of government to personal profit; impeding justice and obstructing the administration of justice. United States v Polakoff (CA2 NY) 121 F2d 333.

corruption. A hard word, not always accurately understood; covering a multitude of official delinquencies, great and little; but it is strictly accurate to apply it to any color of influence, of mere relation of any kind, on the administration of justice. Wight v Rindskopf, 43 Wis 344, 351.

See **corrupt.**

corruption fund. A fund in hand to be used for the purpose of corruption.

corruption of blood. A doctrine, arising in feudal times but generally abrogated expressly by state constitutions, whereunder one was disqualified to inherit by conviction of a felony. 23 Am J2d Desc & D § 91.

Corruptio optimi est pessima. The corruption of the best is worst. So, the worst form of argument is that which draws erroneous conclusions from sound principles or premises. Jacobs v Beecham, 221 US 263, 55 L Ed 729, 31 S Ct 555.

corruptly. Wrongfully; acting with the intent to obtain an improper advantage for self or someone else, inconsistent with official duty and the rights of others. State v Lehman, 182 Mo 424, 81 SW 1118; State v Johnson, 77 Ohio St 461, 83 NE 702.

corrupt practices acts. Statutes found in the laws of practically every state in the union and in federal legislation, featured by provisions regulating the expenditures of candidates for election by requiring the filing of statements of expenses, in some instances by limiting the amount of money that may be spent, and sometimes including regulations respecting the solicitation of campaign contributions, the treating of voters, and the making of charges against, and attacks on, candidates. 26 Am J2d Elect § 287.

corse. A corpse.

[277]

curse-present. A mortuary, which was a customary gift claimed by and due to the minister in many parishes on the death of a parishioner, was called a curse-present when it was brought to the church along with the corpse at the burial of the deceased parishioner. At an earlier time, a curse-present had probably been, as its name would indicate, a voluntary donation. See 2 Bl Comm 425.

corsned. A form of trial by purgation which consisted in feeding the accused person a small piece of consecrated bread or cheese and at the same time praying for his ability to swallow it if innocent and for his choking if guilty. The term was also applied to the bread or cheese itself, the morsel of execration. See 4 Bl Comm 345.

cortes. The national legislature of Portugal.

corvée. (French.) An exaction of labor imposed upon the inhabitants of a district for the upkeep and repair of public roads and bridges.

Corwin Amendment. A proposed amendment to the United States Constitution, providing against any amendment to the Constitution granting to Congress the power to abolish or interfere with the domestic institution of slavery; submitted by Congress for ratification in 1861, but failing of ratification by the requisite number of states.

cosa juzgada. (Spanish.) Res adjudicata.

cosalvor. In admiralty law, a salvor who contributes with another salvor or with other salvors to the result. 47 Am J1st Salv § 26.

cosbering. The ancient right of the lord of the manor to sleep and eat in the house of his tenant.

cosduna. A custom; a tribute.

cozen. Same as **cozen**.

cosenage. Same as **cousinage**.

cosening. Same as **cozening**.

co-servants. Same as **fellow servants**.

coshering. A word of Irish origin for pampering.

See **cosbering**.

cosinage. Same as **cousinage**.

cosmetologist. A person who follows the occupation of hairdressing and beautifying the human skin. 10 Am J2d Barbers § 2.

cost. The amount of money, services, or property required to obtain a thing or to build a structure.

See **costs; original cost**.

cost and freight. A mercantile term which, when used in connection with a contract for the sale of goods shows that the price quoted to the purchaser includes the cost of the goods and freight charges to the place of destination. Pepper v Western Union Tel. Co. 87 Tern 554, 11 SW 783.

cost depletion. A deduction for federal income tax allowed an owner of mineral or timber property. IRC § 612.

coste. See **en coste**.

cost, insurance, and freight. A mercantile term, abbreviated "c. i. f." or "c. a. f." which, when used in connection with a contract for the sale of goods, indicates that the price quoted to the purchaser includes the cost of the goods, the cost of insurance thereon, and freight charges to the place of destination. 46 Am J1st Sales § 136.

Under a c.i.f. contract the seller receives a purchase price payable as the parties agree and for that consideration is bound to arrange for the carriage of the goods to their agreed destination, for insurance upon them for the benefit of the buyer,

and either to pay the cost of the carriage and insurance or allow it or the purchase price. When this has been done the seller has fully performed and is entitled to be paid upon delivery of the documents to the seller regardless of whether the goods themselves have arrived at their destination or ever will. It has been said that a c.i.l. contract is one for the sale of documents relating to goods rather than a sale of the goods but it seems more realistic to treat such a contract as one under which the title to the goods passes to the buyer upon delivery of the documents alone. Warner Bros. & Co. v Israel (CA2 NY) 101 F2d 59.

costipulator. A joint promisor.

cost of construction. The cost of labor and materials which have been combined to make the materials apart of the building. Washington Constr. Co. v Spinella, 8 NJ 212, 84 A2d 617, 28 ALR2d 863. The term also includes incidentals, such as premiums paid for workmen's compensation insurance.

cost plus contract. A building or construction contract under which the contractor is entitled to recover the cost of the work to him plus an agreed upon percentage. 13 Am J2d Bldg Contr § 20.

cost price. A mercantile term, the meaning of which is relative, depending upon the circumstances under which it is used and the situation of the parties, but which ordinarily would appear to mean merely that amount paid or promised to be paid for an article. As applied to a stock of merchandise, it ordinarily will mean the wholesale price. Sylvester v Ammons, 126 Iowa 140, 101 NW 782.

cost restrictions. Provisions in a restrictive covenant which limit the dwellings to be constructed to buildings costing not less than a stated amount. 20 Am J2d Cov § 260.

cost rule of damages. A rule of damages for breach of a building contract by failure to complete performance, under which reconstruction cost is the measure of damages. Shell v Schmidt, 164 Cal App 2d 350, 330 P2d 817, 76 ALR2d 792, cert den 359 US 959, 3 L Ed 2d 766, 79 S Ct 799.

costs. Allowances made to a party to an action for his expenses incurred in the action; otherwise defined, "costs" are the sums prescribed by law as charges for the services enumerated in the fee bill. 20 Am J2d Costs § 1. The word "costs" is normally used in referring to those items which may be included in the taxable bill of costs established by applicable statute or court rule. Anno: 9 ALR2d 1146. Statutory authorization of recovery of "costs" against the losing party does not include attorneys' fees. Turner v Zip Motors, 245 Iowa 1091, 65 NW2d 427, 45 ALR2d 1174. With few exceptions, the courts in the cases in which the question has arisen have construed condemnation statutes which provided for payment of "costs," "expenses," "just compensation," and the like, without making any express stipulation as regards attorneys' fees, as not intending to provide for the payment of such fees, these not being part of the costs, expenses, or just compensation. Anno: 26 ALR2d 1296.

costs and disbursements. Full costs. 5 Am J2d Appear § 23.

[278]

costs bill. See **bill of costs.**

costs bond. See **security for costs.**

costs de incremento. Costs awarded by the court and added to the damages assessed by the jury. At first, by the common law, no costs were awarded to either party eo nomine. If the plaintiff failed to recover he was amerced pro falso clamore. If he recovered judgment, the defendant was in misericordia for his unjust detention of the plaintiff's debt, and was not therefore punished with the expensa litis under that title. But this being considered a great hardship, the Statute of Gloucester (6 Edw L, c 1) was passed, which gave costs in all cases when the plaintiff recovered damages. This was the origin of costs de incremento; for

when the damages were found by the jury, the judges held themselves obliged to tax the moderate fees of counsel and attorneys that attended the cause. *Day v Woodworth* (US) 13 How 362, 14 L Ed 181.

costs of administration. The "costs of administration" which have priority of payment over claims of general creditors in receivership proceedings include not only compensation for the receiver but also all other obligations incurred by him in the discharge of his duties. *Parks v Central Door & Lumber Co.* 164 Or 363, 102 P2d 706, 128 ALR 375.

costs of collection. A provision in a promissory note which has reference to an attorney's fee for plaintiff's attorney in case the note is not paid at maturity and suit is instituted thereon and maintained successfully. 11 Am J2d B & N § 163.

costs of prosecution. The costs incurred by the plaintiff in an action.

A statute authorizing an award for "costs of prosecution" does not support an award of attorneys' fees. *State v Raible* (Ohio App) 117 NE2d 480, 40 ALR2d 950.

costs of the day. Costs which are taxed against a party to an action in a proceeding which is incidental to the main action; costs incurred in preparing for trial set for a day certain.

costs to abide the event. A term for a provision as to costs made by an appellate court in reversing a judgment and sending the case back for new trial, meaning that the costs in the appellate court shall be paid by the party who is unsuccessful in the further litigation on new trial. *First Nat. Bank v Fourth Nat. Bank*, 84 NY 469. The term does not necessarily import that the party finally prevailing must recover costs for all the proceedings in the cause. Full effect is given to the words by giving to the party finally prevailing his costs in the appellate court. *Colgan v Dunne*, 50 Hun 441, 443, 3 NYS 297.

cosureties. Joint sureties; two or more sureties on the same obligation. 50 Am J1st Surety § 4.

cota. A cottage.

cotarius. A cottager holding at the will of the lord.

cotenancy. The ownership of property by two or more persons in such manner that they have an undivided possession or right to possession, but several freeholds, the term including joint tenancies, tenancies in common, and tenancies by the entirety. 20 Am J2d Coten § 1.

cotenant. One of the owners in cotenancy.

See **cotenancy**.

coterellus. Same as **cotarius**.

cotes. See **bouts et cotes**.

coteswold. A place hare of wood.

cotland. Land appendant to a cottage.

co-tortfeasors. See **joint tortfeasors**.

cotrespassers. See **joint trespassers**.

cotrustees. Two or more persons in whom the administration of a trust is vested, forming but one collective trustee and exercising jointly all the powers that call for their discretion and judgment. 54 Am J1st Trusts § 296.

cotset. A householder or tenant under an ancient service tenure of rendering personal labor.

cotsethland. Same as **cotland**.

cotsetus. Same as **cotset**.

Cots-wold. A breed of sheep, characterized by the long wool borne by them.

cottage. The service to which a cotset was bound; a little house. A grant of a "cottage" will pass a little dwelling house that has no land belonging to it. Gibson v Brockway, 8 NH 465.

cottage residence. A restrictive term in a covenant in a deed which precludes the erection of a building such as a rooming house upon the premises, and, according to some, but not all, authorities, excludes multiple dwellings. Rosenblatt v Levin, 127 NJ Eq 207, 12 A2d 727.

cottagium. Same as **cottage**.

cotton gin. The machine for separating the fiber of cotton from the seeds.

couchant. Lying down.

See **levant et couchant**.

coucher. A banker; a factor.

coucher de soel. The setting of the sun; sunset.

could and should test. A test applied in determining the scope and extent of judicial review of an action of an administrative agency: -(1) whether the particular type of act was within the authority of the particular type of agency which acted and (2) whether the act should have been performed -that is, whether the conclusions of the agency were correct, whether its act was proper or justified, and whether the facts or evidence warranted it. 2 Am J2d Admin L § 611.

council. Broadly, an assembly, the derivation being from the Latin "consilium," but, in modern usage, the legislative department of a city or other municipal corporation. 37 Am J1st Mun Corp § 46.

council of censors. The name given in some states to a body elected or appointed to examine into the conduct of state officers and alleged violations of the constitution.

council of conciliation. An agency for the adjustment and settlement of labor disputes. 31 Am J Rev ed Lab § 371.

council of the north. A court established under Henry the Eighth in the northern counties of England.

counsel. A counselor; an attorney at law; one or more attorneys representing parties in an action. Ludlam v Broderick, 15 NJL 269, 270.

See **attorney at law; of counsel**.

counseling. Advising; deliberating with another to aid him in coming to a conclusion.

[279]

counselor. See **counselor at law; chamber-counselor.**

counselor at law. An attorney who has been duly, admitted to the bar and presently qualified to practice law; an advising lawyer. 7 Am J2d Attys § 1.

See **chamber-counselor; of counsel; practicing law.**

count. The tally of votes cast at art election. 26 Am J2d Elect § 291; a division of a complaint, declaration, bill, or petition, wherein a separate cause of action is stated. 41 Am J1st Plead § 106; a separate part of an indictment or information wherein a separate and distinct offense is stated, division into counts being necessary where two or more distinct offenses are charged in a single indictment under one caption. 27 Am J1st Indict § 124.

See **common counts; election of counts; money counts; narratio; omnibus count; paragraph; tale.**

countee. An earl.

countenance. Face; credit; credibility; approval.

counter. Noun: A pleader; an attorney-at law employed to defend in litigation. Verb: To oppose or defend against attack.

See **countors.**

counter-affidavit. An affidavit responding to and contradicting the affidavit produced by an adversary.

counter-appeal. See **cross-appeal.**

counter-bond. A bond given to indemnify a surety.

See **redelivery bond.**

counterbranding. Branding domestic animals for identification. 4 Am J2d Am § 8.

counterclaim. A claim which, if established, will defeat or in some way qualify the judgment or relief to which the plaintiff is otherwise entitled. 20 Am J2d Countcl § 3; a counter demand or a cause of action existing in favor of the defendant against the plaintiff, on which the defendant might have secured affirmative relief had he sued the plaintiff in a separate action. 20 Am J2d Countcl § 3. The statement, in a separate division of an answer, of defendant's cause of action against plaintiff is a counterclaim. Linscott v Linscott. 243 Iowa 335, 51 NW2d 428, 30 ALR2d 789.

See **cross-demand; recoupment; reconvention; setoff.**

counter demand. See **cross-demand; setoff.**

counterfeasance. Counterfeiting.

counterfeit. Verb: To make a copy without authority or right and with the view to deceive or defraud by passing the copy as original or genuine; to fabricate a false image or representation. But as ordinarily understood in law, the term is confined to the making and uttering of false money, postage stamps, revenue stamps, bonds, etc. 20 Am J2d Counterf § 1. Noun: Something made in imitation of something else with a purpose to deceive. Adjective: Spurious; sham.

counterfeit coin. See **counterfeit money.**

counterfeiting. Making a counterfeit, especially counterfeit money; the federal offense of making counterfeit money. 20 Am J2d Counterf § 1.

counterfeit money. An imitation of real money, produced with the intent that it shall pass as money and be accepted in trade as money. 20 Am J2d Counterf § 2. As the term is used in the Federal statutes dealing with the crime of counterfeiting, the coin to be "counterfeit" must be in the resemblance or similitude of a genuine United States coin. It is not necessary that the resemblance should be exact in all respects. The resemblance is sufficient if the coins are so near alike that the counterfeit coin is calculated to deceive a person exercising ordinary caution and observation in the usual transactions of business. *United States v Gellman* (DC Minn) 44 F Supp 360.

counterfoil. A part of a document, torn off and retained by the maker of the document as a memorandum; as, a check stub.

counter-injunction. An injunction restraining the enforcement of an injunction. *State v Norton*, 331 Mo 764, 55 SW2d 272, 85 ALR 1345.

counter-letter. A separate instrument, executed simultaneously with a deed absolute on its face, whereby the grantee named in the deed undertakes to reconvey the property to the grantor, upon the fulfilment of the terms and conditions stated in the counter-letter. *Livingston's Exr. v Story* (US) 11 Pet 351, 9 L Ed 746.

countermand. To revoke an order previously given.

countermanding payment. See **stopping payment**.

countermotion. A motion, made after a motion for change of venue to the proper county, to retain the case in the county where it was commenced on the ground of the convenience of witnesses and the ends of justice. Anno: 74 ALR2d 50.

counteroffer. An offer made by one of two negotiating parties in response to an offer by the other party. Where an acceptance of an offer is conditional, or introduces a new term, or varies substantially in any way from the terms of the offer, it may be treated as a counteroffer. 17 Am J2d Contr § 40.

counterpart. A person or thing closely resembling another person or thing; an obsolete term for copy. 2 Bl Comm 296.

counterplea. A replication; a plea interposed in reply to another plea.

counterplead. To interpose a counter-plea; to plead against; to plead the contrary; to deny.

counterroll. A duplicate record.

countersecurity. Security given to a surety to indemnify him against loss.

counter service. Service at a counter, a method of serving meals or lunches in a public eating place. 29 Am J Rev ed Innk § 9.

countersignature. A signature, often that of a subordinate, added to the signature of an officer or superior, by way of authentication; an additional signature required by the terms of a written contract, as in the case of the requirement for the signature of a particular officer or agent of an insurance company in addition to the regular signature appended upon the issuance of a policy. 29 Am J Rev ed Ins § 214.

See **countersign**.

counterwills. Another term for reciprocal wills in which the testators name each other as beneficiaries under similar testamentary plans. 57 Am J1st Wills § 681.

See **mutual wills; reciprocal wills.**

countez. A word by which, when the jury are all sworn, the officer bids the court crier to number them. Blackstone facetiously remarks, "we

[280]

now hear it pronounced in very good English 'count these'." See 4 Bl Comm 340, note.

counties. See **county.**

counties palatine. Certain counties of England, the owners of which enjoyed powers and privileges which were practically those of a king in his palace. Originally, there were three of these counties, Chester, owned by the earl of Chester, Durham, by the bishop of Durham, and Lancaster, by the duke of Lancaster. These privileges were probably extended to Chester and Durham because their counties bordered on Wales and Scotland which were hostile to England, and thus it was considered more feasible to protect them by a home government. See 1 Bl Comm 117.

counting upon a statute. In pleading, -making express reference to a statute; as by the words, against the form of the statute, or by force of the statute, in such case made and provided. Hart v Baltimore & Ohio Railroad Co. 6 W Va 336, 348.

countors. Persons who prepared counts or declarations at common law. See 1 Bl Comm 24, note.

country. A nation or land, also the people of a nation or state; any place out of court; the persons living in the district available for jury duty; a jury. A settlement in pais (in the country) is a settlement out of court.

As the word "country" is used in the revenue laws of the United States, it has always been construed to embrace all the possessions of a nation, however widely separated, which are subject to the same supreme executive and legislative control. Stairs v Peeslee (US) 18 How 521, 15 L Ed 474, 476. Adopting this definition, the Philippine Islands were held to be neither a foreign country nor another country within the meaning of the Cuban treaty. Faber v United States, 221 US 649, 659, 55 L Ed 897, 899, 31 S Ct 659.

See **jury of the country; trial by the country.**

country club. A social club, ordinarily located in the outskirts of a metropolitan area, and usually having spacious grounds surrounding a clubhouse, a golf course, and swimming pool, sometimes stables for riding horses, and a ring for exhibitions of horsemanship.

See **club.**

country road. Literally, a road outside a metropolitan area; sometimes defined in the bucolic aspect of a way unimproved by the hand of man beyond the traveled lane or path. Nelson v Spokane, 45 Wash 31, 87 P 1048.

county. A political subdivision of the state; a public or municipal corporation, established for the more convenient administration of government, its powers and importance varying throughout the nation, depending upon whether it or the town has been adopted by statute as the more important arm of government; an agency of the state. 6 Am J2d Attach § 80; a circuit or portion of the state established for the better government thereof. State ex ref. Milton v Dickenson, 44 Fla 623, 33 So 514.

county attorney. An attorney at law employed by a county to represent it in civil matters; in some jurisdictions, the prosecuting attorney.

county board. The body in which the government of a county, particularly the administrative part of the government, is vested; otherwise known its board of supervisors or board of commissioners.

county clerk. The clerk of court, the title having survived from the time when the colonial court of common pleas was known as a county court and the clerk thereof as a county clerk.

See **clerk of court.**

county clerk's certificate. See **certificate of authenticity; certificate of conformity.**

county commissioners. The members of the county board, the primary administrative board of a county often called supervisors.

See **county board.**

county coroner. See **coroner.**

county corporate. A term applied to certain cities and towns in England, including London, York, Bristol, Norwich, and Coventry, and the territory annexed to them, to which out of special favor, the kings granted the privilege to be counties of themselves and not to be included in any other county, and to be governed by their own sheriffs and other officers, so that no officers of the county at large had any power to act therein. See 1 Bl Comm 120.

county court. A state court, sometimes of limited jurisdiction, sitting in one particular county, but in some states having the power to issue process effective in any part of the state. 20 Am J2d Cts § 17; in a few states, a fiscal court, that is, a court vested with responsibility for the conduct of fiscal affairs of the county, being an administrative body rather than a court in the ordinary sense of the terms. *Mitchell v Henry County*, 124 Ky 833, 100 SW 220.

county court judge. The judge of a county court, having the status of a state officer where the court is granted general jurisdiction by constitution or statute. 30A Am J Rev ed Judges § 5.

county election. An election wherein county officers are elected.

See **votes polled.**

county engineer. A county officer, usually holding by appointment, qualified as a civil engineer, whose primary duties are making surveys preparatory to the construction of public improvements and the laying out of highways or in determination of boundaries of lands privately owned.

county farm. An institution located on a tract of farmland, in some states for the care of indigent, in other states for the detention of prisoners under sentence for crime, and in either case, ordinarily using the services of such inmates as are physically able to perform farm labor.

county home. See **almshouse; county farm.**

county manager. The chief administrative officer of a county under a comparatively modern form of county government.

county officer. One of several officers by whom a county performs its political or governmental functions, the sheriff, county clerk, county treasurer, coroner, etc.

county palatine. See **counties palatine; courts of the counties palatine.**

county prison. The building provided by the county for the custody of persons committed by legal process. 41 Am J1st Pris & P § 2.

county property. Public property held by a county in a governmental capacity as an agent of the state; any property acquired, owned, and held by a county under and pursuant to authority vested in it. State v Brown, 73 Mont 371, 230 P 548.

[281]

county rate. A tax levy for county purposes.

county seat. The place in a county where the principal county offices are located, where the primary affairs and business of the county are conducted, and where court is held. 20 Am J2d Cts §§ 37 et seq.

county seat de facto. Same as **de facto county seat.**

county sessions. The general quarter sessions of the peace.

See **court of quarter sessions of the peace.**

county site. The term is used interchangeably, in some jurisdictions, with the term county seat. Watts v State, 22 Tex App 572, 578.

See **county seat.**

county warrants. Instruments, generally in the form of bills of exchange or orders, drawn by an officer of the county upon its treasurer, directing him to pay an amount of money specified to the person named therein, to the order of such person or to bearer.

county where the cause arose. The county where the act or omission creating the right to bring an action occurred; not the same as "county where the transaction in question occurred." 56 Am J1st Ven § 34.

county where the parties live. A venue provision applicable in actions for divorce, construed to mean the county in which the aggrieved party lives at the time of commencement of suit. Harteau v Harteau, 31 Mass (14 Pick) 181.

coupled with an interest. See **power coupled with an interest.**

coupon. An instrument payable in money or redeemable in merchandise; an instrument attached to another instrument but detachable for use by itself, as in the case of an interest coupon which evidences the interest payable on the instrument to which it is attached. 30 Am J Rev ed Int § 64. Coupons of such type are usually regarded as negotiable and as having all the qualities of commercial paper. 43 Am J1st Pub Sec § 14.

coupon bond. A bond in which the interest payable separately from the principal is represented by detachable coupons. Amey v Allegheny City (US) 24 How 364, 16 L Ed 614; Tennessee Bond Cases, 114 US 663, 29 L Ed 281, 5 S Ct 1098.

See **coupon.**

coupon note. A promissory note with coupons attached, the coupons being notes for the interest, written at the bottom of the note and designed to be cut off when the notes are presented for payment or paid. Williams v Moody, 95 Ga 8, 11.

See **coupon; coupon bond; coupon note; interest coupons.**

coupon ticket. A ticket for transportation in one trip over the lines of different carriers, made up of detachable portions or coupons, each one of which represents the part of the trip to be made over the line of one of the respective carriers. Louisville & Nashville Railroad Co. v Klyman, 108 Tenn 304, 67 SW 472.

cour de cassation. Same as **court of cassation**.

course. The direction of a line run with a compass or transit and with reference to a meridian. 12 Am J2d Bound § 10. Progression in order; a way in which something moves, as a race course.

See **holder in due course**.

course of descent. The course of intestate property to the heirs and distributees who take and the proportion in which they take. 23 Am J2d Desc & D § 41.

course of employment. See **in the course of the employment**.

course of trade. The trend of business; that which is customary among merchants.

course of vessel. The direction taken by a vessel under way; her apparent course rather than her heading at a given moment. The Eastern Glade (CA2 NY) 101 F2d 4. The course of a vessel referred to in the International Regulations to Prevent Collisions is her actual course, and not the compass direction, of the heading of the vessel at the time the other vessel is sighted. Liverpool, Brazil & River Plate Steam Navigation Co. v United States (DC NY) 12 172d 128.

courses and distances. See **course**.

court. An organ of the government, consisting of one person, or of several persons, called upon and authorized to administer justice; a place where justice is judicially administered. 20 Am J2d Cts § 1; judge and jury combined. Welch v Welch (Tex Civ App) 369 SW2d 434.

The three elements essential to the conception of a court are: (1) a time when judicial functions may be exercised, (2) a place for the exercise of judicial functions, and (3) a person or persons exercising judicial functions. Hamblin v Superior Court, 195 Cal 364, 233 P 337, 43 ALR 1509. In many cases, the words "court" and "judge" are used interchangeably. 30A Am J Rev ed Judges § 4.

See **jurisdiction**; see also **words and phrases beginning court which follow**.

court administrative offices. Nonjudicial offices created to perform administrative functions and details necessary to the performance of the duty of courts to administer justice, thereby relieving the judges or justices of such details and permitting them to concentrate on the purely judicial phases of court work. Am J2d Desk Book, Document 75.

court-baron. A court within a manor in which the tenants litigated and were tried.

court calendar. A list of the cases for trial by the term, the week, or even the day, at which a particular case will come on for trial.

There may be separate calendars for various steps in a proceeding, such as a motion calendar or a pretrial conference calendar. An appellate court calendar is a register of the actions and proceedings in the court, such usually determining the order in which the appeals will be heard. 5 Am J2d A & E § 678.

See **docket**.

court commissioner. See **commissioner of court**.

court costs. See **costs**.

court days. Time of holding court. 20 Am J2d Cts § 42.

court en banc. See **full bench**.

court decision. See **decision**.

court docket. See **docket**.

courtesy. Polite and gracious behavior; consideration for others.

See **courtesy**.

courtesy card. A card passed out by bus driver, motorman, or conductor to passengers for the purpose

[282]

of obtaining their names and addresses after the State of New York and of some other states; an occurrence of an accident causing injury to person or property.

See **credit card**.

courtezan. See **concubine**.

court for crown cases reserved. Same as **court of criminal appeal**.

court for divorce and matrimonial causes. An English court established under the statute 20 & 21 Victoria, c. 85, having jurisdiction in suits for divorce and annulments of marriage.

court for the relief of insolvent debtors. A London bankruptcy court.

court hand. The style of handwriting which is peculiar to English court records.

courthouse. The place provided for holding court; a building occupied and appropriated according to law for the holding of the courts. Harris v State, 72 Miss 960, 18 S 387.

courthouse door. A designation as the place for conducting a judicial sale of real estate at auction. 30A Am J Rev ed Jud S § 76.

court interpreter. See **interpreter**.

court-lands. Lands which were retained by the lord for the use of his family.

court-leet. An ancient English court presided over by the steward of the leet, with jurisdiction to try petty offenders and to hold preliminary examinations in felony cases.

court-martial. A court of the military, of one of the Armed Services, for the trial of offenses under the Code of Military Justice, which may be in the order of rank a general court-martial, a special court martial, or a summary court-martial; a prosecution before one of such courts-martial.

court not of record. An inferior court, or court of limited or special jurisdiction, such as the court held by a justice of the peace, a mayor, or other magistrate, and some city courts. The term "court not of record" is inexact and indifferent, so that in the absence of a statute declaring a court as one of record or not of record, difficulty is experienced in classification. A justice of the peace does keep a record of his judicial acts and of judgments rendered by him, even though he does not enroll them in an extended form. 20 Am J2d Cts § 26. Usually, the term "court not of record" has reference to a court of limited jurisdiction, negating the idea that the court so described is one of general jurisdiction. 20 Am J2d Cts § 103.

See **court of general jurisdiction; court of limited jurisdiction.**

court of admiralty. A court entitled to exercise admiralty jurisdiction, which is a federal district court, state courts having no admiralty jurisdiction. 2 Am J2d Adm § 10.

court of ancient demesne. A court held by the king's bailiff for tenants of the king's demesne. Some tenants in ancient demesne had special immunities and favors granted to them, such as to try the right of their property in the court of ancient demesne, by a peculiar process called the writ of right close. See 2 Bl Comm 99.

court of appeals. A court in which appeals from a lower court are heard and disposed of.

Court of Appeals. The highest appellate court of the intermediate federal appellate court.

The United States is divided into eleven judicial circuits. In each circuit there is a United States Court of Appeals for the circuit, having appellate jurisdiction as set forth in the United States Code. 28 US §§ 1271-1294.

Court of Arbitration of the Chamber of Commerce. A court in New York City for the settlement by arbitration of disputes between merchants, created by special act of the legislature (Laws 1874 Ch 278, amended Laws 1875 Ch 495) but not continuing in existence after 1879.

court of archdeacon. See **archdeacon's court.**

court of arches. See **arches court.**

court of assize. A court of nisi prius was also called a court of assize and nisi prius.

See **assize; nisi prius.**

court of attachments. An ancient English forest court for inquiry into offenses against vert and venison, that is, against unlawfully killing deer or stealing wood in the king's forests, or preparing to do so. It was called the court of attachments because persons thus offending could be attached in their bodies if taken in the act, or else attached by their goods. See 3 Bl Comm 71.

court of augmentation. An old English court for the control of the funds and property of monasteries.

court of bankruptcy. A court having jurisdiction of proceedings in bankruptcy, which, in the terms of the Bankruptcy Act, is a United States District Court and a District Court of the territories and possessions to which the Act is or may hereafter be applicable. 9 Am J2d Bankr § 25. Unless the context of the Bankruptcy Act requires otherwise, the term "court," as used in the Act, means the judge or the referee of the court of bankruptcy in which the proceedings are pending. 9 Am J2d Bankr § 92.

court of cassation. The highest court of appeal in France.

court of chancery. A court of equity, in England and some of the United States.

See **High Court of Chancery.**

court of chivalry. A court known also as the marshal court which was formerly held before the lord high constable and earl marshal of England jointly; but, since the extinguishment of the office of lord high constable, it has usually, with respect to civil matters been held before the earl marshal only, and takes cognizance of contracts and other matters touching deeds of arms and war, as well out of the realm as in it. The court had grown almost obsolete in Blackstone's time. See 3 Bl Comm 68.

Court of Claims. The federal court, created by statute, and vested with jurisdiction of claims against the United States. 28 USC §§ 1491 et seq.; United States v Sherwood, 312 US 584, 85 L Ed 1058, 61 S Ct 767; the designation given in some of the states to the court vested with jurisdiction of claims against the state. 20 Am J2d Cts § 33.

court of commerce. See **Commerce Court.**

court of common pleas. A nisi prius court of general jurisdiction, at least over civil cases. American colonial courts of common pleas were courts of justice presided over by judges appointed by the king and were known as county courts. "The court of common pleas is the general fountain of justice; and where the rights of a citizen, either derived

[283]

from the common law or the statutes, are invaded, and the power to protect is conferred on no special jurisdiction, he may seek redress in that court. Moore v Barry, 30 SC 530, 9 SE 589.

Court of Common Pleas. The name given in several states to a court of general jurisdiction; the trial court of several states.

court of competent jurisdiction. See **competent jurisdiction.**

court of conscience. An English court for the collection of small debts; a court of equity. Harper v Clayton, 84 Md 346, 35 A 1083. A court of equity is a court of conscience, and whatever, therefore, is unconscionable is odious in its sight. Fraud is more odious than force, and one of the peculiar provinces of a court of equity is to relieve against wilful misrepresentation and fraud. Dowell v Goodwin, 22 RI 287, 47 A 693.

court of convocation. An ecclesiastical court having jurisdiction of the trial of offenses against the ecclesiastical law.

court of criminal appeal. A court composed of judges of the English superior courts which decided questions of law referred to it in pending criminal cases.

Court of Criminal Appeals. The name given in several states to an appellate court with jurisdiction of appeals in criminal cases.

Court of Customs and Patent Appeals. A court with jurisdictions of customs and patent matters created by federal statute. 28 USC § 211.

court of delegates. The great court of appeal in all ecclesiastical cases. The judices delegati or judges of the court were appointed by the king's commission issuing out of chancery to represent his royal person, and hear all appeals in ecclesiastical matters. The jurisdiction of this court was removed to the judicial committee of the privy council by statute in the reign of William the Fourth. 3 Bl Comm 66.

court of equity. A court having jurisdiction of suits in equity and in which equitable remedies are administered.

See **court of conscience; equity.**

court of exchequer. An English superior court with jurisdiction of matters of law and matters involving government revenue.

court of exchequer chamber. An English court of appeals for the correction of the errors of other jurisdictions. It also heard important matters of great difficulty which were suspended and submitted to it before any judgment was rendered in the court below. See 3 Bl Comm 56.

court of faculties. An English ecclesiastical court which had the granting of ecclesiastical licenses, pew rights and the like.

court of general jurisdiction. A term sometimes equated with "court of record"; a court of extensive, although not necessarily of unlimited, jurisdiction. 20 Am J2d Cts § 103; a superior court. Hahn v Kelly, 34 Cal 391 a court which is competent by its constitution to decide on its own jurisdiction, and to exercise it to a final judgment, without setting forth in its proceedings the facts and evidence on which it is rendered, whose record is absolute verity and behind which there can be no judicial inspection save by appellate power. Lessee of Grignon v Astor (US) 2 How 319, 341, 11 L Ed 283, 292.

Court of General Sessions. A local court of the Borough of Manhattan in New York City having a general criminal jurisdiction.

court of greatest convenience. A term involved in the transfer of cases in bankruptcy, meaning of greatest convenience from the standpoint of proximity to the bankrupt, creditors, and witnesses, the location of assets, and the economic and efficient administration of the estate. Re Triton Chemcial Corp. (DC Del) 46 F Supp 326.

court of hustings. See **hustings court**.

court of industrial relations. See **industrial relations court**.

court of inquiry. A court convened by the President of the United States for a preliminary investigation of charges preferred against a soldier or an officer of the armed services. 36 Am J1st Mil § 90.

court of justiciary. The supreme criminal court of Scotland.

court of king's bench. A court which was formerly the supreme English common-law court, but later became a department of the high court of justice.

In a reign of a queen, the same court is called the court of queen's bench.

court of last resort. The highest court to which a case may be taken; a court from the judgments of which no appeal can be taken.

court of limited jurisdiction. A term which lacks precision as a description of a court, since there may be limitations upon the jurisdiction of a court properly classed as a court of general jurisdiction; a term sometimes used for an inferior court, a court not of record, one whose judgments do not carry the verity of those of a court of general jurisdiction and may be questioned unless jurisdiction appears upon the face of the proceedings. Lessee of Grignon v Astor (US) 2 How 319, 341, 11 L Ed 283, 292; Hahn v Kelly, 34 Cal 391; 20 Am J2d Courts § 103; a court of special jurisdiction, such as a juvenile court. 31 Am J Rev ed Juv Ct § 5.

court of magistrates and freeholders. A court formerly existing in North Carolina for the trial of colored persons on criminal charges.

Court of Military Appeals. A court with jurisdiction to hear appeals from the judgment in a court-martial, being established by federal statute. 10 USC § 867.

court of nisi prius. See **nisi prius**.

court of orphans. See **orphans' court**.

court of oyer and terminer. Old courts presided over by commissioners of oyer and terminer appointed by the king. Among these commissioners were usually two common-law judges of the courts at Westminster. These courts were held twice each year in most of the counties of England and eight times in London and Middlesex. They had jurisdiction to hear and determine all cases of treason, felony and misdemeanor. See 4 Bl Comm 269. In the United States the higher criminal courts of some states have been given this name.

court of oyer and terminer and general gaol delivery. A nisi prius court of criminal jurisdiction in England.

court of passage. An inferior court of record held at Liverpool.

court of peculiars. An ecclesiastical court which was a branch of the court of arches to which it was

[284]

annexed. It had jurisdiction over those parishes in the province of Canterbury which were situated in dioceses exempt from the ordinary's jurisdiction. All ecclesiastical causes arising within these "peculiar" or exempt jurisdictions were originally cognizable by this court. See 3 Bl Comm 65.

court of piepowd're. See **pie-powder court**.

court of policies of insurance. An English court with jurisdiction in insurance cases, established about 1550 and abolished about 1863.

court of probate. See **probate court**.

court of quarter sessions of the peace. A minor English court held quarterly in each county and presided over therein by two justices of the peace.

court of queen's bench. See **king's bench**.

court of record. A term which seems to have originated in the practice of superior courts in extending the record of their proceedings, orders, and judgments, at length and as perpetual memorials, on sheets of parchment, but, in more recent times, to have been used as a designation of courts of general jurisdiction, the judgments of which import verity. 20 Am J2d Cts §§ 26, 103.

A court of record is a court presided over by a man of experience and learned in the law, assisted by counsel also of experience and learning who act as advisers of the court. Its proceedings are conducted with solemnity and deliberation, and in strict conformity with established modes, and they are taken down and made a matter of record at or about the time they transpire. Hahn v Kelly, 34 Cal 391.

court of regard. A forest court held triennially for the lawing or expeditation of mastiffs, that is, by cutting off the claws and ball of each fore-foot to prevent the dog from attacking deer. See 3 Bl Comm 72.

court of requests. Same as **court of conscience**.

court of sessions. The supreme civil court of Scotland.

See **Court of General Sessions**.

court of special jurisdiction. Same as **court of limited jurisdiction**.

court of star-chamber. A court which tried certain high crimes without the intervention of a jury. The court was abolished in the reign of Charles the First.

court of survey. An English and Welsh court held under the Merchants' Shipping Act of 1894.

court of sveinmote. A forest court held three times in each year before the verderors of the forest as judges and with sweins or freeholders of the forest as jurors, to inquire into grievances committed by forest officers and to try presentments certified from the court of attachments. See 3 Bl Comm 72.

court reporter. A stenographer who takes down in shorthand during the trial of a case the testimony of witnesses by question and answer and the colloquy between counsel and between counsel and the court, and later prepares transcripts from such record as such may be needed and ordered for appeal or review proceedings; sometimes having the status of an officer of the court. 20 Am J2d Cts § 4; an officer of court in charge of the publication of the opinions of the court.

See **stenographically reported**.

court of the clerk of the market. A court which was held at the place and time of a fair or market in England.

court of the coroner. A coroner's inquest.

court of the Duchy of Lancaster. A court of equity of special jurisdiction in cases relating to lands held of the king in right of the Duchy of Lancaster. It appears not to have been a court of record. See 3 Bl Comm 78.

court of the judiciary. A court of the state with supervisory powers over the administration of all the courts in the state, sometimes having jurisdiction of proceedings for removal of judges or disbarment of attorneys.

court of the lord high steward. A court where peers of England were tried for felony and certain other high crimes.

court of the lord high steward of the universities. A court for the trial of indictments of scholars and officers of the universities of Oxford and Cambridge.

court of the marshalsea. An English court with jurisdiction of cases involving royal servants.

court of the ordinary. An English ecclesiastical court which was presided over by a bishop.

court of the steward and marshal. An English court for the trial of cases arising within twelve miles of the king's actual residence.

Court of the steward of the king's household. An English court which tried persons for certain crimes committed near the king's residence.

court of upper bench. The court of king's bench, as it was called during the interregnum, 1649-1660.

court of wards and liveries. A court which was erected in the reign of Henry the Eighth for the conducting of inquiries into relicts, wardships, primer seisin and other profits which accrued to the king. The court was abolished by statute in the reign of Charles the Second. See 2 Bl Comm 69, 77.

court opinion. See **opinion of court.**

court order. See **order of court.**

court receiver. A receiver appointed by a court under statutory authority or by virtue of its equity jurisdiction. 44 Am J1st Rec § 3.

court record. An official writeup or memorandum of what happened or occurred in court during the proceedings in a particular case. 20 Am J2d Cts § 52; any part of the record of a case in court, including pleadings, exhibits, examinations, writs and levies, etc. 20 Am J1st Ev §§ 994 et seq.

In a criminal case, after the caption stating the time and place of holding the court, the record should consist of the indictment properly indorsed, as found by the grand jury; the arraignment of the accused, his plea, the impaneling of the traverse jury, their verdict, and the judgment of the court. This, in general, is all that the record need state. United States v Taylor, 147 US 695, 37 L Ed 335, 13 S Ct 475.

Nothing which is not properly matter of record can be made such by inserting it therein. United States v Taylor, 147 US 695, 37 L Ed 335, 13 S Ct 475.

Sec **court of record.**

[285]

court reports. Official or unofficial reports of cases decided by a court or by one or more courts, giving in full the opinions rendered in the cases, usually including concurring and dissenting opinions, and having headnotes or syllabi prepared officially by the court reporter or unofficially by an editor of the publisher's staff. 20 Am J2d Cts §§ 76, 77.

court-rolls. The rolls or records of a court.

court rules. See **rules of court.**

courts Christian. Ecclesiastical courts. Anderson v Commonwealth, 26 Va (5 Rand) 627.

court seal. See **seal of court.**

courts-martial. Plural of court-martial.

courts of the cinque ports. Courts which were established at the cinque ports, which were the five most important havens on the English coast, to wit: Dover, Sandwich, Romney, Hastings and Hythe. To these five Winchelsea and Rye were added later. See 3 Bl Comm 79.

courts of the counties palatine. Courts which were held in counties palatine.

See **counties palatine.**

courts of the principality of Wales. Courts which were established in Wales during the reign of Henry the Eighth in which all pleas of real and personal actions were held in the same manner as in the court of common pleas at Westminster. They were

courts of record and appeals lay from them to the court of king's bench. These courts were abolished in the reign of George the Fourth. See 3 Bl Comm 77.

courts of the two universities. Courts of local jurisdiction held at the universities of Oxford and Cambridge. See 3 Bl Comm 83.

courts of the United States. See **United States Courts.**

court's presence. See **presence of the court.**

court stenographer. See **court reporter.**

court vacation. See **vacation.**

cousin. The child of one's uncle or aunt; a relative in the fourth degree according to the method of computing kinship used in most jurisdictions. 23 Am J2d Desc & D § 48.

The children of brothers, sisters, or a brother and sister, respectively, are related as first cousins. Re O'Mara's Estate, 106 NJ Eq 311, 151 A 67; Re Oatley, 83 Misc 655, 146 NYS 796. The general rule is that a devise to "cousins", in the absence of testamentary qualification, express or implied, includes only first cousins. Bishop v Russell, 241 Mass 29, 134 NE 233, 19 ALR 1408.

In England, any peer of the degree or station of an earl or better is often addressed by king or queen as cousin.

See **cater-cousin; quater cousin; second cousin.**

cousinage. The relationship of cousins; collateral relationship.

cousin german. A first cousin, that is, a child of an uncle or an aunt. Anno: 99 ALR 672.

coustum. A toll; a tribute.

couthutlaugh. A person who harbored an outlaw.

cove. A nook, a small bay; a concave molding. Keller Products, Inc. v Rubber Linings Corp. (CA7 Ill) 213 F2d 382, 47 ALR2d 1108.

covenant. Words used in a deed whereby the grantor, the grantees, or each of them, binds himself to the other for the performance or nonperformance of a particular act or thing, or for the existence or nonexistence of a particular state of facts, and for the breach of which obligation the party bound should be answerable in damages. Mackenzie v Trustees of Presbytery, 67 NJ Eq 652, 61 A 1027; a term now used principally in connection with promises in conveyances or other instruments pertaining to real estate, although in the broadest sense of the term it indicates a contract. In a more specific application of the term, it imports an agreement reduced to writing and duly executed whereby one or more of the parties named therein engages that a named act is to be performed or is to be performed sometime in the future. 20 Am J2d Cov § 1. In a lease, the term usually means no more than a promise or agreement. 32 Am J1st L & T § 140. A seal was a requisite of a covenant at common law, but with the elimination of the requirement of a seal upon written contracts, as such has occurred in most jurisdictions, a mere written agreement may suffice as a covenant. 20 Am J2d Cov § 1.

A breach of covenant gives rise to an action at law to recover damages or an action for equitable relief, whereas, the breach of a condition upon which an estate is granted is a forfeiture of the estate forthwith.

The term "covenant" is the name of the common-law remedy for breach of a contract under seal. 1 Am J2d Actions § 19. It was the remedy at common law for the recovery of rent upon a lease under seal. 32 Am J1st L & T § 523.

See **restrictive covenants; title covenants**.

covenant against encumbrances. A title covenant in the form of a stipulation by the covenantor that there are no outstanding rights or interest to the estate conveyed or any part thereof which will diminish the value of the estate, but which are consistent with the passing of the estate. 20 Am J2d Cov § 81.

covenant appurtenant. Same as **covenant running with the land**.

covenant collateral. A covenant in a deed which does not relate to the grant.

covenantee. The person to whom the performance of the terms of a covenant is due.

covenanter. Same as covenantor.

covenant for further assurance. A covenant of title binding the grantor to perform all acts, deeds, conveyances and assurances which may be wanting to the confirmation of the grantees title, or to secure the execution of such other deeds or instruments as shall be necessary to perfect or confirm the title. 20 Am J2d Cov § 108.

covenant for possession. Same as **covenant of quiet enjoyment**.

covenant for quiet enjoyment. See **covenant of quiet enjoyment**.

covenant for title. See **title covenants**.

covenant inherent. See **inherent covenant**.

covenant in law. A covenant which the law implies or intends from the nature of the transaction, although it is not expressed by words in the instrument which contains it. It is a rule that such a covenant is operative only when the parties have omitted to insert covenants in the instrument. 20 Am J2d Cov § 12.

See **implied covenant**.

[286]

covenant not to sue. A device most familiar in the law of torts, being used to prevent the release of a tortfeasor upon settling with his joint tortfeasor. 1 Am J2d Accord § 9.

A covenant not to sue recognizes that the obligation or liability continues but the injured party agrees not to assert any rights grounded thereon against a particular covenantee. Atlantic Coast Line R. Co. v Boone (Fla) 85 So 2d 834, 57 ALR2d 1189. Indicia of such a covenant are: No intention on the part of the injured person to give a discharge of the cause of action, or any part thereof, but merely to treat in respect of not suing thereon, and this seems to be the prime differentiating attribute; full compensation for his injuries not received, but only partial satisfaction; and a reservation of the right to sue the other wrongdoer. Smith v Dixie Park Co. 128 Tenn 112, 120 SW 900.

covenant of good right to convey. A synonym of covenant of seisin.

See **covenant of seisin**.

covenant of quiet enjoyment. A title covenant, an assurance that the grantees shall have legal, quiet, and peaceful possession. 20 Am J2d Cov § 97; an express or implied covenant in a lease that the lessee shall not be evicted or disturbed in his possession of the demised premises or any part thereof. 32 Am J1st L & T § 268.

The covenant of quiet enjoyment extends only to the possession, not to the title of the property transferred, and is sometimes referred to as a "covenant for possession." 20 Am J2d Cov § 97.

covenant of seisin. A covenant of title, otherwise known as a covenant of good right to convey, is a general covenant that the grantor is lawfully seised and has the right to convey the property at the time of the execution of the conveyance, extending to the land itself and to whatever is properly appurtenant to, and passing by, the conveyance of the land. 20 Am J2d Cov § 73.

See **seisin**.

covenant of special warranty. See **special warranty**.

covenant of title. See **title covenants**.

covenant of warranty. The principal title covenant, being an agreement by the grantor or warrantor that upon the failure of the title which the deed purports to convey, either for the whole estate or part only, he will make compensation in money for the loss sustained. It is an assurance or guaranty of title, or an agreement or assurance by the grantor of an estate that the grantee and his heirs and assigns shall enjoy it without interruption by virtue of a paramount title, and that they shall not, by force of a paramount title, be evicted from the land or deprived of its possession. 20 Am J2d Cov § 50.

covenantor. A person who covenants; the maker of a covenant.

covenant performed. A form of plea in actions of covenant, which admits the execution of the covenants, but pleads the performance of them. Roth v Miller (Pa) 15 Serg & R 100, 105.

covenant real. See **real covenant**.

covenant running with the land. A real covenant, a covenant under which either the liability for performance or the right to performance passes to a vendee or assignee. 20 Am J2d Cov § 29; a covenant of a lease, the burdens, as well as the benefits of which, are upon the assignee. 32 Am J1st L & T § 157.

See **real covenant**.

covenant to convey. A covenant by which the covenantor agrees to convey certain described property.

covenant to rebuild. A covenant by the lessor to rebuild the structures upon the demised premises after their destruction by fire or the elements. 32 Am J1st L & T § 709.

covenant to redeliver. An implied obligation or covenant on the part of a lessee to redeliver possession of the demised premises on the expiration of the lease. 32 Am J1st L & T § 841.

covenant to repair. An express agreement in a lease binding the lessee to surrender the premises upon the expiration of the lease in a designated condition of repair. 32 Am J1st L & T § 803; a covenant by the lessor to repair the premises after injury thereto by fire or the elements. 32 Am J1st L & T § 709.

covenant to stand seised to uses. A covenant by which a man, seised of land, covenants in consideration of blood or marriage that he will stand seised of the same to the use of his child, wife, or kinsman, for life, in tail, or in fee. In such case, the statute of uses executed the estate at once for the beneficiary having thus acquired the use, the statute clothed him with possession, "by a kind of parliamentary magic." See 2 Bl Comm 338.

Coventry Act. An Act of Parliament, passed in 1683, making an assault with intent to maim or disfigure a person a felony.

cover. To overspread; as applied to insurance, it means to protect by means of insurance. *A. Perley Fitch Co. v Phenix Ins. Co.* 82 NH 318, 320, 133 A 340, 342.

coverage. The risk of loss covered by an insurance policy.

See **risks and causes of loss.**

covered wagon. A vehicle well known in history and romantic legends. The vehicle by which the pioneers traveled west. A large wagon having a canvas cover.

A covered wagon traveling from place to place, in which prostitution is carried on, may constitute a house of ill fame, within the meaning of the statute. *State v Chauvet*, 111 Iowa 687, 83 NW 717.

covert. Covered; protected; as, a feme covert, a married women.

covert-baron. A married woman.

coverture. The status and rights of the wife arising from the marriage relationship. 26 Am J1st H & W § 5.

covin. Fraud; deceit; collusion; a contrivance between two to cheat a third. *Mix v Muzzy*, 28 Conn 186, 191.

covinous. Collusive; deceitful; fraudulent.

cow. The mature female of the ox family, also of elephants and whales, sometimes and for some purposes including the immature female of the ox family known as a heifer. *Carruth v Grassie*, 77 Mass (11 Gray) 211.

cowitch. A plant whose spines cause violent itching in contact with the skin of a person. *Commonwealth v Cramer (Pa)* Pearson 441, 444.

Cox v Hickman. A celebrated English case (8 H. L. Cas. 268) in which the court established the principle, which has since become general, that persons who are not in fact partners are not liable to third

[287]

persons as such merely because they have shared in the profits of a business unless there has been an estoppel or a holding out of such persons as partners.

cozen. To cheat.

cozening. Cheating or defrauding a person by some deceitful practice, whether in a matter of business or not, as by a counterfeit letter, cogged dice or other false token. See 4 Bl Comm 158.

CPA. Abbreviation of certified public account. 1 Am J2d Accts § 1.

c. r. An abbreviation of curia regis.

crabs. A kind of shellfish; a sour-tempered person.

cracking. Breaking or splitting without complete separation of parts. A processs in refining crude oil into useful constituents, such as lubricating oil and gasoline. *Universal Oil Products Co. v Globe Oil & Refining Co.* (DC Ill) 40 F Supp 575.

craft. Trickery or deception; an occupation requiring skill; the members of a skilled trade. Re International Asso. of Machinists, 249 Wis 112, 23 NW2d 489, 174 ALR 126 7. The members of a secret fraternal order which simulates a skilled trade in instructing its members in the principles of the order. Watercraft, especially small vessels. Owners of Steamboat Wenonah v Bragdon, 62 Va (21 Gratt) 685, 697.

craft union. A labor union, the membership of which is confined to persons of a single craft or closely related crafts. 31 Am J Rev ed Lab § 13.

cranage. A license to use a wharf crane. The charge made for such license.

crane. A device with a movable arm for lifting heavy weights. A large bird with long legs, frequenting swamps.

See **mail crane.**

Cranworth. See **Lord Cranworth's Act.**

crap. Buckwheat. The throw which loses in a game of craps. A slang term for something worthless, especially idle talk.

See **craps.**

craps. A game played with dice.

See **dice.**

crassa. Gross.

crassa negligentia. Gross negligence, a gross breach of duty. See Briggs v Spaulding, 141 US 132, 171, 35 L Ed 662, 677, 11 S Ct 924.

crastinum or crastino. Tomorrow; the next day.

cratering. The creation of a bowlshaped depression around or in an oil well by the collapse of the earth's structure beneath the drilling unit or the eruption of oil, gas, water, or other material from the well. Midwestern Ins. Co. v Rapp (Okla) 296 P2d 770.

cravant. Same as **craven.**

crave. To demand; to dun; to desire.

craven. Cowardly; a coward. A word employed in trial by battle which when uttered by either champion ended the combat with disgrace and defeat for him, and the punishment of infamy besides. See 3 Bl Comm 340.

See **recreant.**

cravent. Same as **craven.**

crave oyer. See **oyer.**

crazy. Insane or mentally deranged. Shaver v McCarthy, 110 Pa 339, 345; Thompson v State, 104 Tex Crim 637, 645, 285 SW 826, 830. A state of great enthusiasm for a person, a thing, or an idea; a thing or an idea that is fitting for a crazy person to have.

creamus. We create.

Creamus, erigimus, fundamus, incorporamus. We create, we erect, we found, we incorporate. See 1 Bl Comm 473.

creance. A collateral security; a pledge.

creancer. A creditor.

creansor. Same as **creancer**.

create. To bring into being; to cause to exist; to produce; to make, for example, a machine or a corporation. Bank of Commerce v Wiltsie, 153 Ind 460, 53 NE 950, 952.

creation. The act of producing or making. The universe and everything contained therein.

creature of reason. Man. Slate v Jones, 1 Miss (Walk) 83, 85.

credence. Belief in the statements of another.

See **letter of credence**.

credentials. Documents or evidences of a person's authority. Something which entitles a person to be believed. The letter of credence given to an ambassador or other foreign representative. 4 Am J2d Ambss § 2.

credere. See **del credere**.

credibility. Capacity for being believed or credited.

credible person. See **credibility; credible witness**.

credible witness. A competent witness who is worthy of belief. Hawes v Humphrey, 26 Mass (9 Pick) 481; Wilson v State, 27 Tex App 47, 10 SW 749.

See **competent witness**.

credit. Noun: The quality that attracts trust, particularly trust in one's disposition and capacity to pay. Dry Dock Bank v American Life Ins. & Trust Co.. 3 NY 344, 356. The antonym of cash on delivery; the trust or confidence which is reposed by the seller in the buyer when the time of payment is extended without security. Parrish v American Ry. Employees' Pub. Corp. 83 Cal App 298, 256 P 590. An accounting term for what appears to be owing by one person to another upon an accounting between the two. Propper v Clark, 337 US 472, 93 L Ed 1480, 69 S Ct 1333, reh den 338 US 841, 94 L Ed 514, 70 S Ct 33. Most broadly defined as the obligation owing by the debtor to his creditor, including a promissory note. Davis v Mitchell, 34 Cal 81. But not a share of corporate stock. In some jurisdictions, for the purpose of garnishment, something belonging to the defendant but in the possession and under the control of the garnishee. 6 Am J2d Attach § 449.

As the term "credits" is defined by an Ohio tax statute, it means the excess of the sum of all legal claims and demands, whether for money or other valuable thing, or for labor or service due or to become due to the person liable to pay taxes thereon, over and above the sum of the legal bona fide debts owing by such person. Fayette County

the ultimate effect of which may be the shortening of the time of his imprisonment. 41 Am J1st Pris & P § 44. Verb: To acknowledge a payment of or upon an obligation. To give credence to a statement.

See **letter of credit**; **tax credit**.

credit agency. See **commercial agency**; **mercantile agency**.

credit at bank. An arrangement or understanding with the bank upon which a check is drawn for the payment of such check. Berry v State, 153 Ga 169 111 SE 669, 35 ALR 370.

credit foncier. An association which is engaged in lending money on real estate security.

credit insurance. A policy of insurance which protects the insured against loss resulting from the insolvency or inability of his customers to pay their accounts. Such policies usually provide that the insured shall bear an initial loss of an agreed upon amount before the insurer's liability shall attach. 29A Am J Rev ed Ins § 1367.

credit card. A card or plate issued by a department store to a person whose credit is acceptable to the merchant, to be used in making purchases at the store on credit, without further identification or investigation as to credit standing; a card or plate issued by an oil company for the purpose of enabling the holder to purchase gasoline, oil, and automobile accessories at stations of the company wherever the latter may be in the country or, under some cards, even abroad; a card or plate issued by a bank or guaranty company for the purpose of enabling the holder to obtain on credit hotel or motel accommodations, meals, and airline tickets at home, in this country, and even abroad. Anno: 158 ALR 762.

credit limit. See **margin of credit**.

creditor. An obligee, a person, natural or artificial, public or private, in whose favor an obligation exists by reason of which he is or may become entitled to the payment of money, at least if the obligation is one on a liquidated demand based upon an agreement. Henley v Myers, 76 Kan 723, 93 P 168; Lindstrom v Spicher, 53 ND 195, 205 NW 231, 41 ALR 968, 971. A general creditor, a secured creditor, a lien creditor, and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or assignor's estate. 15 Am J2d Com C § 7. As the term appears in an assignment for the benefit of creditors, "creditor" means one who has a definite demand against the assignor, or a cause of action capable of adjustment and liquidation at trial. 6 Am J2d Assign for Crs § 109. As the term appears in the Bankruptcy Act, unless inconsistent with the context, "creditor" includes anyone who owns a debt, demand or claim provable in bankruptcy, and may include his duly authorized agent, attorney, or proxy. 9 Am J2d Bankr § 389 Under the Uniform Fraudulent Conveyance Act, a creditor is a person having any claim, whether matured or unmatured, liquidated or unliquidated, absolute, fixed, or contingent. Uniform Fraudulent Conveyance Act § 1, applied in American Surety Co. v Conner, 251 NY 1, 166 NE 783, 65 ALR 244.

See **debtor and creditor relationship**.

creditor at large. Same as **general creditor**.

creditor-beneficiary. A third person designated to receive the benefit of performance by one of two contracting parties under the terms of the agreement with the other, who is to receive the benefit of performance because of a specific obligation owing to him by the promisee. Northern Nat. Bank v Northern Minnesota Nat. Bank, 244 Minn 202, 70 NW2d 118; Breaux v Banker (Tex Civ App) 107 SW2d 382.

creditor of decedent. A person to whom the decedent was indebted personally or a person who, by operation of law, becomes the legal owner of a claim against the decedent, as, for example, the administrator of a creditor. See 31 Am J2d Ex & Ad § 57,

See **claim against decedent's estate**.

creditors' bill. An action or suit brought by a creditor to enforce the payment of a debt out of property or an interest of his debtor which cannot be reached by ordinary legal process. 21 Am J2d Cred B § 1. The term is also used broadly to refer to certain other actions brought by creditors, such as a suit brought by the creditors of a decedent to obtain administration of his estate, a suit by junior lien creditors to secure a marshaling of a debtor's assets, and suits to set aside fraudulent conveyances.

See **marshaling assets; fraudulent conveyances**.

creditor's claim. See **claim**.

creditors in solido. Joint creditors.

creditors' meeting. A meeting of creditors of a bankrupt required to activate the administration of an estate in bankruptcy. 9 Am J2d Bankr § 579. Also a meeting of the creditors of a debtor in the bankruptcy court for the purpose of obtaining an arrangement or reorganization which shall rehabilitate the business.

creditor's suit. See **creditors' bill**.

Creditorum appellatione non hi tantum accipiuntur qui pecuniam crediderunt, sed omnes quibus ex qualibet causa debetur. By the term "creditors" is understood not only those who have lent money, but all to whom a debt is owing from any cause.

credit plate. See **credit card**.

credit rating. An opinion as to the reliability of a person, natural or artificial, concerning ability and promptness in the payment of debts.

The opinion may be one merely of reputation in the community but is usually one given by a professional credit-rating agency.

credit report. A report made by a commercial or mercantile agency concerning the financial standing, credit, character, responsibility, and general reputation of a particular person, firm, or corporation engaged in business. 15 Ann J2d Collect § 3.

credit-reporting agency. Another term for a commercial or mercantile agency.

credits. See **credit**.

credit standing. One's rating in respect of his trwtworthiness and capacity to pay his bills as they become due.

See **credit rating**.

[289]

credit statement. A written and signed statement of assets, liabilities, and other personal information, given by a borrower to a bank or other money lending institution in obtaining a loan.

credit the drawer. Words which, when appearing on the face of a promissory note, signify that the note is for the maker's accommodation, and that the proceeds thereof are his, notwithstanding it is drawn payable to another. Merchants Nat. Bank v Raesly, 288 Pa 374, 136 A 238, 56 ALR 230. Written on the face of a promissory note, the words imply no promise or undertaking on the part of him who uses them, but are a direction to all persons to whom the note may be presented, to treat with the drawer as the owner, notwithstanding the apparent title of the indorsee. Temple v Baker, 125 Pa 634, 643, 17 A 517.

credit union. A corporation organized under special statutory provisions to promote thrift among, and provide credit for, its members. 13 Am J2d B & L ASSO § 4. A cooperative association organized under the Federal Credit Union Act for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes. 12 USC 1752.

Credit Union Act. An act of Congress providing for federal credit unions and the supervision thereof. 12 USC §§ 1751 et seq.

credo. I believe.

creed. A formal declaration of religious belief. The word has no reference, in its ordinary meaning, to benevolent, philanthropic, or fraternal organizations, secret or otherwise, even though of a moral character. Hammer v State, 173 Ind 199, 89 NE 850.

See **Apostles' Creed.**

creek. In its most common usage, a small river; occasionally it signifies a small bay, inlet, or cove. French v Carhart, 1 NY 96, 107. A small seacoast town having no customs office.

Creek. The name of an Indian tribe; a member of the Creek tribe.

See **five civilized tribes.**

cremation. The disposal of a dead body by burning it.

crematory. A place equipped and operated for the disposal of dead bodies by cremation.

creme de menthe. A liqueur, usually served after dinner.

crementum comitatus. The increase of the county.

crepare oculum. To put out an eye.

crepusculum. (French.) Twilight, that is, the partial light of day which precedes sunrise and follows sunset.

Crescente malitia crescere debet et poena. Punishment ought to be increased as malice increases.

cressant. Growing.

cresser. To grow.

credo. The period immediately following the death of the ancestor during which the heir might decide whether to take or to reject his inheritance.

crew. The seamen manning a ship, including, for some purposes, the officers, even the master. 48 Am J1st Ship § 111. The word has a varying legal significance. In a general sense, it is equivalent to ship's company, which would embrace all of the officers as well as the common seamen. It is sometimes used to comprehend all persons composing the ship's company, including the master; sometimes to comprehend the officers and common seamen, excluding the master; and sometimes to comprehend the common seamen only. When, therefore, the word is used in a statute it is necessary to consider the context of the particular use of the term and the object to be accomplished by the enactment under consideration. South Chicago Coal & Dock Co. v Bassett, 303 US 251, 84 L Ed 732, 60 S Ct 544.

crew of aircraft. This term does not have an absolutely unvarying legal significance, but must always be considered in its context, whether used in connection with watercraft or aircraft. *Le Breton v Penn Mut. Life Ins. Co.* 223 La 984, 67 So 2d 565, 45 ALR2d 446. It may include the air crew assisting in the operation of the craft while in the air, and a landing or ground crew assisting in the handling of the plane on the ground; but the word has no unvarying significance and may consist of only one person. 8 Am J2d Avi § 33. The operator of an airport, complying with the request of the owner and operator of an airplane, stored on the former's grounds, when asked to assist the latter in pushing the plane from the hangar and in starting the plane by cranking the propeller, is a member of the crew within the coverage of an aviation accident policy. *Miner v Western Casualty & Surety Co.* 241 Iowa 530, 41 NW2d 557, 14 ALR2d 1358. As the term appears in an aviation exception clause of a life or accident insurance policy, the "crew" is not limited to persons who actually operate an airplane in flight, but is inclusive of attendants or stewards aboard a passenger plane in the regular course of their employment. 29A Am J Rev ed Ins § 1266. On the other hand, a provision of a life insurance policy excluding from full coverage an aircraft pilot, instructor, officer, or other member of the crew, appears from the context not to apply to all occupants notwithstanding permissible use of the term "crew" in its largest sense as a "company of people associated together." *Le Breton v Penn Mut. Life Ins. Co.* 223 La 984, 67 So 2d 565, 45 ALR2d 446.

crew of train. Conductor, engineer, fireman, Bagmen, or brakemen.

See **Full Crew Law.**

cribler. To argue.

cribs. Buildings or parts of a barn used for the storage of grain, especially corn. Small rooms in a house. *Pon v Wittman*, 147 Cal 280, 284, 81 P 984.

cricket. A game played by teams of 11 men each, with a ball, bat, and wicket, popular in England and becoming more popular in the United States; fair play, good sportsmanship, and good conduct in general.

crie de pays. Hue and cry.

crier. An auctioneer or a person employed by an auctioneer to make the outcry, at an auction sale, under his personal supervision and direction. 7 Am J2d Auct § 4. A person employed to announce sales of property at auction such person going about the streets ringing a bell for the purpose of attracting attention, and then making proclamation of the

[290]

place where and of the kind of goods or property to be sold at auction. *Rochester v Close (NY)* 35 Hun 208, 210. Verb: To proclaim. (French.)

criez la peez. (French.) Rehearse the concord, -one of the formalities in the levying of a fine.

crim. con. An abbreviation of "criminal conversation," q. v.

crime. An offense against sovereignty an act committed, or omitted, in violation of the public law which forbids or commands it. 21 Am J2d Crim L § 1. In some contexts, the term "crime" means any offense against the law, not excluding misdemeanors. 22 Am J2d Extrad § 21. On the other hand, the word is sometimes used in a more limited sense to embrace only the more serious offenses. 21 Am J2d Crim L § 1.

See **capital offense; continuing offense; convict; felony; misdemeanor; mala in se; mala prohibita; moral turpitude.**

crime against nature. Sodomy; sexual relations with a person of the same sex or with a beast; unnatural sexual relations between persons of the same sex. 48 Am J1st Sod § 1.

crime against spouse. For the purposes of rendering the wife competent as a witness, an offense amounting to personal violence, or a physical assault, upon an innocent spouse. 58 Am J1st Witn § 193.

See **uxoricide**.

crime involving moral turpitude. See **moral turpitude**.

crimen. A crime.

crimen falsi. See **falsi crimen**.

Crimep falsi dicitur, cum quis illicitur, cui non fuerit ad haec data auctoritas, de sigillo regis rapto vel invento brevia, cartasve consignaverit. The crime of falsifying applies to one to whom authority has not been given who has signed writs or charters with the king's seal, stolen or found.

crimen furti. Larceny. See **furti crimen**.

crimen incendi. See **incendi crimen**.

crimen laesae majestatis. The crime of injuring majesty,--high treason. See 4 Bl Comm 75.

Crimen laesae majestatis omnia alia crimina excedit quoad poenam. The punishment for high treason exceeds that for all other crimes.

crimen majestatis. Treason.

Crimen omnia ex se nata vitiat. Crime vitiates everything which springs from it. Parker v Hughes, 64 Kan 216, 67 P 537.

crimen raptus. Rape.

crimen roberiae. Robbery

Crimen trahit personam. A crime draws the person with it. That is, if a criminal act has been committed within the territorial jurisdiction of the court, so that the court has jurisdiction of the crime, it follows that the court also has jurisdiction over the criminal. People v Adams (NY) 3 Denio 190.

crime of moral turpitude. See **moral turpitude**.

crime of omission. An offense in the form of failor to perform a required act, rather than the doing of a prohibited act. 21 Am J2d Crim 1, § 6.

crime of reputation. A crime predicated by statute on reputation, such as the offense of keeping, frequenting, or being an inmate of premises reputedly used for designated unlawful purposes. 21 Am J2d Crim L § 5.

crime of status. A crime, such as vagrancy, living in adultery, or living in fornication, predicated on a status, condition, or mode of life. 21 Am J2d Crim L § 5.

criminal. Adjective: Relating to or having the character of crime. People v Bradley, 60 Ill 390, 402. Noun: A person who has committed a crime, especially, if he is a recidivist or the crime is a serious or violent one. In the eyes of the law, a person is a criminal who has been adjudged guilty of a crime, and he continues to be a criminal so long as the judgment remains in force. Re Molineux, 177 NY 395, 69 NE 727.

criminal act. Any act which is punishable as a crime.

criminal action. An action by the sovereign, that is the state or the United States, or instituted on behalf of the sovereign, against one charged with the commission of a criminal act, for the enforcement of the penalty or punishment prescribed by law. 1 Am J2d Actions § 43.

criminal anarchy. The doctrine that organized government should be overthrown by force, violence, assassination of the executive head, or of other executives of the government, or by any unlawful means. 47 Am J1st Sedit etc. § 3.

criminal appeals. Appeals from judgments in criminal cases. 4 Am J2d A & E § 159.

criminal assault. An assault for which the assailant may be criminally prosecuted. 6 Am J2d Asslt & B § 8.

A statute which provides that whoever unlawfully attempts to strike, hit, touch, or do any violence to another, however small, in a wanton, wilful, angry, or insulting manner, having an intention and existing ability to do some violence to such person, is guilty of an assault, and that if such attempt is carried into effect, he is guilty of assault and battery, and upon conviction shall be subject to a penalty within maximum limits, and when the offense is of a high and aggravated nature, shall be subject to a greater penalty, is merely declaratory of the common law. Bell v State, 136 Me 322, 9 A2d 129, 125 ALR 602.

criminal attempt. See **attempt**.

criminal bail. Bail given in a criminal case.

See **bail**.

criminal business. For the purposes of a venue statute, the term "criminal business" means the criminal matters occupying the attention and labor of men engaged in legal affairs, coming into being or notice in any county. Sherman v Drouhay, 27 Utah 47, 74 P 348.

criminal capacity. The capacity to commit a crime, that is, legal mental capacity, whereunder responsibility for the commission of an act prohibited by law and susceptibility to punishment provided by law attaches to the wrongdoer. 21 Am J2d Crim L § 26. Substantial capacity either to appreciate the criminality of one's act and to conform to the re

[291]

quirements of the law. American Law Institute's Model Penal Code.

See **right and wrong test**.

criminal case. The prosecution of a person for a criminal offense. Re Carter, 166 Mo 604, 57 LRA 654, 655, 66 SW 540. Criminal cases are those which refer to public wrongs and their punishment, as distinguished from civil cases and suits which refer to the legal means by which rights and remedies of private individuals are enforced or protected. State ex rel. Kochtitzky v Riley, 203 Mo 175, 101 SW 567.

criminal charge. An affidavit, complaint, indictment, or information which accuses the defendant or accused with the commission of a specified crime or offense and states the crime or offense in sufficient particulars to advise the defendant or

accused of the acts or omissions for which he is being brought into court; a count in an indictment or information charging two or more crimes or offense. The popular understanding of the term "criminal charge" is "accusation," and it is freely so used in conversation and in the newspapers, but in legal phraseology it is properly limited to such accusations as have taken shape in a prosecution. In the eye of the law, a person is charged with crime only when he is called upon in a legal proceeding to answer to such a charge. *United States v Patterson*, 150 US 65, 68, 37 L Ed 999, 1000, 14 S Ct 20.

criminal conspiracy. See **conspiracy**.

criminal contempt. Some authorities are critical of the use of this expression, saying that it is as redundant as "criminal crime." It can be said with some assurance, however, that where the primary purpose of a contempt proceeding is to preserve the court's authority and to punish for disobedience of its orders, the contempt is criminal. 17 Am 32d Contpt § 4. A charge of procuring false testimony in a civil action is a charge of criminal contempt, as distinguished from civil contempt. *Osborne v Purdome (Mo)* 244 SW2d 1005, 29 ALR2d 1141. Courts have power to punish such contempts and, in such instance, the proceeding is punitive and the punishment operates in terrorem and by that means has a tendency to prevent the repetition of the offense. *State v Shepherd*. 177 Mo 205, 76 SW 79.

Criminal contempts are "offenses against the United States" within the meaning of the Constitutional provision which gives to the President power to grant pardons for offenses against the United States. *Ex parte Grossman*, 267 US 87, 69 L Ed 527, 45 S Ct 332.

criminal conversation. The tortious invasion of the rights of husband and wife which occurs when a third person has adulterous intercourse with one of them and for which the innocent and offended spouse has a cause of action against the adulterer. At common law no action lay on behalf of a wife for the seduction of her husband, but statute has changed this rule in the great majority of American jurisdictions. 27 Am J1st H & W § 535.

criminal court. A court having jurisdiction of prosecutions for crimes. A juvenile court specially created by a statute providing for the disposition to be made of delinquent children is not a criminal court. 31 Am J Rev ed Juv Ct § 5.

Criminal Extradition Act. One of the uniform laws.

criminal homicide. The unlawful taking by one human being of the life of another in such a manner that he dies within a year and a day from the time of the giving of the mortal wound. If committed with malice, express or implied by law, it is murder; if without malice, it is manslaughter. No personal injury, however grave, which does not destroy life, will constitute either of these crimes. The injury must continue to affect the body of the victim until his death. If it ceases to operate, and death ensues from another cause, no murder or manslaughter has been committed. *Commonwealth v Macloon*, 101 Mass 1.

See **manslaughter; murder**.

criminal information. See **information**.

criminal insanity. A want of mental capacity and moral freedom to do or abstain from doing a particular act. *State v Schafer*, 156 Wash 240, 286 P 833.

See **insanity; right and wrong test**.

criminal intent. A state of mind which operates jointly with an act or omission in the commission of a crime; a guilty or evil intent in performing an act prohibited by law and penalized as a crime. 21 Am J2d Crim L § 81.

See **mens rea**.

criminaliter. Criminally.

criminal law. That branch of jurisprudence which teaches of the nature, extent and degree of every crime and adjusts to it its adequate and necessary penalty. United States v Reisinger, 128 US 398, 32 L Ed 480, 9 S Ct 99.

criminal letters. A prosecution for crime by a procedure similar to that followed in a prosecution by information.

criminal liability. The penalty or forfeiture imposed as punishment for crime.

criminal libel. A libel punishable as a crime. 32 Am J1st L & S § 308.

See **libel.**

criminally intimate. See **intimate.**

criminal negligence. Negligence which is proscribed by law and for which punishment is provided as constituting a crime. 38 Am J1st Negl § 9.

See **negligent homicide.**

criminal offense. A crime by force of statute or the common law, whether a felony or misdemeanor, and including, according to some, but not all the authorities, the violation of a municipal ordinance. 5 Am J2d Crim L § 38.

As the term is used in statutes permitting the introduction of evidence of his commission of a criminal offense to affect the credibility of a witness, the term is usually held to include both felonies and misdemeanors, but not to include the violation of a municipal ordinance. Koch v State, 126 Wis 470, 106 NW 531.

Under a constitutional provision for the prosecution of all criminal offenses by presentment or indictment of a grand jury, acts of a militiaman which merely constituted a violation of the military code do not amount to a criminal offense. State ex rel. Madigan v Wagener, 74 Minn 518, 77 NW 424.

criminal procedure. Court practice connected with criminal prosecutions.

criminal proceeding. A proceeding in court in the prosecution of a person charged or to be charged with the commission of a crime, contemplating the conviction and punishment of the person charged or to be charged. State ex rel. Sweezcr v Green, 360

[292]

Mo 1249, 232 SW2d 897, 24 ALR2d 340. A proceeding against a juvenile offender is in no sense a criminal proceeding, where it does not contemplate punishment for an offense, but prevention of an erring minor from becoming a criminal. State v Freeman, 81 Mont 132, 262 P 168, 171.

See **criminal prosecution.**

criminal process. Process which issues to compel a person to answer for a crime or misdemeanor. Mowlan v State, 197 Ind 517, 520, 151 NE 416, 417.

criminal prosecution. The use of the processes of the law to accuse or charge a person with the commission of a crime, to bring him before a court, to convict him of the offense, and to impose upon him such punishment as is provided by law for the offense. Although sometimes instituted by an individual, a criminal prosecution is not in any sense an action between the person instituting it and the prisoner. Anno: 46 ALR 463. A preliminary investigation is not a criminal prosecution within the Sixth Amendment to the Federal Constitution. Anno: 93 L Ed 992.

criminal registration act. A statute or municipal ordinance which requires a person previously convicted of crime to register with a designated official. Anno: 82 ALR2d 398.

criminal responsibility. See **criminal capacity.**

criminal statute. A statute providing that an act or omission described therein shall constitute a criminal offense. Langenberg v Decker, 131 Ind 471, 31 NE 190. Statutes creating courts having jurisdiction of juvenile offenders, are not intended to provide punishment, but to save the child from becoming a criminal, and are in no sense criminal statutes. 31 Am J Rev ed Juv Ct § 5.

criminal syndicalism. Any doctrine or precept advocating, teaching, or aiding and abetting the commission of crime, sabotage, or unlawful acts of force and violence or unlawful methods of terrorism, as a means of accomplishing a change in industrial ownership or control, or effecting any political change. 47 Am J1st Sedit etc. § 3.

Crimina morte extinguntur. Crimes are extinguished by death.

criminate. To incriminate; to involve a person in the commission of a crime; to give evidence against a defendant in a criminal prosecution against him.

crimp. To kidnap or decoy a person aboard a ship for service as a sailor; a person who crimps.

criterion. A sole or controlling test; as a criterion of value. Kennebec Water Dist. v Waterville, 97 Me 185, 54 A 6.

criticism. A discussion, or, as applicable in libel cases, a censure, of the conduct or character, or utterances of the person criticized. Belknap v Ball, 83 Mich 583, 47 NW 674.

See **fair comment.**

cro. A compensation paid to one person for causing the death of another.

croft. A small farm.

croise. A crusader.

Cromwell. See **interregnum.**

crop. Noun: A product of the soil, anything produced from the earth by planting, cultivation and labor; either a gathered or a growing crop. 21 Am J2d Crops § 1; goods within the definition of the Uniform Commercial Code. UCC § 2-105(1).

The term "crop" has been defined as including fruit grown on trees, although the tree, themselves are not included in that term. Story v Christin, 14 Cal 2d 592, 95 P2d 925, 125 ALR 1402. Even grass used for pasturage, not for hay or seed crop, is a crop. Superior Oil Co. v Griffin (Okla) 357 P2d 897, 87 ALR2d 224. Verb: To cut off; to reap.

See **away-going crops.**

crop dusting. See **dusting.**

crop insurance. A policy covering growing crops against loss from the elements, particularly hail; insurance on agricultural commodities against loss due to unavoidable causes, such as flood, hail, wind, hurricane, plant disease, etc., but not extending beyond the period that the insured crop is in the field, except in the case of tobacco. 7 USC § 1508(a).

Crop Insurance Act. A federal statute to promote the national welfare by improving the economic stability of agriculture through a sound system of crop insurance and providing the means for the research and experience helpful in devising and establishing such insurance. 7 USC § 1502; Anno: 175 ALR 1081.

Crop Insurance Corporation. A corporation created in carrying out the purposes of the Federal Crop Insurance Act, with capital stocks subscribed by the United States, the management vested in a board of directors, and having power to insure agricultural commodities against loss due to unavoidable causes, including drought, flood, hail, wind, tornado, insect infestation, plant disease, and such other unavoidable causes as may be determined by the board of directors of the corporation, but except, for tobacco, not extending beyond the period that the insured crop is in the field. 7 USC § 1508(a).

crop lien of landlord. See **landlord's lien**.

crop mortgage. A chattel mortgage upon growing crops or upon crops to be planted. 15 Am J2d Chat Mtg §§ 30, 31.

cropper. See **sharecropper**.

cropper's contract. Technically, the contract between an owner and a cropper or sharecropper, under which the latter agrees to farm the land and receive for his services a share of the grown crops, creating a relationship different from that of the conventional relationship of landlord and tenant. The term, loosely used, has been applied to a contract or lease of a farm, for rent payable in a share of the crops raised on the premises, which does create the relationship of landlord and tenant. 32 Am J1st L & T §46R.

See **sharecropper**.

crop rent. Rent payable in a share of the crops raised on the demised premise. 32 Am J1st L & T § 468.

crops. See **crop**.

croppy. An old word applied to a person punished for treason by having his ears cut off.

crop spray. See **spraying crops**.

crop-time. The period of the year during which the ground is prepared for a crop, the crop planted, and the ground cultivated, such period terminating when the crop, having reached the stage of maturity when no further work is required to produce it, is

[293]

in the terminology of farmers, "laid by." Martin v Chapman (Ala) 6 Port 344, 351.

cross. The symbol of the Christian Faith; the mark which a voter uses in expressing his choice of a candidate whose name appears upon a written ballot, any kind of a cross being sufficient for this purpose, the only requirement being that two lines cross one another at a common center. Winn v Blackman, 229 Ill 198, 82 NE 215.

crossaction. An action under a cross complaint or cross bill; an independent action brought by a defendant in an action against the plaintiff or another defendant therein.

crossappeal. An appeal filed by the appellee or defendant in error as an incident of review proceedings instituted by the opposing party. 4 Am J2d A & E § 177.

crossing courses. The established rule in the second circuit of the Federal courts that in a crossing situation the privileged vessel may "cross" the signal of the burdened vessel and hold her course and speed until it becomes evident that the burdened vessel either cannot or will not keep out of the way. The Eastern Glade (CA2 NY) 101 F2d 4.

See **course of vessel; burdened vessel; privileged vessel**.

crossing sign. A sign erected and maintained by a railroad company to warn travelers on the highway that they are approaching a railroad crossing. 44 Am J1st RR § 399.

cross-interrogatories. Interrogatories propounded in the cross-examination of a deponent.

cross libel. The pleading in admiralty whereby a defendant or respondent seeks an affirmative recovery. 2 Am J2d Adm § 182.

crossover. A way between the two parts of a divided highway where a motorist may reverse directions by crossing from the one part to the other. 7 Am J2d Auto § 218.

See **open primary**.

cross-assignment of error. A procedure by which an appellee obtains a review of errors prejudicial to him, without filing a separate or cross appeal. 5 Am J2d A & E § 653.

cross bill. A bill of complaint by a defendant against a complainant, against a codefendant or codefendants, or against both a complainant and codefendant, upon a subject appearing in the complainant's bill. The pleading by cross bill is auxiliary to the original suit and dependent thereon, and the result of filing or serving a cross bill is that from this juncture and the suit comprises two interrelated and consolidated actions. 19 Am J2d Eq § 211.

crossclaim. See **crossdemand**.

cross complaint. A pleading by the defendant in an action wherein he seeks affirmative relief, relating to or depending upon the transaction on which the action is based or affecting property to which it relates, against the plaintiff or any other party to the action. 41 Am J1st Pl § 256.

crossdemand. A cause of action in favor of the defendant against the plaintiff, whether on contract or tort, and pleadable whether the plaintiff's cause of action pleaded be on contract or tort. Musselman v Galligher, 32 Iowa 383, 389.

See **counterclaim; recoupment; reconvention; setoff**.

cross easements. Reciprocal easements created by contract, the one being granted in favor of premises of one party in consideration of a grant by such party in favor of premises of the other party.

crossed check. A name given to a system long recognized as valid in England whereby there is stamped across a check the name of a certain banker through whom it must be presented for payment, and if presented by anyone else, payment must be refused. Farmers' Bank v Johnson, 134 Ga 486, 68 SE 85.

crosserrors. See **cross-assignment of error**.

cross-examination. The most effective art of the skilled trial lawyer; the interrogation of a witness for the opposing party by questions framed to test the accuracy and truthfulness of his testimony on direct examination and to bring out the truth of the matter in issue; an absolute right in actions and proceedings. 58 Am J1st Witn §§ 609 et seq.

crossing. The act of going over something, e. g., the Atlantic Ocean or the State of Iowa; a way for a pedestrian across a street or highway; the intersection of two ways.

See **farm crossing; grade crossing; intersection; railroad crossing**.

cross-question. To cross-examine.

See **cross-examination**.

cross remainders. Remainders limited after particular estates to two or more persons in several parcels of land, or in several undivided shares in the same parcel of land, in such way that on the determination of the particular estates in any of the several parcels or undivided shares, they remain over to the other grantees, and the reversioner or ulterior remainderman is not let in till the determination of all the particular estates. 33 Am J1st Life Est § 82. The ulterior estates are called cross remainders because each of the grantees has reciprocally a remainder in the share of the other.

cross rules. Rules nisi entered on behalf of both the plaintiff and the defendant.

See **rule nisi.**

cross the fall. A term used in stevedoring, meaning that one layer of the rope on the drum would be put across and on top of another so that the strain would jamb it against the drum, making the winch more safe to operate. It is customary to cross the fall, without regard to how the end of the rope is secured to the drum. *Glover v Compagnie Generate Transatlantique* (CA5 Tex) 103 F2d 557.

cross trade. The offsetting by a broker of the orders of one customer to purchase with the orders of another customer to sell. 12 Am J2d Brok § 127.

cross trusts. Reciprocal trusts between husband and wife or close members of the same family. 28 Am J Rev ed Inher T § 118.

crown. A term for the ruler or sovereign under a monarchist form of government, absolute or limited.

crown cases. English criminal cases.

crown cases reserved. Criminal cases reserved for the opinion of all the judges of the court on questions of law.

See **court for crown cases reserved.**

crown colony. A colony under the sole control of the crown, as distinguished from one having a government of its own.

crown debt. A debt owing to the crown.

[294]

crown demise. See **demise of the crown.**

crowner. Same as coroner.

crowner's quest. A coroner's inquest.

crown grant. The grant by letters patent from the sovereign of rights or property which the sovereign held as proprietor and not including any right or property which the sovereign held as Sovereign. *Lewis Blue Point Oyster Cultivation Co. v Briggs*, 198 NY 287, 91 NE 846.

crown lands. Lands which belong to the sovereign.

crown law. The common law applicable to crimes.

crown lawyer. A criminal lawyer; a lawyer who defends criminal prosecutions.

crown office. A department of the court of king's bench which had jurisdiction of all criminal cases. On the crown side, or crown office, the king's bench court took cognizance of all criminal cases, from high treason down to the most trivial misdemeanor or breach of the peace. See 4 Bl Comm 265.

crown side. See **crown office.**

crown solicitor. An English court officer who prepares the case for the prosecution of a crime.

cruce signati. Signed with the cross.

crude. The word usually means raw or unfinished, and is applied to products other than those which have been manufactured. Nortmann-Duffke Co. v Federal Crushed Stone Co. 167 Minn 333, 334, 209 NW 17, 18.

crude oil. The product of an oil well in the form in which it comes from the well.

An interesting and instructive dissertation on natural gasoline, straight-run gasoline, wet gas, natural gas, dry gas, and their relation to crude petroleum is to be found in Phillips Pipe Line Co. v United States, 94 Ct Cl 462, 40 F Supp 981.

crude petroleum. See **crude oil.**

cruel and inhuman treatment. A ground for divorce.

See **cruelty; inhuman treatment.**

cruel and unusual punishment. Excessive, inhuman, or barbarous penalties. 21 Am J2d Crim L § 611.

As the words "unusual punishment" are used in the United States constitution, they include that class of punishments which never existed in the state, and any punishment which if ever employed at all, has become altogether obsolete. But they do not include fine or imprisonment. Hobbs v State, 133 Ind 404, 32 NE 1019.

cruel treatment. See **cruel and inhuman treatment; cruel and unusual punishment; cruelty; cruelty to animals.**

cruelty. The infliction of physical or mental pain or distress.

As a ground for divorce, "cruelty" means physical violence intentionally inflicted, threats of physical violence, or wilfully causing mental distress, which renders it impossible for the complaining party to continue in the marital relation. Mere austerity of temper, petulance of manners, rudeness of language, want of civil attention and accommodation, even occasional sallies of passion, if they do not threaten bodily harm, do not amount to cruelty which constitutes a ground for divorce. 24 Am J2d Div & S § 37. But as a ground for divorce, cruel and inhuman treatment may consist wholly of abusive and insulting words. Ekerson v Ekerson, 121 Or 405, 255 P 480.

cruelty to animals. Every act, omission, or neglect whereby unjustifiable pain or suffering, and, under some statutes, death, is caused an animal. 4 Am J2d Am § 28.

See **fox hunt; pigeon shooting; societies for the prevention of cruelty; spaying.**

cruise. A naval expedition in search of ships of an enemy; the voyage of a commercial vessel.

cruising. In addition to the usual meaning of a ship under way, the term applies to a taxi driver seeking passengers by driving around the streets and police vehicles covering territory assigned to them.

cry. To make oral and public proclamation; to notify or advertise by outcry, especially things lost or found, goods to be sold; public advertisement by outcry, as by hawkers of their wares. Rochester v Close (NY) 35 Hun 208, 210. To weep; to sound the voice in pain or sorrow.

See **hue and cry.**

cry de pays or cry de pals. Same as **hue and cry.**

cryer. Same as **crier.**

crypt. A vault or chamber which is either wholly or partly beneath the surface of the earth and set apart for the interment of a dead body. 14 Am J2d Cem § 1.

ct. An abbreviation of "cent" or "cents."

c. t. a. An abbreviation of "cum testamento annexo," that is, with the will annexed.

cts. An abbreviation of "cents."

cocking-stool. A contrivance, also called the trebucket or castigatory, formerly provided in England for the "correction" of common scolds. The word was said to have come from the Saxon language in which it signified a scolding stool. It was finally corrupted into "ducking" stool, because part of the punishment consisted in plunging the scold into water while fastened in the stool or chair. See 4 Bl Comm 168.

See **common scold.**

cuckold. A husband whose wife is unfaithful; the husband of an adulteress. To make a cuckold of a man is to seduce his wife. Hall v Huffman, 159 Ky 72, 73, 166 SW 770.

cui ante divorarium. Whom before the divorce; --a writ of entry which a woman who was divorced had to recover lands which belonged to her and which her husband had aliened during their marriage. See 3 Bl Comm 183, note.

See **entry cui ante divorarium.**

cui bono. For whose benefit or welfare.

Cuicunque aliquis quid concedit concedere videtur et id, sine quo res ipsa esse non potuit. One who grants something to another is held to grant also that without which the thing is worthless. See **Broom's Legal Maxims 479.**

cui in vita. Whom in his lifetime; --a writ of entry which a widow had to recover lands which belonged to her and which had been aliened by her husband during his lifetime. See 3 Bl Comm 183, note.

cui in vita sua, vel cui ante divorarium, ipsa contradicere non potuit.

[295]

Whom she herself could not, in his lifetime nor before a divorce, contradict. See 3 Bl Comm 183, note.

Cui ipsa ante divorarium contradicere non potuit. Whom before the divorce she could not deny. See **cui ante divorarium.**

Cui jurisdiction data est, ea quoque concessa esse videntur sine quibus jurisdiction explicari non potest. Those things without which jurisdiction could not be exercised are held to be given to him to whom jurisdiction has been granted.

Cui jus est donandi, eidem et vendendi et concedendi jus est. One who has a right to give has also a right to sell and to grant.

Cuilibet in arte sua perito est credendum. Any expert in his own art is credible therein.

Cuilibet in sua arts credendum est. Each man is to be believed or credited in reference to his own art or profession. See 1 Bl Comm 75.

Cuilibet licet juri pro se introducto renunciare. One may waive a legal right existing in his favor.

Cui licet quod majus non debet quod minus est non licere. One who has a greater power ought not to be denied a less one. See **Broom's Legal Maxims 176.**

Cui pater est populus non habet ille patrem. One whose father is "the people," has no father.

Cuique enim in proprio fundo quamlibet feram quoque modo venari permisum. For it is permissible to everyone to hunt any wild animals upon his own estate in whatever manner. See 2 Bl Comm 415.

Cuique in sua arte credendum est. Anyone is entitled to credence in matters pertaining to his own craft. *Winans v New York & E. R. Co.* (US) 21 How 88, 16 L Ed 68.

Cujus est commodum ejus debet esse incommodum. One who enjoys a benefit should take the burden with it.

Cujus est commodum, ejus est onus. He who enjoys the benefit must carry the burden. *Oliver v Newburyport Ins. Co.* 3 Mass 53.

Cujus est dare, ejus est disponere. He who has the gift of anything has the right to dispose of it. The law's protection of a spendthrift trust rests upon the principle of the maxim. It allows the donor to condition his bounty as he will, so long as he violates no law in so doing. *Re Morgan*, 223 Pa 228, 72 A 498.

Cujus est divisio, alterius est electio. She who makes the division has the last choice. This was one of the common law rules in the partition of an estate held in coparcenary. See Bl Comm 189.

Cujus est dominium ejus est periculum. He who has the ownership should have the risk.

Cujus est instituere ejus est abrogare. Whoever may institute may abrogate. See **Broom's Legal Maxims 878, note.**

Cujus est solum ejus est usque ad coelum. The owner of the soil owns to the sky. It has been held that this maxim is not strictly and absolutely applicable to all of the relations of the proprietors of adjoining lands. To apply it strictly in all cases would be to infringe upon that other maxim of the common law, "Sic utcre tuo ut alienum non laedas." *Stillwater Water Co. v Farmer*, 89 Minn 58, 93 NW 907.

Cujus est solum, ejus est usque ad coelum et ad inferos. The owner of the soil owns to the heavens and also to the lowest depths.

Cujus est solum, ejus est usque ad inferos. The owner of the soil owns to the lowest depths. This maxim of the common law is said to furnish a rule of easy application and to save a world of judicial worry in many cases, and one which is perhaps always

applicable in England and in the eastern states of the Union, but it is one which would work great injustice if applied to percolating waters in the arid districts of the west where much irrigating water is pumped from wells. *Katz v Walkinshaw*, 141 Cal 116, 70 P 663, 74 P 766.

Cujus juris est principale, ejusdem juris erit accessorium. He who has jurisdiction of the principal thing has jurisdiction of the accessory also.

Cujus per errorem dati repetitio est, ejus consulto dati, donatio est. He who gives a thing by mistake may recover it, but if he gives deliberately, the gift is complete.

Cujusque rei potissima pars principium est. The most important part of anything is the first part of it.

cul. Guilty; probably a contraction of "culpable."

cul de sac. A way, street or alley open only at one end.

culpa. Guilt; fault; negligence.

See **diligentia; lata culpa.**

culpabilis. Guilty.

culpable. Criminal; censurable.

Where the term is applied to the omission of a person to preserve the means of enforcing his own rights, "censurable" is more nearly an equivalent. *Waltham Bank v Wright*, 90 Mass (8 Allen) 121, 122.

culpable neglect. The neglect which exists where the loss or damage can fairly be ascribed to carelessness, improvidence or folly. *Waltham Bank v Wright*, 90 Mass (8 Allen) 121, 122. Under ordinary circumstances, the failure of the creditor to discover the death of his debtor is "culpable neglect" as a matter of law. *Mulligan v Hilton*, 305 Mass 5, 24 NE2d 676, 133 ALR 376.

[296]

culpable negligence. A term sometimes defined in a manner similar to definitions of ordinary negligence, it being said that "culpable negligence" is the omission to do something which a reasonable, prudent and honest man would do, or doing some thing which such a man would not do under all the circumstances surrounding each particular case. *State v Emery*, 78 Mo 77; *Kent v State*, 8 Okla Crim 188, 126 P 1040. Other authorities consider "culpable negligence" as something beyond ordinary negligence, defining it as the conscious and wanton disregard of the probabilities of fatal consequences to others as the result of the wilful creation of an unreasonable risk thereof; or a wanton disregard of, or indifference to, the safety of human life. *Smith v State*, 197 Miss 802, 20 So2d 701, 161 ALR 1. The term, as used in workmen's compensation acts excepting employees guilty of such negligence from the right to compensation, does not have the same meaning as the word "blamable," but means practically the same as "wilful and serious misconduct" which in turn means improper conduct of grave and aggravated character, either intentional misconduct, or misconduct of such a character as to evince a reckless disregard of consequences to the one who is guilty of it. *Fulls v Swenson*, 58 Wyo 393, 131 P2d 333; 58 Am J1st Workm Comp § 200. In most of the jurisdictions the term, as used in a manslaughter statute, has been construed as meaning negligence of a higher degree than ordinary negligence which suffices as a basis for liability in a civil action. However, in a few jurisdictions the term has been construed as denoting merely ordinary negligence when used in such a statute. Anno: 161 ALR 10.

See **negligent homicide.**

Culpa caret, qui scit sed prohibere non potest. (Civil law.) One who knows (the danger), but is unable to avert it, is without fault.

Culpa poena par esto. Let the punishment fit the crime.

Culpa est immiscere se rei ad se non pertnenti. A person is at fault who intermeddles in things which do not concern him.

Culpa lata dolo aequiparatur. Gross negligence is equivalent to malice.

culpa levissima. See **ex culpa levissima.**

Culpa tenet suos auctores. Guilt binds only its own originators.

Culpa tenet suns auctores tantum. Guilt binds its own originator most.

cul. prit. See **culprit.**

culprit. A person brought into court as accused of crime. A formal word announced by the clerk of assize or clerk of arraigns as a replication viva voce on behalf of the king when a prisoner had pleaded not guilty, thus replying to this plea in the two syllables "cal" and "grit," the first one signifying "culpable," that is that the prisoner was guilty and the second, "prit" (derived from the Latin "paratus"), that the king was ready to prove him guilty. See 4 Bl Comm 339.

cultivate. To cultivate means to till, or husband the ground; to forward the product of the earth, by general industry. State v Allen, 35 NC (13 Ired L) 36, 37. To prepare land for grazing only is not to "cultivate" it within the meaning of the homestead law. United Slates v Niemeyer (DC Ark) 94 F 147.

cultivation. See **cultivate; fit for cultivation.**

culvert. An enclosed drain for carrying water under a road or railroad. Oursler v Baltimore & Ohio Railroad Co. 60 Md 358, 367.

culverage. A person's forfeiture of his status as a freeman.

cum. With; together with. The word is also used for the word "quum." nxaning "when"; "whereas."

Cum actio fuerit mere criminalis, institui poterit ab initio criminaliter vel civiliter. When an action is merely criminal, it can be instituted either criminally or civilly at the beginning.

Cum adsunt testimonia rerum, quid opus est verbis. When there is evidence of the facts, what need is there of words?

Cum aliquis renunciaverit societati, solvitur societas. When any one of the partners shall have renounced the partnership, it is dissolved.

cumbersome property. See **bulky property.**

cum causa. See **habeas corpus cum causa.**

cum certum est an et quantum debeatur. When it is certain whether (anything, is due) and how much is due. Roberts v Prior, 20 Ga 561, 562.

Cum confite te sponte mitius est agendum. When a person makes a voluntary confession, he should be treated the more gently.

Cum de lucro duorum quaeritur melior est causa possidentis. (Civil law.) When two persons are striving over gain, the cause of the one in possession of it is the better.

Cum duo inter se repugnantia reperiuntur in testamento, ultimum ratum est. When two repugnant matters are found in a will, the latter one will be confirmed. Jackson ex dem. Livingston v Robins (NY) 16 Johns 537, 547.

Cum duo jura concurrunt in una persona aequum est ac si essent in duobus. When two rights come together in one person, it is the same as if they were in two persons.

cum grano salis. With a grain of salt; that is, with reservations.

Cum in corpore dissentitur, appetit nullam esse acceptio nem. When there is a disagreement as to the substance of the thing, it appears that there is no acceptance. The maxim is one of the civil law, but holds good in the modern law of sales. Gardner v lane, 94 Mass (12 Allen) 39, 44.

Cum in testamento ambigue ant etiam perperam scriptum, est benigne interpretari, et secundum id quod credibile est cogitatum credendum est.

[297]

When an ambiguous, or even an incorrectly written, clause is found in a will, it should be interpreted liberally and according to what is believed to be the intention (of the testator). Broom's Legal Maxims 568.

Cum legitimae nuptiae factae sunt patrem liberi sequuntur. The children of lawful wedlock inherit from their father.

Cum lex abrogatur, illud ipsum abrogatur, quo non eam abrogari oporteat. When a law is repealed the very part is repealed by which it is sought to prevent its repeal. See 1 Bl Comm 91.

Cummins Amendments. Amendments to the Interstate Commerce Act respecting a carrier's limitation of liability. 14 Am J2d Car § 539.

cum onere. With the burden; that is, with whatever disadvantages or incumbrances that may be connected with the enjoyment of the right. See Dugan v Bridge Co. 27 Pa 303.

Cum par delictum est duorum, semper oneratur petitor, et melior habetur possessoris causa. (Civil law.) When two parties are equally at fault, the claimant always has the burden, and the one in possession has the better cause.

cum pertinentiis. With the appurtenances. Morgan v Mason, 20 Ohio 401.

cum potestate regis et legis. By the power of the king and the law.

Cum quod ago non valet ut ago, valeat quantum valere potest. When what I do is void as I do it, it shall be as effective as it can (otherwise) be made.

cum quolibet et qualibet eorum. Taken in one sense or another.

cum testamento annexo. With the will annexed.

See **administration cum testamento annexo; administrator cum testamento annexo; administrator de bonis non cum testamento annexo.**

cumulative. Adding to or added to something else; by way of increase.

cumulative bequest. Same as **cumulative legacy.**

cumulative dividends. Dividends on preferred stock which accumulate under contract, charter, or bylaw provision, where a dividend or dividends are passed because of want of the requisite net earnings to permit the payment of a dividend, and which must be paid before any dividend whatever for any later year is paid to common stockholders or to preferred stockholders of a class not entitled to cumulation of dividends. See 19 Am J2d Corp § 878 et seq.

cumulative errors. Errors of the lower court, of such minor consequence that no single one is a ground for reversal in itself, operating in cumulation as such ground only as prejudice therefrom accumulates. 5 Am J2d A & E § 789.

cumulative evidence. Additional evidence of the same kind to the same point. 39 Am J1st New Tr § 173.

See **corroborating evidence.**

cumulative judgment. A second judgment to take effect after the expiration of the first one.

See **consecutive sentences.**

cumulative legacy. A legacy in addition to another legacy to the same person in the same will. Where the same beneficiary is given two monetary legacies of the same amount in different clauses of the same will, the presumption is that the testator intended the later bequest to be substitutional rather than cumulative, and the legatee is accordingly entitled to take only it. 57 Am J1st Wills § 1164.

cumulative offense. An offense which can be committed only by a repetition of acts of the same kind, which acts may be on different days. An apt illustration is the offense of being a common gambler. 24 Am J1st Gaming §46.

cumulative penalties. Successive or continuing penalties for delay in payment of claims, or performance of a contract or violation of statute. 36 Am J2d Forf & P §§ 55, 65.

See **cumulative punishment.**

cumulative punishment. The greater punishment imposed on an habitual or second offender; consecutive sentences rather than concurrent sentences.

See **habitual criminals; consecutive sentences.**

cumulative remedy. A new or further remedy in addition to a remedy or remedies already existing. Chicago & Northwestern Railway Co. v Chicago, 148 Ill 141, 35 NE 881, 886. An administrative remedy in addition to a judicial remedy. 2 Am J2d Admin L §§ 784, 785.

cumulative sentences. Sentences for different crimes to run consecutively.

See **consecutive sentences.**

cumulative voting. A system of voting at an election whereby an elector entitled to vote for several candidates for the same office may cast more than one vote for the same candidate, distributing among the candidates, as he chooses, a number of votes equal to the number of persons to be elected. 26 Am J2d Elect § 274. In corporate elections, the method of voting for corporate directors whereby each shareholder is entitled to cast a number of votes equal to the number of his shares multiplied by the number of directors, or the number of directors to be elected, with the option of giving all his votes to a single candidate or of distributing them among two or more as he sees fit. Wolfson v Avery, 6 Ill 2d 78, 126 NE2d 701. The right of cumulative voting in electing directors is, by its nature, exercisable only where more than one director is to be elected. Bridgers v Staton, 150 NC 216, 63 SE 892.

cuneator. The custodian of the dies of a mint.

cunnilingus. An act committed with the mouth and female sex organ or an oral-genital contact.

cur. An abbreviation of curia.

cura. Care; custody; charge; diligence.

cura animorum. The care of souls.

curacy. See **perpetual curacy.**

cur. ad. vult. An abbreviation of curia advisare vult.

curagulos. A caretaker.

[298]

curate. An assistant to the rector of a parish or to a vicar. A curate is the lowest degree in the church, being in the same state that a vicar was formerly, an officiating temporary minister, instead of the proper incumbent. See 1 Bl Comm 393.

curatio. A guardian.

curative act. A form of retrospective legislation reaching back on past events to correct errors or irregularities and to render valid and effective attempted acts which otherwise would be ineffective for the purpose the parties intended, particularly irregularities in conveyancing; operating to complete a transaction which the parties intended to accomplish but carried out imperfectly. 16 Am J2d Const L § 430. A validation by statute of an imperfect or irregular deed. 23 Am J2d Deeds § 141.

curative medicine. A substance or preparation administered internally for the cure, removal, or healing of some disease or condition demanding medical treatment. State v Stoddard, 215 Iowa 534, 245 NW 273, 86 ALR 616.

See **internal medicine.**

curator. The person in charge of a museum, art gallery, or library. A guardian. The guardian, at common law, performs the office of both the tutor and the "curator" of the Roman civil law, the former of whom had charge of the maintenance and education of the minor, and the latter the care of his fortune. Mercer v Watson (Pa) 1 Watts 330, 348.

curator ad hoc. (Civil law.) A curator appointed by the court to act for a minor in the absence of his under-tutor, or subrogated tutor, as he was formerly called. Welch v Baxter, 45 La Ann 1062, 1064, 13 So 629.

curator ad litem. Same as **guardian ad litem.**

curator bonis. The guardian of an estate.

curatores viarum. Keepers of ways. Under the Roman law, curatores viarum were officers whose duty it was to superintend the making and mending of the roads. See 1 Bl Comm 357, footnote.

curatorship. A guardianship.

curatrix. A female guardian.

curatus non habet titulum. A curate has no title.

curb. Verb: To restrain. Noun: A strap attached to each end of the bit of a horse's bridle and passing around the half circle of his lower jaw. The raised edge of the pavement of a street or highway, next to sidewalk, shoulder of highway, or park strip. A term sometimes applied to the park strip itself.

curb market. An exchange wherein the transactions in stocks, bonds, or commodities are completed in whole or in part upon the street. A market in securities not listed on an exchange.

curb service. Selling merchandise, lunches, cigarettes, cigars, etc. to persons on the street in vehicles.

The use of the public streets by a person, firm or corporation engaged in business in any store, temporary or permanent stand or box, building, structure or the like, for the sale or solicitation of goods, wares or merchandise. People v Dmytro, 280 Mich 82, 273 NW 400, 111 ALR 128.

curb teller. A booth erected on the sidewalk in front of a bank close enough to the paved portion of the street to permit a customer to transact his business with a bank employee in the booth, without alighting from his automobile. Adams v Merchants & Planters Bank & Trust Co. 226 Ark 88, 288 SW2d 35.

cure by judgment, verdict, or findings. Error rendered harmless by subsequent proceedings in the case, as where the party against whom error was committed prevails by the verdict. 5 Am J2d A & 1: § 792. A verdict for a party will cure defects in his pleading where the substantial rights of the adverse party are not affected. 5 Am J2d A & E § 795.

cure of souls. The pastoral charge of a parish.

curfew. A fixed point of time in the evening, after which persons not having duties to perform on the streets, particularly children, shall not be abroad. A restriction established by order against all persons of Japanese ancestry residing in the West Coast Military Area during the war between the United States and Japan. 56 Am J1st War § 29.

In England during the Middle Ages, the ringing of a bell at eight o'clock each night, in every city and town, as a signal that all company must disperse, and all fires and lights must be extinguished. These curfew regulations were established by the Normans following the Conquest. 4 Bl Comm 419.

curia. A court.

curia admirabilitatis. A court of admiralty.

curia advisare volt. The court wishes to consider. Judgments are not required to be entered immediately, and it is common in all courts to delay for the purpose of examination and advisement. Clark v Read, 5 NJL 571, 573.

curia baronis. A court-baron.

Curia cancellariae est officina justitiae. The court of chancery is the workshop of justice.

curia claudenda. An old English writ requiring a landowner to fence his land.

curia comitatus. The county court.

curia consentiente. See **et curia consentiente.**

curia domini. The lord's court.

curiae Christianitatis. Courts Christian. The courts of the archbishops and bishops and their derivative officers. See 1 Bl Comm 83.

curiality. Same as **courtesy**.

curia magna. The great court, the English Parliament.

curia majoris. The mayor's court.

curia palatii. The palace court.

Curia parliaments suss propriis legibus subsistit. Parliament is governed by its own laws.

curia pedis pulverizati. The court of dusty foot; that is the court of piepoudre. It was instituted to administer justice at fairs and markets and was a court of record. Sec 3 Bl Comm 32.

curia regis. The king's court.

[299]

curing error. Affidavits explaining discrepancies appearing in an abstract of title. Attebery v Blair, 244 Ill 363, 91 NE 475. Supplying an acknowledgment or correcting a defective acknowledgment. 1 Am J2d Ack § 107. Developments in a case which eliminate the prejudicial effect of an error by the court.

See **cure by judgment, verdict, or findings**.

Curiosa et captiosa interpretatio in lege reprobatur. A curious and captious interpretation is disapproved in the law.

currency. Paper money which passes at par as a circulating medium in the business community; money, whether in coin or paper. 36 Am J1st Money § 8.

Currens test. A test of insanity which will constitute a defense in a criminal prosecution, requiring no more than that the jury must be satisfied that at the time of committing the prohibited act, the accused, as a result of mental disease or defect, lacked substantial capacity to conform his conduct to the requirements of the law which he is alleged to have violated. United States v Currens (CA3 Pa) 290 F2d 751.

current. Noun: The flow of a stream; the flow or rate of flow of an electric force. Adjective: Running, moving, flowing, passing; passing from one to another, especially widely circulated; publicly known; general; prevalent, as, the current ideas of the day;

now passing; present in its course: as, the current month of the year. Shaffer v George, 64 Colo 47, 171 P 881; State v Bartley, 39 Neb 353, 360.

current account. An open account, a running account. Anno: 51 ALR2d 334. An account based upon running or concurrent dealing between the parties which has not been closed, settled, or stated, and which is kept unclosed with the expectation of further transactions. 1 Am J2d Acctg § 4.

current bank notes or bills. Bank notes or bills which pass as currency at their par value.

current coin. Coin which is in general circulation.

current coin of the realm. Money; legal tender. 52 Am J1st Ten § 2.

current cost rate. See **step rate method.**

current earnings. Present earnings; earnings of a corporation for the period during which a dividend normally is paid.

current funds. Money circulating without discount; whatever is receivable and current by law as money, whether in the form of notes or coins. 36 Am J1st Money § 8.

See **currency.**

current income. For income tax purposes, income for the current tax year. See Supplee v Magruder (DC Md) 36 F Supp 722.

current maintenance. The expense incurred in keeping a physical property in the condition required for continued use during the service life. Lindenheimer v Illinois Bell Tel. Co. 292 US 151, 78 L Ed 1182, 54 S Ct 658.

current market price. A commercial term, familiar in contracts for the sale of goods, meaning that the contract price shall run or flow with the market, following its fluctuations. Ford v Norton, 32 NM 518, 260 P 411, 55 ALR 261.

current money. Money which is in general circulation; currency.

See **currency.**

current salary. See **current wages.**

current wages. The present rate of wages for specific work or employment. Compensation for services continuing for some time and payable periodically as it accrues for a wage period, that is, a week, two weeks, or a month, or by the day as the work is performed. First Nat. Bank v Graham (Tex Crim App) 22 SW 1101.

The term "current wages" has the same meaning as current salary, and where wages are payable monthly, the term refers to wages for the current or present month. See Bell v Indian Live Stock Co. (Tex) 11 SW 344.

See **current yearly pay.**

current year. Ordinarily, the calendar year in progress. Sometimes construed, as in an exemption statute, as meaning from harvest to harvest, and not a calendar year. 31 Am J2d Exemp § 114.

current yearly pay. As used in a statute respecting the compensation of army officers, the term "current yearly pay" means the regular, ordinary pay which an officer may be entitled to for a year's service under the facts of his case. United States v Mills, 196 US 223, 49 L Ed 732, 25 S Ct 434.

currere. To run.

Currit quatuor pedibus. It runs on four feet. That is, it is on all fours, in precise accord.

Currit tempus contra desides et sui juris contemptores. Time runs against the slothful and those who ignore their rights.

cursing. Profane swearing, sometimes a criminal offense. 12 Am J2d Blas § 10. A public or common nuisance where the profane words are uttered in a public place. 12 Am J2d Blas § 11.

cursitor. A chancery clerk.

cursitor baron. An officer who had authority to administer oaths.

Cursus curiae est lex curiae. The practice of the court is the law of the court.

courtesy. The common-law right of a husband in his wife's property which arises from the marriage. An estate by the courtesy is either courtesy initiate or courtesy consummated. 25 Am J2d Dow § 2.

See **courtesy consummated; courtesy initiate.**

courtesy consummated. A common law estate for life of a surviving husband in all of the lands of his wife, subject to the same conditions requisite to the existence of courtesy initiate and the additional condition of the death of the wife.

In other words, an estate by the courtesy initiate becomes an estate by the courtesy consummated upon the death of the wife. 25 Am J2d Dow § 2.

courtesy initiate. At common law, a life estate of the husband in the real property of which his wife is seised of an estate of inheritance during the duration of the marriage, the conditions under which such an estate arises being the marriage, scisin by the wife, and birth of issue capable of inheriting. 25 Am J2d Dow § 2.

As soon as a child was born, the father began to have a permanent interest in those lands of his wife in which she was seised of an estate of inheritance; he became one of the vassals of the lord's court, did homage to the lord, and was called tenant by the

[300]

courtesy initiate; and this estate being once vested in him by the birth of the child, was not suffered to determine by the subsequent death or coming of age of the child. See 2 Bl Comm 127.

cartilage. The open space situated within a common enclosure belonging to a dwelling house. Anno: 38 ALR2d 848; 13 Am J2d Burgl § 5. Such space as is necessary and convenient, and is habitually used, for family purposes and the carrying on of domestic employments, including a yard, a garden, or even a nearby field used in connection with the dwelling. 5 Am J2d Arson § 1. For the purpose of determining the existence of a right of self defense, the "cartilage" of the home will ordinarily be construed to include at least the yard around the dwelling house, as well as the area occupied by barns, cribs, and other outbuildings. State v Frizzelle, 243 NC 49, 89 SE2d 725, 52 ALR2d 1455.

curtillum. Same as **cartilage**.

curtis. A court; a yard; a cartilage. Black stone refers to the word as a sample of law-Latin which "may raise a smile in the student as a flaming modern Anglicism." See 3 Bl Comm 320.

costa. Costs.

custagium. Costs.

custantia. Costs.

custode admittendo. See **de custode admittendo.**

custode amovendo. See **de custode amovendo.**

custodes. Custodians; keepers; guardians; wardens.

custodes pacis. Guardians of the peace; -conservators of the peace; -peculiar officers who anciently were appointed by the common law for the maintenance of the public peace. See 1 Bl Comm 349.

custodia. Also called ward, or guard, one of the two chief duties of constables. It was a duty performed mainly in the daytime and looked chiefly to the apprehension of rioters and highway robbers. See 1 Bl Comm 356.

See **arca et salva custodia.**

custodia comitatus. The custody of the county. This was committed to the sheriff by the king's letters patent. See 1 Bl Comm 339.

custodia legis. The custody of the law. Gilman v Williams, 7 Wis 329, 334.

See **custody of the law.**

custodiam comitatus. The custody of the county. See 1 Bl Comm 339.

custodian. A person whose duty it is to watch, guard, and account for that which is committed to his custody. State v Taylor, 7 SD 533, 544, 64 NW 548.

custodia terrae et haeredis. See **de custodia terrae et haeredis.**

custody. As applied to property, "custody" means control or care, not possession; the mere putting of one's property in the custody of another does not divest the possession of the owner. 42 Am J1st Prop § 42; 32 Am J1st Larc § 56. As applied to a person, "custody" means physical control of the person sometimes by his imprisonment. For the purpose of habeas corpus: -such restraint of a person by another that the latter can produce the body of the former at a hearing as directed by writ or order. Palmer v State, 170 Ala 102, 54 So 271. There is no such thing as custody of a person physically at large. State v Freadtf, 117 Or 214, 243 P 87.

See **in custody.**

custody of child. The control, care, and maintenance of a child, whether at one's own expense or under an award, providing compensation to be paid by another.

See **guardianship; ward of the court.**

custody of the law. A lawful seizure and holding of property by an officer of the law acting pursuant to a lawful writ or process. Buck v Colbath (US) 3 Wall 334, 18 L Ed 257; 46 Am J1st Replev § 37. The custody of a depository of property delivered to it pursuant to an order of court, subject to the further order of the court. Bradley v Roe, 282 NY 525, 27 NE2d 35, 129 ALR 633.

custom. A practice which has by its universality and antiquity acquired the force and effect of law in a particular place or country, in respect of the subject matter to which it relates. 21 Am J2d Cust & U § 1.

customarily. Usually, habitually, according to the customs, general practice or usual order of things, regularly. Fuller Brush Co. v Industrial Corn. 99 Utah 97, 104 P 201, 129 ALR 511.

customary acre. As much land as an ox team could plow in a day.

customary court. A court held within the manor by the lord or his steward.

customary court-baron. A customary court which appertained entirely to copyholders and in which their estates were transferred by surrender and admittance, and other matters transacted relative to their tenures only. See 3 Bl Conun 33.

customary despatch. As employed in a charter party requiring the loading of the ship with customary despatch, the words do not relate to the average or usual conditions surrounding such a loading, but they are to be read and understood in relation to the circumstances, ordinary or extraordinary which existed at the time when the loading was done. Parrish v Lederer (DC Del) 14 F2d 985.

customary estates. Lands of certain copyholders of free and privileged tenure, which were derived from the ancient tenants in villein-socage who did not hold at the will of the lord, but only according to the custom of the manor. The law did not regard the freehold of such lands as resting in the lord of whom the tenants held, but in the tenants themselves, who were sometimes called customary freeholders, being allowed to have a freehold interest, though not a freehold tenure. Sec 2 Bl Comm 149.

customary freehold. A tenancy by copyhold, not at the will of the lord of the manor. See 2 Bl Comm 149.

customary freeholders. See **customary estates**.

customary home occupation. An occupation carried on in a dwelling house by an occupant thereof without assistance other than such as may be rendered by other members of the family who are occupants of the same dwelling. Anno: 73 ALR2d 442.

customary interest. The rate of interest which is general and usual by custom, at a given time, in a given place. Fowler v Smith, 2 Cal 568, 570.

See **legal interest**.

customary rent. The amount payable according to old custom.

[301]

customary services. Definite and certain services due from the tenant according to the custom of the manor. See 2 Bl Comm 147.

customary tenants. Tenants holding customary estates. See **customary estates**.

customer. In common usage, a person who buys the merchandise or engages the services of another person. In some contexts, the term has the more extensive connotation of a person who comes to the place of business of another for any purpose of concern to the latter, such as a person who comes to perform mechanical services for the proprietor. Anno: 33 ALR 181; 43 ALR 866; 46 ALR 1111.

The term "customers of a stockbroker," as defined by the Bankruptcy Act, includes persons who have claims on account of securities received, acquired, or held by the stockbroker from or for the account of such persons (a) for safekeeping, or (b) with a view to sale, or (c) to cover consummated sales, or (d) pursuant to purchases, or (e) as collateral security, or (f) by way of loans or securities by such persons to the stockbroker, and it also includes persons who have claims against the stockbroker arising out of sales or conversions of such securities. Bankruptcy Act § 60(e) (1); 11 USC § 96(e)(1).

One obtaining jewelry from a jeweler on the pretext of showing it to certain persons for their approval with a view to a purchase by them is not a "customer" within an exception in a theft insurance policy of a loss by customers of goods entrusted to them by the insured. 29A Am J Rev ed Ins § 1333.

See **able customer; cash customer; invitee.**

customer's man. An agent or representative of a brokerage firm with limited authority, his primary duty being to solicit and take orders from customers. 12 Am J2d Brok § 117.

Custom serra prise stricte. A custom or usage should be strictly interpreted.

custom-house. An office where customs duties are paid and where clearance is given to ships.

custom-house bushel. See **bushel.**

custom of London. The rule that where a married woman follows any craft in the city of London on her sole account, the husband having nothing to do with her trade, she shall be charged as a feme sole concerning everything that touches the craft. 27 Am J1st H & W §464.

custom of merchants. The customary practices of merchants in respect to mercantile contracts; the law merchant. Adams v Pittsburgh Insurance Co. 95 Pa 348.

See **law merchant.**

custom of officers. The rule for construction of the statute in line with administrative interpretation. 28 Am J Rev ed Inher T § 54.

custom of York. The rule of descent peculiar to the province of York, whereby the estate of an intestate was divided into thirds, one third to the widow, one to the children and one to the administrator. See 2 Bl Comm 518.

customs. The custom-house; the duties payable on imports.

See **collector of customs; custom; customs duties.**

Customs and Patent Appeals. See **Court of Customs and Patent Appeals.**

customs appraiser. A revenue officer whose duty it is to examine and estimate the true value of imported goods subject to customs duties. 21 Am J2d Cust D § 86.

customs broker. A person to whom goods coming from abroad are consigned for the purpose of having him obtain clearance.

customs broker's lien. The lien of a customs broker for an advance made to procure the release of goods from the customs house for a customer. 12 Am J2d Brok § 241.

Customs Court. A federal court sitting at the port of New York with jurisdiction for review of decisions and findings of any collector of customs. 21 Am J2d Cost D §§ 96, 97.

customs districts. Collection districts established by dividing the United States for convenience in collecting customs duties and the administration of the customs laws. 21 Am J2d Cust D § 60.

customs duties. The tariff payable on imported merchandise; the levy or tax applied by the government on the importation of commodities into the country. 21 Am J2d Cust D § 1. Not merely a duty on the act of importation, but a duty on the thing imported; not confined to a duty levied while the article is entering the country, but extending to a duty levied after it has entered the country. Brown v Maryland (US) 12 Wheat 419, 6 L Ed 678.

customs entry. See **entry**.

customs inspection. See **inspection by customs**.

customs lien. The lien of the government for unpaid duties which attaches to imported articles from the moment of their importation. 21 Am J2d Cust D § 104.

customs officers. The collectors and other officers engaged in the collection of customs duties. 21 Am J2d Cust D § 64.

customs of London. A term applied to the many particular customs or usages within the city of London, with regard to trade, apprentices, widows, orphans, and a variety of other matters. All these are contrary to the general law of the land, and are good only by special usage, although they are also confirmed by act of parliament. See 1 Bl Comm 75.

customs territory of the United States. The states, the District of Columbia, and Puerto Rico. 19 USC § 120.

customs waters. A term of application particularly to a foreign vessel subject to a treaty or other arrangement between the nation of registry and the United States, signifying the waters within such distance of the coast of the United States as the customs authorities are enabled or permitted by such treaty or arrangement to board and examine the vessel. 21 Am J2d Cust D § 2.

custos. A custodian; a keeper; a guardian; a warden.

custos brevium. The clerk of the old English court of common pleas.

custos ferarum. A game warden.

custos horrei regii. The guard of cats at the royal granary. See 2 Bl Comm 394.

custos morum. The guardian of morals. The court of king's bench is frequently thus described. See 4 Bl Comm 310.

[302]

custos placitorum coronae. The keeper of pleas of the crown; -the keeper of the criminal records.

custos rotulorum. The keeper of the rolls or records of the county, who was the principal justice of the peace. See 1 Bl Comm 349. He was nominated by the king's sign manual and was the principal civil officer in the county. See 4 Id 272.

custos sigilli. The keeper of the seal.

custos spiritualium. An ecclesiastical officer who was appointed to officiate during the vacancy of a see.

Custos statum haeredis in custodia existentis meliorem non deteriorem, facere potest. A guardian can make the estate of an heir which is in his custody better, but not worse.

custos temporalium. An ecclesiastical officer who was appointed to officiate in temporal matters during the vacancy of a see.

custos terrae. A warden or keeper of the land.

custum. Cost.

custuma. The law-Latin word for customs for duties. This word has no connection with the word "customs," meaning usages, which was derived from the Latin word "consuetudo." See 1 Bl Comm 314.

custuma antiqua sive magna. Ancient or great customs. These were the duties on wool, sheep-skins, or woolfells, and leather, exported, and were payable by all merchants, both native and strangers; but the aliens paid as duties half as much again as the native merchants. See 1 Bl Comm 314.

custuma parva et nova. Small and new customs. These were an impost of three pence per pound due from alien merchants only, for all commodities exported or imported and were usually called the "alien's duty." See 1 Bl Comm 314.

cut. Noun: A wound with an instrument having an edge. State v Patza 3 La Ann 512, 514. A lowering of the surface of the ground at one point to bring a highway or railroad line to a level. Verb: To sever with an edged instrument; to divide money or property, especially the loot of a crime; to reduce the strength of a substance by adding something, e. g. water to alcohol.

cuth. Customary.

cutoff date. The end of the period within which certain action may be taken, e.g. the period during which the holder of securities issued by a corporation presently undergoing reorganization in a proceeding in a court of bankruptcy may surrender such securities in exchange for securities of the reorganized corporation. Anno: 41 ALR2d 1008.

cutoff drainage. The drainage of seepy hillsides by tiles placed along the hillside to intercept the seep water and prevent its reaching the bottom land. United States v Warm Springs Irrig. Dist. (DC Or) 38 F Supp 239.

cut out. See **muffler**.

cutpurse. A thief who cut purses in order to secure their contents; hence, a pickpocket.

cutting back. The operation in driving a motor vehicle wherein the driver, after passing another vehicle, turns back onto the right hand side. 7 Am J2d Auto § 221.

cutting corners. A violation of a statute or ordinance requiring vehicles turning at street intersections to keep to the right of the center of the intersection. 8 Am J2d Auto § 802.

cutting out. Dividing a herd of cattle into separate herds according to the individual ownership of the animals; dividing a herd of cattle according to animals ready for market and animals requiring further growth or feeding to make them marketable most advantageously.

cwt. An abbreviation of "hundredweight."

cy-apres. (French.) Hereafter.

cyclone. A rotary storm or whirlwind of extended circuit. Queen Ins. Co. v Hudnut Co. 8 Ind App 22, 26, 35 NE 397. An atmospheric disturbance one of the characteristics of which is a circular or gyratory motion, evidenced by a twisting effect; sometimes becoming a tornado. Maryland Casualty Co. v Finch (CA8 Minn) 147 F 388. A risk insured against under a form of property insurance. 29A Am J1st Ins § 1329.

See **hurricane; tornado; windstorm.**

cyclotron. An instrumentality of the atomic age, a unique device for giving extremely high energy to particles known as protons and deuterons, causing them to move with increasing energy in a spiral path until they collide with an arranged target.

cy-devant. (French.) Heretofore.

cy gist. Here lies.

cynebote. Same as **kinebot.**

cypionism. An ancient form of punishment by smearing the body of the person with honey and exposing him to the attacks of insects.

cy pres. As near as practicable; so near. The doctrine which permits a gift for a charitable purpose to be applied as nearly as may be to the fulfilment of the underlying charitable intent, where, for one reason or another, it cannot be carried out as directed by the donor. 15 Am J2d Char § 131.

cyrce. A church.

cyrichbryce. Breaking into a church; church-breaking.

cyrographata. See **charta** cyrographata.

cyrographum. Same as **chirograph.**

cystoma. A disease common to both sexes, involving calcium formations in the bladder. Anno: 23 ALR2d 1023.

cystoscopic examination. An examination of the bladder made with a cystoscope; sometimes sought to be had as part of an involuntary physical examination. 23 Am J2d Dep § 216.